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Written replies by the Government of Bulgaria to the list of issues (CAT/C/BGR/Q/4-5) to be taken up in connection with the consideration of the fourth and fifth periodic reports of Bulgaria (CAT/C/BGR/4-5)* **

[5 September 2011]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

** Annexes can be consulted in the files of the Secretariat.

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Information provided by the Bulgarian authorities with regard to the list of issues in connection with the consideration of the fourth and fifth periodic reports of Bulgaria (CAT/C/BGR/4-5)

Articles 1 and 4

Reply to the issues raised in paragraph 1 of the list of issues (CAT/C/BGR/4-5)

1. All acts within the scope of Article 1 of the UN Convention against Torture have already been incriminated in the Penal Code of Bulgaria (PC). It categorically forbids torture and implies criminal responsibility for perpetrators of such acts; that is why there is no contradiction with the Convention ratified by Bulgaria. Such provisions in the PC are Article 287 (Chapter Eight, Section III of the Special Part – Crimes against Justice), causation of bodily harms (Section II of Chapter Two – Crimes against the Person – with special attention to Article 131, para 1, p. 2 where the bodily injuries caused by public officials in their capacity as such are considered qualifying circumstance), as well as the wider definition of Article 143 (Coercion). Moreover, in its General Part the PC includes institutes such as complicity, multiple crimes, attempt and preparation which are applicable to all texts in the Special Part. The specific texts are provided in Annex 1.

2. The procedural guarantees for the prohibition of torture are stated in the provisions of the Penal Procedure Code (PPC") – Article 17, and of the Implementation of Penal Sanctions and Detention in Custody Act - Article 3 as well as in secondary legislative acts. According to Article 9 of Instruction No Iz-1711 from 15.09.2009 for the Equipment of Premises for Accommodation of Detained Persons within the Structures of the Ministry of Interior and the Order in Them, "the acts of police officials exclude the performance, provocation or toleration of any act of torture, inhuman or degrading treatment or punishment as well as acts of discrimination towards the detainees".

3. The working group within the Ministry of Justice which is currently engaged with the elaboration of a new Penal Code has not yet discussed the respective section of the project document where the provisions concerning a new crime incorporating the definition of "torture" could be included.

Article 2

Reply to the issues raised in paragraph 2 (a) of the list of issues

4. The prohibition of torture, ill-treatment, cruel and degrading treatment regarding detained persons is set forth directly and explicitly in Article 3 of the Execution of Punishments and Detention in Custody Act.

5. The Penal Procedure Code (Article 97) states clearly that the defense counsel may participate in the criminal proceedings from the very moment of detention or indictment. The competent authorities in the prejudicial proceedings (the prosecutor and the investigating authorities) have the legal obligation to explain clearly to the detainee his/her right to have an access to a lawyer and to enable him/her to contact the defense counsel immediately. Any activities of the authorities in the prejudicial proceedings involving the detainee prior to this explanation are explicitly forbidden by the law.

6. Article 254 of the Execution of Punishments and Detention in Custody Act also provides that the accused and defendants have the right to a meeting with a lawyer

immediately upon detention. Article 99 of the Penal Procedure Code states clearly that these meetings are to be held in private. They can be observed, but the conversation cannot be listened to or recorded. During such meetings, the accused and defendants may submit or receive written materials related to the case, and the content of these materials is not subject to examination.

7. In addition, Article 256 of the Execution of Punishments and Detention in Custody Act guarantees the right of the accused and defendants to a telephone contact with a lawyer, and this contact is carried out in a procedure specified by the head of the Directorate General "Execution of Punishments".

8. The same article provides that meetings, telephone conversations and correspondence of the accused and defendants with certain persons may be banned with a written instruction of the prosecution or court when related to the disclosure or prevention of grave crimes. The visits, meetings, telephone conversations and correspondence of the accused and defendants with their defense lawyers, however, cannot be subject to such a prohibition.

9. In case the detained person is apprehended under a prosecutor's order for a term of 72 hours, his/her lawyer is provided with access, including on holidays from 08.30 to 17.00 o'clock.

10. A person detained under Article 63 of the Law on the Ministry of Interior is also provided with access to a lawyer from the moment of detention.

11. In prominent places in the regional police departments there are publically available lists with telephone numbers of official lawyers of the National Legal Assistance Bureau. The premises for visitors and meetings with lawyers are sound-isolated and also meet the following requirements: the chairs, tables and other objects are immovably fixed to the floor and/or walls, and the confidentiality of the conversation is secured, whereby it is possible for the guards to perform visual control through glass door or other ways.

Reply to the issues raised in paragraph 2 (b) of the list of issues

12. The meetings between the detainees and attorneys-at-law are registered in a special "Logbook for visits of persons entitled to a contact with detained persons". The same practice is introduced in the police departments.

13. The Directorate General "Execution of Punishments" is not aware of any complaints regarding attempts of the staff to discourage detained persons to exercise their right to access to a lawyer**.** In general, the Prosecutor's Office monitors the strict observance of legality in all detention places and has the right to personal meetings with the detainees. It may react in cases of complaints.

Reply to the issues raised in paragraph 2 (c) of the list of issues

14. The adoption of the Legal Aid Act which entered into force in 2006 has significantly improved the system of granting legal aid in Bulgaria. The practical activity of the National Legal Aid Bureau started on 13 January 2006. The National Legal Aid Register was introduced for the first time on 30 March 2006.

15. Some of the main functions of the National Legal Aid Bureau include performing general and methodical management of the activities with regard to providing legal services as well as securing equal access for citizens to justice.

16. According to the Legal Aid Act, legal services may be made available through the authority in charge of the procedural activities, i.e. judges, prosecutors, examining

magistrates and investigators. Furthermore, the Bar Councils maintain a list of the attorneys on duty who can be contacted by the police officials in order to go and meet the detainees.

17. In conformity with the requirements of the European Union, in 2009 the Government adopted a Judiciary Reform Strategy (2009-2013). It was also elaborated in compliance with the recommendations of the Committee against Torture.

18. With regard to equal access to justice, the Strategy aims also at providing more efficient legal aid. Its main objectives are improvement of the organization of the system for provision of legal aid; clarification of the legal framework; public character and transparency of the process of legal aid provision; guarantees for the right of legal aid seekers to select on their own an attorney from the National Legal Aid Register; improvement of the mechanism for the selection of attorneys on duty; training of employees of the Ministry of Interior, etc.

19. In 2008, an interview was conducted in detention facilities and probationary offices, and it showed that 62% of the detainees who had received legal aid, expressed satisfaction with the services provided.

20. The National Legal Aid Bureau cooperates effectively with NGOs working in the field of legal services and human rights. In 2009, the Bureau prepared together with the Open Society Institute a special leaflet in 10 different languages explaining their rights in the first 24 hours of detention by the police.

Reply to the issues raised in paragraph 2 (d) of the list of issues

21. Article 139 of the Execution of Punishments and Detention in Custody Act stipulates that everyone should be submitted to a primary medical examination immediately upon detention. Whenever traces of violence are found in a newly accommodated detainee, the latter is to be certified by the medical official, and medical assistance is to be provided.

22. The certificate by the medical examiner should reflect in detail the nature, location, size and specific nature of every injury. A statement of the detainee is also recorded. Both documents are reported immediately to the respective superior, who informs the supervising prosecutor.

23. According to Articles 240 and 242 of the Execution of Punishments and Detention in Custody Act, the same procedure is applied to accused persons and defendants held in custody.

24. Article 10 of Regulation No. 2 of 22 March 2010 issued by the Minister of Health and the Minister of Justice points out that every person deprived of liberty should undergo primary medical examination immediately upon accommodation in prison, correction or detention facility. The head of the facility is to be promptly informed whenever traces of violence are observed, and the person in question is to be provided with the necessary medical assistance.

25. Order No. L-6399 of 26 July 2010 of the Minister of Justice which regulates the internal order in detention facilities specifies the same procedure in its point 8. Whenever traces of violence are found, it has to be immediately reported to the chief of the “Arrests” sector or to the chief supervisor who are to order the junior security instructor or the division commander to notify the supervising prosecutor. It is done not only upon initial placement but also later, during the stay in the detention facility.

26. Medical examination may be carried also upon the request of the detainee or a parent, lawyer or a representative of the diplomatic mission of the country whose citizen the person is.

Reply to the issues raised in paragraph 2 (e) of the list of issues

27. As a rule, the Penal Procedure Code (Article 63 para. 7, p. 1) stipulates that the family of the detainee is to be informed immediately upon the apprehension. Article 386 para. 4 of the Penal Procedure Code explicitly points out that juvenile detainees are placed in appropriate premises separately from the adults, and the parents or trustees are informed immediately. In case the detainee is a student the school headmaster is also notified.

28. These provisions are further developed in Article 243 of the Execution of Punishments and Detention in Custody Act according to which every detainee may contact his/her family immediately upon arrival in a detention facility. The adult detainees may decline the opportunity to contact their families, and they have to express this in a written declaration, so that the administration of the detention facility should not notify the relatives on its own initiative. The law does not provide for such an option for juvenile detainees – their parents are informed in all cases of detention.

29. Should a juvenile detainee has no personal phone card or own funds to buy such a card, and also in specific and emergent cases (diseases of relatives, cases of death, etc.), he/she shall be provided with an opportunity to make a call free of charge through an official card provided by the company provider of phone services for the detained persons.

30 Pursuant to Article 91 para. 2 of the Penal Procedure Code, the parents may also maintain contact with the detained minors as their defenders.

31. An inspector from the Juvenile Offenders Pedagogic Centre also gets in contact with the parents immediately after the detention.

Reply to the issues raised in paragraph 3 of the list of issues

32. Article 64 of the Penal Procedure Code expresses the will of the legislator that the prosecutor refers the issue of detention to the court as quickly as possible, so that the detainee is provided with the opportunity to benefit of the principle habeas corpus to the fullest extent. The Prosecution may extent the duration of detention to 72 hours only when raising specific charges against the detainee who then becomes the accused.

33. The right of the detainee to benefit from the principle habeas corpus is also guaranteed by Article 63 para. 4 of the Law on the Ministry of Interior, as it provides for the right of the detainee to an immediate appeal of the detention order issued under this law. The court is obliged to rule promptly. In case the detention order is proved to be unlawful, besides the disciplinary measures which will be compulsory imposed on the guilty officer, the detained person has the right to seek compensation for damages that he/ she has suffered under the Law on the Responsibility of the State and the Municipalities for Damages.

34. Should charges are brought against the person detained for 24 hours under the Law on the Ministry of Interior, the prosecutor is obliged to present the charges to the court or to extend the detention to 72 hours. As reported by the Chief Prosecutor's Office, in most cases the detained persons are brought to the court before the end of the 72-hour period, and this is encouraged both by the prosecution and the courts. Such a procedural behaviour practically eliminates the issue of "piling up" the 24-hour detention period under the Law on the Ministry of Interior with the 72-hour detention period under the Penal Procedure Code.

35. Pursuant to Article 59 para. 1 of the Penal Code, the time of any detention related to the crime is deducted from the imposed punishment. This includes any moment of stay of the convicted person in a penitentiary facility, a sector of the Ministry of Interior or house arrest.

Reply to the issues raised in paragraph 4 of the list of issues

36. Article 94 para. 2 p. 4 of the Penal Procedure Code stipulates that the participation of a defense attorney in criminal proceedings is imperative when the defendant does not speak Bulgarian language. Para.3 of the same text explicitly states the obligation of the investigating authority to appoint a defense lawyer of the accused. Any neglect of this obligation constitutes a significant violation of the procedural rules and has procedural consequences which may include also the repeal of the judicial act.

37. Legally, with regard to access to a lawyer, foreigners have the same treatment as the Bulgarian citizens (as described above). Meetings with lawyers take place in special premises, under the conditions of confidentiality. Contacting an attorney-at-law is performed directly by the detainees and is not supervised by the authorities. Every detained person is entitled to an unlimited number of phone calls to his/her lawyer.

38. The law does not provide for any possibility for the investigative authorities to prohibit or to restrict the right to a meeting with an attorney-at-law. No complaints have been received so far by in the Directorate General "Execution of Punishments" either by detainees or lawyers regarding obstacles or restrictions in this respect.

39. An additional safeguard of the rights of foreign detainees is the provision of Article 142 para.1 of the Penal Procedure Code according to which they are entitled to an interpreter in case they do not understand Bulgarian language. Pursuant to Article 63 para.7 of the Penal Procedure Code, the Ministry of Foreign Affairs and the respective embassy or consulate are immediately notified of the detention. A similar procedure is provided in Article 243 para.3 of the Execution of Punishments and Detention in Custody Act (Article 243 para.3).

40. Article 51 para.1 of the Execution of Punishments and Detention in Custody Act stipulates that all foreign detainees are to be informed in a language they comprehend about their right to a meeting with a representative of the diplomatic or consular service of the State whose citizens are they; to receive legal aid and protection from a diplomatic or consular service of their choice – in case they are deprived of citizenship or the country whose nationals are they does not have a representation in Bulgaria; the terms of transfer to the State of origin.

41. Foreigners in detention facilities are provided with leaflets and forms in various languages. These leaflets are prepared with the assistance of officials in equivalent institutions from other EU member-states and contain information about the status, rights and obligations of those detained under a measure of remand.

42. In the framework of the project Mechanism for provision of legal aid by defenders on duty during a 24-hour police detention, implemented in the period 2008 – 2009, the Open Society Institute Foundation drafted a booklet "Rights of the detainee". It describes the fundamental rights of the detainees in a comprehensible way, and the information is provided in 9 languages, including English, French, German, Greek, Russian, Serbian and Turkish. Copies of the booklet are disseminated in all structural units of the Ministry of Interior in the country, where persons may be detained.

43. Foreign nationals on whom a compulsory administrative measure is imposed under the Law on Foreigners in the Republic of Bulgaria ("coercive escort to the border" or "expulsion"), are settled in specialized homes for temporary accommodation of foreigners. Immediately upon accommodation the receiving interviewer informs them in a language the comprehend about the rules for the internal order and the regime. Leaflets on those issues have been issued in four languages and additional materials are also made available in the most frequently spoken languages, exposed on boards in the facilities.

44. Every-day talks are performed by interviewers and assistant interviewers in order to acquaint foreign detainees with their rights and the procedures for execution of the compulsory administrative measures they have been imposed.

45. Legal assistance is available for every person accommodated in a specialized home for temporary accommodation of foreigners. The detainee has the possibility to carry out weekly meetings with NGO providing free legal assistance.

Reply to the issues raised in paragraph 5 of the list of issues

46**.** The Civil Procedure Code (in force since 1 March 2008) has introduced a "request for fixing of time-limit in the event of delays" which has already produced results. The principle novelties of the Code are improvements in the rules governing service of process; increased focus on first-instance proceedings and written submissions; limitations on the ability of parties to adduce evidence at later stages of the proceedings; the introduction of judgments by default; scrapping of the possibility of full rehearing of cases on appeal; introduction of simplified procedures for dealing with some categories of straightforward cases; improvements to the acceleratory remedy existing in the old Code, etc. All these novelties help to diminish considerably the incidence of excessively lengthy proceedings.

47. Article 63 of the Penal Procedure Code stipulates in its para. 4 that, in the course of pre-trial proceedings where the accused party has been constituted in this capacity because of a serious intentional criminal offence, the measure of remand in custody may not last more than one year. It should not be more than two years, where the charges refer to a criminal offence punishable by no less than fifteen years of deprivation of liberty or a heavier punishment. In all other cases remand in custody in the course of pre-trial proceedings may not last more than two months. After expiry of these time limits the detained shall be released forthwith by order of the prosecutor (Article 234 para. 8).

48. Article 234 para. 9 of the Penal Procedure Code provides for a safeguard against ungrounded continuation of detention. It points out that in case of breach of the duties under Article 234 para. 8, the measures of procedural coercion (which is a wider concept than detention) shall be cancelled upon request of the accused or of his/her counsel for the defense from the first-instance court.

49. In order to prevent ungrounded continuation of detention of accused persons in the pre-trial proceedings, arrangements have been established between the Directorate General "Execution of Punishments" at the Ministry of Justice and the Ministry of Interior, according to which every trimester, on a regular basis, information is provided on persons who have not been served an indictment and who have been detained as accused for more than 6 /six/ months in the detention premises of the Directorate General "Execution of Punishments". Following an instruction of the Secretary General of the Ministry of Interior, the supervision of the observance of the measures for procedural coercion is executed by the Directorate General of Criminal Police at the Ministry of Interior.

50. According to the statistics compiled by the Supreme Judicial Council, the number of cases completed in 2009 has increased by 15.46% in relation to those completed in 2008. The number of cases processed in less than three months has also increased, being 22.62% higher than in 2008. In 2009, the number of cases resulting in a judicial decision has increased by 19%. The number of unfinished cases at the end of 2009 was lower by 2,500 compared with the previous year.

51. The Penal Code provides for six types of probation measures: a) compulsory registration under current address; b) compulsory periodical meetings with a probation officer; c) restrictions in the free movement; d) inclusion in professional qualification courses and/or social influence programmes; e) corrective labour; f) free-of-charge labour for public benefit.

52. According to the data provided by the Ministry of Justice, there are 27 regional services "Execution of Punishments" with 28 sectors "Probation" and 112 regional units. Every probation service is linked to a Probation Councils. These councils which include representatives both from the state authorities and the public, exercise public supervision and control over the activities related to the implementation of probation measures. As of August 2011, there are 81 probation councils in Bulgaria.

53. In the 2005-2010 period, there have been 71 200 judicial acts imposing probation measures. This figure, compared to the number of those effectively sentenced to deprivation of liberty, shows that probation has a serious contribution to the decrease of the overpopulation in penitentiary facilities.

54. During the same period, the services that worked with the largest number of sentenced persons were those in Sofia (city and region), Plovdiv, Varna and Burgas. The lowest workload is reported in the services in the towns of Smolyan, Kardzhali, Razgrad, Vidin and Silistra.

55. Table 1 presents the location and the number of persons sentenced to probation in the period 2005 – 2009:

regional probation service	*2005*	*2006*	*2007*	*2008*	*2009*	*total number of judicial acts*
Blagoevgrad	134	355	588	777	761	2615
Burgas	95	567	746	857	846	3111
Varna	202	530	683	913	946	3274
Veliko Tarnovo	93	394	464	536	491	1978
Vidin	72	166	158	232	229	857
Vratsa	116	305	488	552	615	2076
Gabrovo	33	286	276	324	308	1227
Dobrich	67	298	393	459	501	1718
Kardzhali	109	148	184	191	197	829
Kyustendil	95	190	209	284	207	1048
Lovech	119	198	356	334	386	1393
Montana	97	233	235	368	463	1496
Pazardzhik	20	537	606	671	621	2455
Pernik	60	228	209	365	343	1205
Pleven	75	449	615	675	762	2576
Plovdiv	178	748	830	1060	940	3756
Razgrad	28	229	151	230	255	893
Ruse	74	305	304	409	360	1452
Silistra	0	245	229	254	267	995
Sliven	70	306	389	587	465	1817

regional probation service	*2005*	*2006*	*2007*	*2008*	*2009*	*total number of judicial acts*
Smolyan	53	129	158	206	153	699
Sofia city	212	822	1168	1754	2381	6337
Sofia region	188	407	668	998	1013	3282
Stara Zagora	178	494	627	590	662	2553
Targovishte	76	151	197	297	289	1010
Haskovo	3	416	482	529	477	1904
Shumen	118	272	378	567	623	1958
Yambol	15	243	228	292	310	1088

Table 1. Location and the number of persons sentenced to probation in the period 2005 – 2009

56. Totally, the number of those sentenced to probation for the period 2005 – 2009 varies through the years as follows:

2005 – 2578 sentenced

2006 – 11254 sentenced

2007 – 12109 sentenced

2008 – 15321 sentenced

2009 – 15936 sentenced

57. The probation services work with legal offenders aged from 14 to a marginal age, as the main group comprises of young people aged up to 35. Among all sentenced to probation, 57 102 are Bulgarian citizens, and 189 are foreigners.

58. In terms of marital status**,** the leading group is the one of married persons, and there is a trend of increase of the number of those living on concubine basis.

59. Regarding gender and age, of the total number of 57 291 persons sentenced to probation, 51467 (or 90 %) are men; 2813 (or 5%) are women; and 3011 (or 5 %) are minors.

60. Of those sentenced to probation, 2 161 (or 4 %) have higher education; 26 788 (or 47 %) have secondary education; 17 810 (or 31 %) have elementary education up to eighth grade; 5 783 have elementary education up to fourth grade and 4 778 are illiterate, i.e. about 18 % have elementary education up to fourth grade or no education at all.

61. Table 2 presents data regarding the employment of those sentenced to probation. The data for 2010 is not yet summarized.

	2005	*2006*	*2007*	*2008*	*2009*	*total*
Work	1694	5154	6713	8876	8980	31417
Study	95	356	558	622	600	2231
Unemployed	1026	3463	4410	5189	5244	19332
Retired	78	217	272	316	309	1192

	2005	*2006*	*2007*	*2008*	*2009*	*total*
Others	222	583	647	877	790	3119
Total:	3115	9778	12600	15880	15923	57291

Table 2. Employment of those sentenced to probation in the period 2005-2009.

62. Table 3 contains information provided by the Office of Supreme Prosecutor of Cassation on the number of requests to impose the measures "detention" and "house arrest" for the period January 2009 – June 2011.

Period	Prosecutor's requests under Art. 64 of the Penal Procedure Code and judicial review of denied requests						Persons penalized with "Detention" for the period		Persons with imposed detention in the form of „house arrest" for the period	Persons penalized with "Detention" for the duration of the pre-trial proceedings at the end of the year				Persons with imposed detention in the form of „house arrest" at the end of the period	Penalty of "Detention" changed by the prosecutor	
	Total number of requests	Approved requests	Denied requests			Unanswered requests	In total	With pending trial		In total	Deadline control for detention under Art. 63 (4) of the Penal Procedure Cote				Art. 63 (5) of Penal Procedure Code	Art. 63 (6) of Penal Procedure Code
			Total number of denied requests	Of them:							Up to 2 months	Up to 1 year	Up to 2 years			
				With imposed detention in the form of „house arrest"	With other kind of detention											
2009	609	009	95	00	91		355	21	82	03	69	17	7	3	2	0
2010	503	783	09	22	23	1	359	39	79	014	26	61	7	75	3	41
January – June 2011	275	883	65	1	06	7	300	24	58	046	13	03	0	30	1	9

Table 3. Number of requests for measures "detention" and "house arrest" for the period January 2009 – June 2011.

63. Table 4 presents data on the repealed measures of detention under Article 234 para. 8 and para. 9 of the Penal Procedure Code for the period of January 2009 – June 2011.

Period	*Measures of detention repealed upon request of a prosecutor (Art. 234 para. 8 of PPC)*	*Measures of detention repealed upon request of a detainee (Art. 234 para. 9 of PPC)*
2009	509	22
2010	329	46
January – June 2011	108	9

Table 4. Number of repealed measures of detention under Article 234 para. 8 and para. 9 of the Penal Procedure Code for the period of January 2009 – June 2011.

Reply to the issues raised in paragraph 6 of the list of issues

64. The Penal Code (Article 32) clearly states that minors under 14 years of age cannot be held penally responsible under any circumstances. In this sense, they are completely excluded from the system of criminal justice. Minors who have committed anti-social acts are subject to educational measures. These measures are specified in the Act on Control of Antisocial Acts of Minors and Underage Persons.

65. According to the same article, para. 3, persons between 14 and 18 years of age ("underage") are recognized as able to bear criminal responsibility only to the extent whether they might have understood the character and the meaning of their behaviour and to control their acts. In case this could not be clearly established by the court, they have to be released of responsibility. If necessary, the court may decide to place them in a correctional educational facility or a boarding house. There are also special rules applicable in their cases. These rules are settled in a special Chapter VI in the Penal Code ("Special Rules for Underage Persons").

66. The reform in the socio-pedagogical institutions and correctional institutions in Bulgaria is reviewed as an inherent part of the legislative reform and the enhancement of the child protection system. As a result of a complex assessment of the above-mentioned institutions in 2009, at the beginning of 2010 an analytical report was prepared which concluded that it would be impossible to harmonize the Child Protection Act and the Act on Control of Antisocial Acts of Minors and Underage Persons. Respectively, specific suggestions were made for reform which should fully guarantee the rights of children with delinquent behavior and observation of the recommendations of the Committee on the Rights of the Child.

67. An interdepartmental working group has prepared a Concept for the state policy in the area of juvenile justice. The group was chaired by the Deputy Minister of Justice with the participation of experts from the Ministry of Interior, the Ministry of Education, Youth and Science, the Ministry of Labour and Social Policy, the Ministry of Physical Education and Sports, the Ministry of Healthcare, the State Agency for Child Protection and the Agency for Social Assistance.

68. The Concept was presented by the Minister of Justice on 18 July 2011, during a conference in Sofia organized by the Ministry of Justice at the National Institute of Justice. The event was attended by the Minister of Labour and Social Policy, the Deputy Minister of Education, Youth and Science, the Ombudsman of the Republic of Bulgaria and representatives of the executive, legislative and judicial authorities. Its adoption by the Council of Ministers is expected later this year.

69. The Concept aims at developing effective policies for prevention of antisocial and victimogenic behavior of children by increasing the protection of their rights and legal interests. The general measures are divided into two main groups – legislative and institutional. The first group is related to developing further a children's rights oriented legislation in full compliance with international legal standards, as well as with the established international best practices as far as they are applicable to the Bulgarian social reality. These measures should also ensure the adequacy of existing legislation to social phenomena and processes associated with deviant behavior of children and their prevention.

70. The institutional measures aim at specialization of the system of juvenile justice, including through creation of specialized court, prosecution and preliminary investigation units. They also foresee the implementation of state professional standards for selection, training and in-service qualification for all groups of civil servants within the system of juvenile justice. The inter-institutional coordination (unity) of the system of juvenile justice requires involvement of all relevant institutions according to their competence for the solving of each case to the best interests of the child, with the leading role of one institution and under judicial control.

71. The Concept also points out the need to develop new, and enhance the capacity of existing community services for children with behavioral deviations, including specialized professional foster care, differentiated by type of risks to which the child is subjected, and the idiosyncrasies of its educational, correctional, health needs etc., intensive treatment programs within the community (educational, vocational and other counseling and referral, educational services, etc.) in centers of closed type and simulated isolation, etc.

72. The implementation of the Concept would require amendments to the Penal Code and the Penal Procedure Code. Regarding the Penal Code, possible amendments include mitigation of criminal responsibility and procedures with regard to offences committed by underage persons, expanding the scope of the institutes for exemption from criminal liability of underage persons, preservation of the gravity of criminal sanction in relation to crimes committed against children, introduction of an independent system of non-criminal measures applicable instead of penalty, during the probation period upon conditional sentencing, or while serving a sentence.

73. Possible amendments to the Penal Procedure Code refer to introducing rules for friendly hearing of minors and underage persons in criminal proceedings in accordance with the requirements of international legal standards in force for Bulgaria. In particular this measure aims at reducing the number of interviews with the child throughout the proceedings by establishing a rule for a single hearing with the possibility for the pre-trial testimony to be used in court and for a re-hearing in exceptional circumstances only.

74. Procedures complying with the acts and the guidelines of UN will be established and adapted, which allow hearing of the child in a suitable environment and outside the courtroom; introduce a special procedure for collection of testimony from children (allowing of alternative tools for expression close to the mentality of the child and standing outside the formal procedural language); introduce judicial control over the wording of questions and the manner of questioning by the parties to ensure that questions are understandable and appropriate for the child and do not stress him/her; prevent unnecessary contact of the child with court proceedings (hearing through videoconference) and with the accused and his legal counsel (by legal orders to carry out the interview without direct contact with these persons and to isolate of the child in separate premises while waiting to testify); activate the role of the pedagogue / psychologist in whose presence the child is heard. International standards require the active participation of that person during the hearing with a regulated opportunity for direct involvement in formulating and asking questions and getting answers.

75. Changes in Implementation of Penal Sanctions and Detention in Custody Act are also foreseen, and they include implementation of effective system of non-criminal (alternative) measures for the re-socialization of the sentenced person, carried out in the community.

76. The Act on Control of Antisocial Acts of Minors and Underage Persons will be abolished and an entirely new system will be established for prevention and counteraction against deviant behavior of children, which would be fully consistent with the existing international legal standards and the applicable best foreign practices.

77. Other laws will also be amended and supplemented. The Judiciary Act will be amended with regard to the introduction of specialized court and prosecution units for cases involving a child. Changes will be introduced to the Ministry of the Interior Act related to the introduction of specialized units in the structure of the bodies of preliminary investigation in cases involving a child. The Legal Aid Act should include the provision of free of charge legal assistance to children who have become victims of crime. The Liability of the State and Municipalities for Damages Act has to contain special rules on compensation of damages to a child as a result of unlawful acts or omissions of the administrative bodies of the system of juvenile justice. The Protection of Individuals at Risk in Relation to Criminal Proceedings Act will be amended with regard to the establishment of special protection to children - witnesses of crime. The Support and Financial Compensation to Victims of Crime Act should include the provision of adequate and timely compensation for the damage suffered by children who are victims of crime.

78. A set of organizational measures will be taken as well. These include the provision of financial support for the enactment of the new legislation; increasing the capacity of the Child Counseling Services; creation of a wide range of services to meet the needs of children with behavior disorders in order to overcome deviations with priority of services in the community and opportunities for appropriate institutional care, applicable during and after serving a sentence, if such is imposed; closing of the Central Commission for Combating Juvenile Delinquency and the Local Commissions for Combating Juvenile Delinquency; a moratorium on placement of children in social pedagogical boarding schools and educational boarding schools; closing educational boarding schools, etc.

79. In addition, an administrative and functional reorganization of the child protection system is currently underway, and it is related to the concept of a full scale reform in the area of child and family policies envisaging elaboration of new laws on child protection, pre- school and school education and child and juvenile justice. The goal of the reform is to clarify the functions of all relevant institutions, improve the system of cooperation and raise the effectiveness of their work not only in cases of adoption and implementation of policies supporting children and families, but also in dealing with specific cases, guarantee the priority of children's highest interests.

80. Pursuant to Article 386 para 2 of the Penal Procedure Code, the restraining measure detention in custody shall be taken against minor offenders in exceptional cases. According to the general provision of Article 63 of the Penal Code, the punishment for a crime committed by a juvenile person shall be determined after a reduction of the provided punishment in the relevant punishable act. This means that even for the most serious crimes, for which a life imprisonment is provided, a juvenile offender cannot be sentenced to more than ten years of imprisonment, if he/she has not completed 16 years of age, and 12 years of imprisonment – if he/she has completed 16 years of age. If an imprisonment of more than 10 years has been provided, it should be reduced according to a minor offender by a punishment of 2 to 8 years of imprisonment or up to 5 years of imprisonment depending on whether the offender has completed 16 years of age at the time of committing the crime. The reduced punishments shall be relevant for determining the time limitations in the criminal proceedings.

81. The sanctions, alternative to the imprisonment – probation and public reprimands, as well as the conditional sentencing shall have a wide scope of application to minor offenders.

82. Even in cases when effective punishment of imprisonment was imposed to a minor offender, the court must discharge the convicted person from serving it and enact the accommodation of the convicted person in a juvenile establishment (a boarding school) or apply another correctional measure – if the level of punishment is up to one year. This rule is established in the general provision of Article 64, para 1 of the Penal Code and shall not be applied only if the person has attained their majority at the time of conviction. The court can enact effective serving of the sentence in cases where the minor offender has acted in the conditions of repetitiveness or during the time of serving another punishment of imprisonment and the term of the new sanction is more than 6 months.

83. The limited application of the most drastic form of procedural compulsion and the imprisonment of minor offenders may be illustrated by the statistics compiled by the Prosecutor's Office. The minor persons convicted to imprisonment, who are serving their sentence towards the end of July 2011, are 65 for the whole country. 64 of them are minor boys who are serving imprisonment in the correctional facility in the town of Boychinovtsi and one minor girl is serving imprisonment in the prison boarding school "Ramanusha" within the Prison of Sliven. The charged and convicted minor persons who are subject to a remand measure by detention in custody towards the end of July 2011 are total of 39. 15 juveniles are transferred to the correctional facility in the town of Boychinovtsi, with a view of surrendering them to the court, and to the rest 24 the remand measure by detention in custody is executed in the relevant territorial units of Chief Directorate "Execution of Punishments" as the pre-trial investigations has not yet finished.

84. Regarding the application of correctional measures under the Act on Control of Antisocial Acts of Minors and Underage Persons, including accommodation in specialized establishments – boarding schools and specialized pedagogical institutions, the most drastic measures shall be imposed by the court upon a proposal by the local child delinquency committee and shall be executed in specialized schools within the Ministry of Education and Science.

Reply to the issues raised in paragraph 7 (a) of the list of issues

85. Chapter XV of the Implementation of Penal Sanctions and Detention in Custody Act regulates the execution of the punishments "life imprisonment" and "life imprisonment without the right for substitution". According to Article 197, para.1, these penal sanctions are implemented in separate prisons or in separate sections of other prisons. Unless provided explicitly otherwise, the execution of the punishments "life imprisonment" and "life imprisonment without the right for substitution" are subject to the general provisions of the law.

86. Although this group is accommodated in a separate area, conditions are created for its participation in reintegration activities. Programmes for stress prophylaxis, development of social skills and computer literacy skills are thereby implemented. Where possible, employment is ensured to them in the residential premises. Presently two of them are included in an individual form of training to the schools in prisons.

87. According to Article 198 para. 1 of the same law, the persons convicted to "life imprisonment" or "life imprisonment without the right for substitution" may benefit from a lighter regime should they have good behaviour and have served at least 5 years of the punishment. Para. 2 of the same article envisages that such convicts may be placed in common premises together with other persons deprived of liberty for a joint participation in work, educational, sport or other activities following a decision of the Commission on the

implementation of penal sanctions taking into account an evaluation of their personality. Convicts serving life sentences may be transferred to an open-type prison community only when the court rules a substitution of the life imprisonment with the punishment "deprivation of liberty". Article 199 of the Implementation of Penal Sanctions and Detention in Custody Act does not allow persons convicted to "life imprisonment" or "life imprisonment without the right for substitution" to be granted rewards which may be used outside the scope of the prison.

Reply to the issues raised in paragraph 7 (b) of the list of issues

88. In November 2009, a working group was set up within the Ministry of Justice with the aim to elaborate of a new Penal Code. The group includes experts on legal doctrine (from the Sofia University "St. Kliment Ohridski" and the Academy of the Ministry of Interior), court practitioners (Supreme Cassation Court, Supreme Cassation Prosecutor's Office, National Investigation Service), the bar associations as well as experts from the Ministry of Justice.

89. One of the leading tendencies in the expert work on a new Penal Code is to differentiate the penal policy in order to respond to the necessity of effective protection of rights and legal interests of citizens. The strictness of criminal repression will be enforced primarily with regard to serious offences (punishable with a deprivation of liberty for a term of at least five years or heavier punishment) and recidivism. At the same time, criminal responsibility and the order for its realization regarding minor offences will be lightened. A precise overview is necessary of all texts in the Special part of the Code in order to define offences which do not represent threat to society any more and their decriminalization will be of particular importance. At the same time punishments for other criminal offences will be specified further.

90. It is essential also to reconsider and amend the system of punishments and other measures of state constraint which are imposed upon perpetration of a crime. In this regard it is viewed as imperative to abolish some punishments which have lost meaning in present days. The abolition of life imprisonment without parole may have its grounds in the essence of this punishment which is not more effective than life imprisonment. All texts of the Special Part of Penal Code stipulate both punishments as alternative, i.e. they are imposed for the same kind of offences. In both cases the sentenced person may be pardoned by the President of the Republic. The issue will be subject also to a wide public discussion.

Reply to the issues raised in paragraph 7 (c) of the list of issues

91. The use of auxiliary means (including handcuffs) is strictly regulated in the Execution of Criminal Punishments and Detention in Custody Act. As regard the taking of persons with life sentences outside the prison with handcuffs, it only applies to isolated cases. The term of five years is set forth in the law and is not imposed by the prison administration.

Reply to the issues raised in paragraph 7 (d) of the list of issues

92. Currently, there are 165 persons in Bulgarian prisons serving the punishment "life sentence". 108 serve life sentences with the right of replacement and 57 – life imprisonment without the right of replacement.

Reply to the issues raised in paragraph 8 of the list of issues

93. Article 253 of the Execution of Punishments and Detention in Custody Act provides that right to access to the accuses persons and those under trial shall have the prosecutor, the investigating body, the judges, experts, lawyers, defenders and wards on the case.

Access to the accused persons and those under trial and to the places, where they have been placed shall have also the international experts, who may visit them as provided by international agreements, ratified by the Republic of Bulgaria. The relevant prosecutor or the court may permit meetings with representatives of legal defenders, religious and other organizations and communities, registered in the country, as well as with officials of the operative-searching offices. Meetings of the accused persons and those under trial with representatives of the mass media shall be admitted after a written permission of the relevant prosecutor or court. The accused persons and those under trial may be interviewed and photographed only if they express an explicit written consent about this. The prosecutors, who exercise supervision for legality in the places for deprivation of liberty shall be provided with access any time during the day and night.

94. The Chief Directorate "Execution of Punishments" with the Ministry of Justice and the Prosecutor's Office do not keep statistics of the visits of the representatives of NGOs and of the Ombudsman of the Republic of Bulgaria in penitentiary facilities. It should be pointed out that there has never been a case where representatives of NGOs have been denied access to prisons or to information about the activity of the penitentiary system. It should be further stressed that there is a cooperation agreement signed with the Bulgarian Helsinki Committee (BHC), according to which its collaborators have been given passes and regularly visit detention facilities. Furthermore, the BHC and the Prosecutor's Office have conducted joint monitoring visits to places of detention and deprivation of liberty.

95. Following a Memorandum of Co-operation with the Minister of Justice, the Ombudsman has initiated a series of inspections in places of detention. In 2007, the Ombudsman carried out inspections in the prisons of Pazardzhik and Stara Zagora, the Central Sofia Prison, the prison for females in Sliven and the correctional juvenile facility in Boychinovtsi. In 2008 he visited the prisons in Plovdiv, Bourgas, Varna, Vratsa, Pleven and Lovech as well as in five prison hostels. In 2009 he inspected three prison hostels.

96. Following the 2007 inspection, the Ombudsman presented publicly an extensive report (enclosed) on his findings and made specific recommendations pertaining inter alia to employment opportunities and education and training of inmates, medical care and facilities in the places of detention, custody of juvenile delinquents deprived of freedom in relation to medical care and treatment, and training of penitentiary administration. The Ombudsman also recommended certain amendments in the Execution of Punishments and Detention in Custody Act.

97. In 2008, the Ombudsman took part in the elaboration of amendments to the above-mentioned law. His proposals were endorsed. The current legislation provides for specific powers of the Ombudsman in relation to places of detention. Prison administration must render full support and co-operation to the Ombudsman in the discharge of his functions. The Ombudsman is also guaranteed access to places of detention and confidential talks with detainees (Article 7 of the Execution of Punishments and Detention in Custody Act).

98. Inspections conducted in 2009 highlighted once again the need of reform in the Bulgarian prisons' system. The Ombudsman expressed his concern that funds earmarked for renovation of prisons in accordance with the endorsed Strategy for Reforming Places of Detention (2009 – 2015) were drastically reduced in 2009 and 2010.

99. In April 2011, the National Assembly ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The Standing Legal Affairs Parliamentary Committee has proposed that the Ombudsman be designated as the national preventive mechanism under the OPCAT which has to be established within a year after ratification of the Protocol. Currently, an interdepartmental working group at the Ministry of Justice is preparing the necessary amendments to the Ombudsman Act.

100. Regarding individual complaints lodged by prisoners, in 2010 the Ombudsman reviewed 81 such complaints featuring problems such as manifestation of partiality on behalf of the prison administration; lack of sufficient employment opportunities in the penitentiary institutions; co-operation sought towards moving an inmate to another penitentiary institution; rude and humiliating attitude on behalf of prison employees. Examples of the Ombudsman's interventions are included in Annex 2.

101. The Ministry of Interior has also developed successful cooperation with the Ombudsman of the Republic of Bulgaria. The competent structural units of the Ministry of Interior are working on programs and projects for training of officers in the field of human rights and police ethics. Partners in these training activities are numerous NGOs, among them the Bulgarian Center for Gender Studies Foundation, the Diva Foundation for Care in the Community in the town of Plovdiv, the Demetra Association in the town of Burgas, the Nadia Center, the Open Society Institute, etc.

102. A recent example for such training is the session on National Practices for Prevention and Fight against Discrimination in the Bulgarian Society and the Role of the Ministry of Interior System organized jointly with the Commission for Protection against Discrimination on 12-14 July 2011.

103. The Ministry of Interior has been actively supporting NGOs and citizens willing to perform independent public monitoring in the premises for detention of persons in the structural units of the Ministry. Public monitoring includes the possibility for citizens to visit the detention places in the Regional Units of the Police on the territory of the Sofia Metropolitan Directorate of Interior and the Regional Directorates of the Ministry of Interior in the country without preliminary notice, and to present their findings with the aim of undertaking measures for transparent and correct work of the police officers.

104. Since 2005, the Open Society Institute - Sofia has been implementing a project Civil Monitoring of the Police (2005 - 2011) in accordance with a methodology approved by the Chief Directorate Public Order and Security Police. It aims at building trust between the police and local communities as well as at increasing transparency of the police institution.

105. Article 253 of the Execution of Punishments and Detention in Custody Act explicitly requires the NGOs to have permission of the respective prosecutor or court. In practice, this permission is almost always granted. Such permissions are necessary from the point of view of public safety. The procedures are neither long, nor time consuming or expensive.

106. The Bulgarian authorities abide strictly by the principle of equal treatment of all social partners, which does not allow the provision of a different regime for any of the NGOs expressing willingness to contact pre-trial detainees.

Reply to the issues raised in paragraph 9 (a) of the list of issues

107. Two independent human rights institutions have already submitted applications for accreditation as a National Institution for the Promotion and Protection of Human Rights in compliance with the Paris Principles - the Ombudsman and the Commission on Protection against Discrimination. The review of the applications by the Secretariat of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights is pending.

Reply to the issues raised in paragraph 9 (b) of the list of issues

108. The Ministry of Interior has undertaken practical measures for the eradication of the root causes of alleged violations of the law by police officers. A special system for

registration of complaints alleging ill-treatment by police officers has been introduced, and is closely monitored. Inquiries are conducted in all cases involving alleged violations of the law by police officers, and where such violations are proved, their perpetrators and, where necessary, their immediate superiors, are sanctioned. There are numerous cases of police officers having been dismissed from the police after they had been proven guilty of such violations. Moreover, when the facts of the inquiry indicate that a crime has possibly been committed, the full set of collected materials is submitted to the prosecutor's office for further action. This is a mandatory procedure which is followed without exception.

109. Instruction No. Iz-1711 of 15 September 2009 of the Ministry of the Interior explicitly forbids the use by the police officers of physical force, auxiliary tools or armaments against detainees, except for the rare cases provided by the Law on the Ministry of Interior. In addition, a guarantee for conducting an independent investigation is the provision of article 194, para.1, point 2 of the Penal Procedure Code, according to which the investigation of cases involving alleged crimes by policemen shall be conducted by examining magistrates and not by investigating policemen. Within its competences, the Prosecutor's Office has taken measures to combat impunity, such as shortening the time limits for examination of cases in the pre-trial phase; strengthening the administrative capacity of the Prosecutor's Office to counter cases constituting police brutality; regular reporting by the administrative heads of the cases of detained persons; outlining measures for their prompt completion; training magistrates in the European Convention on Human Rights etc.

110. Table 5 presents statistics regarding court cases on crimes related to police violence in 2010:

Year	*Cases (total)*	*Cases new*	*Cases dismissed*	*Prosecuted persons*	*Convicted persons*	*Acquitted persons*
First half of 2010	56	30	13	10	6	1
Second half of 2010	16	13	16	13	6	0
2010 (total)	72	43	29	23	12	1

Table 5. Court cases on crimes related to police violence in 2010.

111. At the Academy of the Ministry of Interior, training in connection with the use of force and firearms by police officers is covered in the subjects "Protection of Human Rights", "Police Law", "Marksmanship Training", "Self-defence and Fitness Training" and "Operational and Tactical Training". Use of force and firearms is also included in induction training courses and in professional qualification courses for police officers. The programme includes the international standards in this sphere.

112. Marksmanship training is compulsory for all civil servants at the Ministry of Interior who are issued with a service weapon. This training maintains and refines knowledge and skills for application of the legally established standards for use of firearms by police officers as a last resort and is an integral part of vocational education and training. A Marksmanship Training Manual for Ministry of Interior Employees has been compiled and is applied to this end. An emphasis is laid on the regulatory framework of primary and secondary legislation specifying the circumstances under which the law enforcement authorities may use force and firearms in the light of the applicable international standards

and relevant provisions of the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

113. In May 2011, the Ministry of the Interior initiated a public discussion on possible amendments to the current legislation, with a view to strengthening the safeguards against arbitrary use of firearms. All relevant recommendations of international monitoring bodies are being taken into consideration.

Reply to the issues raised in paragraph 9 (c) of the list of issues

114. The Bulgarian authorities seek to implement a consistent policy intended to eradicate and prevent any stereotypes and prejudices against members of ethnic, religious or linguistic minorities. All alleged manifestations of racism and intolerance are closely monitored, and, if necessary, resolute steps are undertaken to punish such acts.

115. The penal sanctions provided for offences against national and racial equality show that the legislator treats these offences as presenting a high degree of social danger. The provisions of the General Part of the Penal Code expressly state that in determining the penal sanction, the court takes into consideration, inter alia, the motives for the commission of the act (Article 54 (1)), including possible racist motives. If it is established that the motivation for the commission of a particular offence is racist, this in all cases is considered an aggravating circumstance.

116. Furthermore, in the process of investigation the prosecuting magistracy is also required by law to take into consideration cumulatively the social danger of the perpetrators and of the act itself, including motives, causes and modus operandi.

117. Regarding the Penal Code in particular, the amendments of 2009 supplemented the provision on propagation or incitement to ethnic hostility or hatred or racial discrimination through speech, press or other media, through electronic information systems or in another manner. The penal sanction was also increased, to deprivation of liberty for a maximum term of four years (from a maximum term of three years before), and the maximum fine was increased to BGN 10,000.

118. The introduction of the EU requirements (Council Framework Decision 2008/913/JHA of 28 November 2008) on combating certain forms and expressions of racism and xenophobia by means of criminal law) has been completed in April 2011, and amendments were introduced in the Penal Code expanding the scope of application of its Article 162.

119. The Law on Radio and Television explicitly prohibits the use of hate speech. The practice of the Council on Electronic Media, which is the independent regulator and supervisor, includes penalty decrees against specific broadcasters for providing a platform for voicing ethnic intolerance, as well as sanctions against individual programmes. Furthermore, in 2004 media professionals adopted an Ethical Code of the Bulgarian Media, which provides, inter alia, that a person's race, colour, religion and ethnic background must not be referred to unless it is of importance to the meaning of the story. Complaints about radio and television programmes are received by the National Council for Journalistic Ethics, set up by journalists' associations.

120. The Ministry of the Interior cooperates closely with the OSCE Office for Democratic Institutions and Human Rights and its programme on tolerance and non-discrimination TANDIS. A key element in this cooperation is the programme for human rights training of police officers, focusing particularly on issues pertaining to hate crimes.

121. Regarding protection against racial discrimination, the legal framework in Bulgaria is presented in detail in the reports by the Bulgarian authorities to the relevant international

treaty bodies, including the Human Rights Committee and the Committee on the Elimination of Racial Discrimination.

122. The victims of discrimination have the alternative whether to submit a complaint before the Commission for Protection against Discrimination or before the court. The Commission is an established anti-discrimination body, which cooperates closely with civil society and the media, carries out trainings, surveys, organized awareness raising campaigns, etc. Since its establishment in 2005, the complaints and signals lodged at the Commission are constantly rising which demonstrates increased confidence in this institution. In 2005, there were 27 complaints, in 2006 – 289, in 2007 – 645, in 2008 – 738, in 2009 – 1039, in 2010 – 838. Cases alleging multiple discrimination disaggregate by year as follows: 2 in 2005, 20 in 2006, 42 in 2007, 59 in 2008, 95 in 2009, and 80 – in 2010. The statistics show that the procedure before the CPD is the preferred one, probably due to the fact that it is also free of charge (Article 53 of the Law on Protection against Discrimination provides that all costs of the proceedings are born by the state budget).

123. As for statistics on cases before the courts, the data presented by the Supreme Administrative Court shows that there have been 61 proceedings, 45 of them before courts of first instance, and 16 – cassations. There are court decisions on 9 of the first instance cases, and 10 – on cassations. There are 36 pending cases before first instance courts, and 6 – before courts of cassation.

Reply to the issues raised in paragraph 9 (d) of the list of issues

124. As already stated in para. 108, the Ministry of Interior has undertaken practical measures for the eradication of the root causes of alleged violations of the law by police officers. Regarding Roma in particular, the National Action Plan of the initiative "Decade of the Roma inclusion 2005-2015", includes as a separate priority topic "Protection against discrimination and ensuring equal conditions". In this framework the Academy of the Ministry of Interior carries out in-service professional training of police officers on human rights issues, including issues related to prevention of discrimination against members of minority groups. It is conducted every year by officers who have previously passed special training for trainers on the topic. Some of the specific themes of the training programme are "Human rights and skills for work with representatives of the Roma communities", "Identifying problems of the public order and security in the local Roma communities", "Traditions, everyday life and culture of the Roma communities", "Application of a problem oriented approach for ensuring order and security in the Roma communities", etc. The training includes also review of practical cases.

125. In exercising their duties, police officers are guided by the Resolution on the challenges to the democratic accommodation of ethnic, cultural and religious diversity in the African, Caribbean and Pacific Group of States and the EU countries (promulgated in OJ 221/14 September 2009) and the Resolution of the European Economic and Social Committee on 'The situation of the Roma in the European Union' (2011/C 48/01) promulgated in OJ 48/15 February 2011.

126. For several years the Ministry of Interior has been implementing an Action Plan for realization of the Strategic guidelines for development of the integrated model "Community Policing". A problem oriented approach and team oriented organization of work are applied for guarantying the public order and security on local level.

127. A good practice reported by regional police departments is the establishment of teams, which include representatives of different Ministry of Interior structures in accordance with their professional competences, in order to solve more effectively specific local problems. The chiefs of the regional police units, the police inspectors and the junior police inspectors hold meetings with the respective community, representatives of the local

administration, governmental institutions and citizens. Regular reports are submitted every three months on the crime and public order situation, and they are discussed at public sessions of the respective municipal councils and the local commissions for public order and security. Statistical information and reports on the regional directorates' activities are published on their web sites.

128. Local meetings on site with Roma leaders are held regularly to discuss specific local problems and find common solutions. Many local projects are being implemented with the active assistance of various NGOs, aimed at crime prevention and integration of Roma in the process of solving specific security problems.

129. The legal requirements for protection of personal data forbid gathering statistics on the ethnic origin of public servants, police officers and professional soldiers without their explicit consent.

130. Entry of civil service in the relevant administration is mandatorily preceded by a competitive procedure. The candidates to occupy the position are evaluated on the basis of their professional merits, on the principle of non-discrimination and equal opportunities. Special training courses are organised to encourage young Roma experts join the public administration. As for the police force in particular, programmes are carried out by the Academy of the Ministry of Interior to help candidates from the Roma community, if they so wish, prepare adequately for contests.

Reply to the issues raised in paragraph 10 of the list of issues

131. In 2010 the national 24-hour hotline for victims of domestic violence was used by 2 378 persons. 1 626 (68%) of the consultations were on issues directly linked to cases of domestic violence; 68 (3 %) – on issues linked to trafficking of human beings, 38 (2 %) – to sexual violence, and 29 (1%) – to other types of trauma. 617 (26 %) of the consultations were focused on completely different issues.

132. 16 shelters are currently available in Bulgaria for women and children - victims of violence from which 8 are newly opened - in Gabrovo, Sevlievo, Pernik, Smolian, Drianovo, Isperih, Yambol and Chirpan. In 2010, 328 victims were accommodated in the 6 shelters (crisis centers) in the cities of Sofia, Varna, Burgas, Pleven, Silistra and Pernik. Some of those centers have been opened after June 2010, and the average period of stay is three months or longer, depending on the individual situation of the victim. 73% of the victims who contacted the centers were adult women, and the rest of the victims (37,6 %) - children.

Article 3

Reply to the issues raised in paragraph 11 of the list of issues

133. The imposed compulsory administrative measures are not implemented in respect to foreigners for whom there is evidence that their life and security are threatened in the country of origin.

134. The Law on Asylum and Refugees (Article 4, paragraph 3) has interpreted the obligation under the Convention relating to the Status of Refugees of 1951, and stipulates clearly that an alien who has entered the territory of Bulgaria to seek protection or who has been granted protection may not be returned to the territory of a country where his/her life or freedom is threatened due to his/her race, religion, nationality, membership of a specific social group or political opinion and/or belief, or where he/she faces a threat of torture or other forms of cruel, inhuman or degrading treatment or punishment.

135. In the period January 2010 – July 2011, there were 977 applications submitted to the State Agency for Refugees through the Migration Directorate at the Ministry of Interior (including re-submitted applications).

Reply to the issues raised in paragraph 12 of the list of issues

136. Pursuant to Article 16, para 1, point 3 from the Ordinance of responsibility and coordination of state bodies engaged in actions for the implementation of Council Regulation (EC) No 343/2003 of 18 February 2003, when a foreigner is detained who has attempted illegal crossing of state border of Republic of Bulgaria, and he/she states that wishes to obtain a status, the Chief Directorate Border Police transmits the foreigner to the Migration Directorate for accommodation in a special home for temporary detention of foreigners. Meetings of representatives of the Migration Directorate and the State Agency for Refugees are held on a monthly basis in order to improve the cooperation between the two structures, and this has contributed to the rapid accession of the Agency to the foreigners.

137. As provided by Article 42 of the Law on Asylum and the Refugees, the expulsion order does require explicit indication to which country the person is being sent to.

138. The division of competences on the implementation of the Law on Asylum and the Refugees designates the chairman of the State Agency on National Security as the responsible authority to take the decision of the imposition of the measure "expulsion". The practical execution of the measure is carried out by the competent structures of the Ministry of Interior – the Directorate General Border Police and the Migration Directorate.

Reply to the issues raised in paragraph 13 of the list of issues

139. The orders for expulsion or coercive escort to the border are appealed under the Administrative Procedure Code, whereas the appeal does not suspend the individual administrative act.

140. The extradition procedure is a two step judicial procedure regulated by the Law on Extradition and European Arrest Warrant. When the decision of the relevant district court acting as first instance is issued, there is a 7-day deadline starting from its announcement for the person concerned or his/her legal representative to appeal it. Though the appeal does not have suspensive effect, the respective court of appeal usually takes this into consideration. It has to stipulate its decision in 10 days. This decision is final and determines whether the extradition is granted or denied. This is a standard judicial procedure, and no separate statistical data are being gathered.

141. During the last 15 years, there have been only 2 or 3 cases in which the court has denied to extradite a person on the grounds that he/she may be put in danger of being subjected to torture. This is a mandatory ground for refusal stipulated in Article 7, para 5 of the Law on Extradition and European Arrest Warrant.

142. In 2004-2005, there were 5 requests for extradition issued by International Criminal Tribunal on the former Yugoslavia. The persons sought, however, were not detected or present on the territory of the Republic of Bulgaria.

143. The order for accommodation in the special home for temporary detention of foreigners can be appealed under the Administrative Procedure Code in a 7-day period from the actual accommodation. The appeal does not stop the execution of the order. The court considers the appeal in an open session and passes the judgment within one month from the initiation of the legal proceedings. The appearance of the person is not obligatory but there is no obstacle for him to be heard orally should this be requested by the appellant. The

decision of the first instance court may be appealed before the Supreme Administrative Court, which passes the judgment within two months.

144. The estimated number of foreigners coercively escorted to the border for the period 2005 - July 2011 (inclusive) is 1265 people. For the same period we have the following data by countries: Armenia – 144, Afghanistan – 19, Georgia – 26, China – 33, Iraq – 61, Iran – 22, FYR of Macedonia – 37, Moldova – 188, the Russian Federation – 34, Turkey – 177, Ukraine – 28, others – 533.

Reply to the issues raised in paragraph 14 (a) of the list of issues

145. Applications submitted under the Law on Asylum and Refugees to the Chief Directorate Border Police in 2010 account for 225. They disaggregate by country of origin as follows: Afghanistan – 10, Iraq – 200, Iran – 1, Syria – 2, other – 5, stateless persons – 7. Table 6 presents the data on the applications submitted in the period January - July 2011.

Afghanistan	*4*
Iraq	48 + 17 children
Lebanon	1
Morocco	2
Palestine	7 + 4 children
Syria	7+ 1 child
Somalia	4
Tunisia	1
Total	74 applications with 22 children recorded in them

Table 6. Applications submitted under the Law on Asylum and Refugees to the Chief Directorate Border Police in the period January - July 2011.

146. A translator or interpreter, legal assistance (through the Bulgarian Helsinki Committee), medical assistance and logistics are provided to all foreigners that have entered the country illegally in order to seek personally and on their own will special protection in the territory of Bulgaria. Foreigners from the so-called "risk groups" or "groups with specific needs" (unaccompanied minors and juveniles, pregnant women, mothers with children, disabled persons, patients with chronic diseases, elderly persons) are immediately placed in the registration and reception centre for refugees under the State Agency for Refugees. They are immediately provided with emergency medical and legal assistance and logistical support, if necessary.

Reply to the issues raised in paragraph 14 (b) of the list of issues

147. The accommodation of foreigners, who submitted applications under the Law on Asylum and Refugees and are expecting the outcome of the review process, is done under the Ordinance on responsibility and coordination of state bodies engaged in activities for the implementation of Council Regulation (EC) № 343/2003 of 18 February 2003. During the stay in the center, the foreigners are entitled to submit applications for seeking protection which are immediately submitted to the State Agency for Refugees. The date of acceptance of foreigners to the specialized homes for temporary accommodation of foreigners is within the competence of the State Agency for Refugees.

Reply to the issues raised in paragraph 14 (c) of the list of issues

148. The Transit Center in Pastrogor village is built near the Bulgarian border with Turkey where the main inflow of foreigners is focused. The indicative date for opening the Transit center is 30 October 2011. The center has a capacity of 300 people accommodated in rooms with 6 beds. All rooms are equipped with wardrobes, tables and chairs. Every floor has a bathroom. The building has a common laundry room with 10 washing machines and laundry dryers, kitchen and general medical office. There is a large multipurpose equipped room with separate areas for recreation and entertainment, information center, internet club, woman club, library, playground and more. At present 50% of the center staff is recruited and trained to perform their professional duties.

Reply to the issues raised in paragraph 15 of the list of issues

149. The Law on Foreigners in the Republic of Bulgaria provides that the period for accommodation is 6 months, whereas in certain circumstances it may be extended to 12 months. Foreigners with imposed compulsory administrative measures are accommodated in the centers. At present, there are 131 foreigners in the specialized home for temporary accommodation in Sofia and 59 foreigners are accommodated in the specialized home for temporary accommodation in Lyubimets. The average length of stay of foreigners in the specialized homes is approximately two and a half months.

150. In February – June 2011, translation services were also provided for the Migration Directorate of Ministry of Interior, in the framework of the Annual Program 2009 under the European Return Fund, co-financed by the EU. Currently, preparation is underway to continue these activities.

151. Medical services are provided to every accommodated foreigner. The medical cares in the Home are carried out with the necessary precision – human care and professionalism from the medical team, which consists of doctor (specialist in internal medicine and healthcare management), nurse (with professional university degree and postgraduate qualification “Endoscopic nurse”). Since June 2001, it has become obligatory to appoint also a medical auxiliary. Every foreigner receives information on his/her health status and the prescribed treatment in a language he/she comprehend.

152. In a case of emergency after working hours and during weekends, the accommodated foreigners are provided with medical aid by medical team (doctor and nurse) from the units of Emergency medical aid. If a differential diagnosis or consultation with specialist is needed, the ill person is transported to the Medical Institute of the Ministry of Interior.

Reply to the issues raised in paragraph 16 (a) and (b) of the list of issues

153. The Ministry of Interior does not monitor the situation of foreigners on their return to the country of origin.

Articles 5, 6, 7 and 8

Reply to the issues raised in paragraph 17 of the list of issues

154. There is no such case registered at the State Agency for Refugees. Up to date, the Ministry of Justice has not received any such requests. In general, in such situations the Article 6 of the Penal Code provides that it shall also apply to foreign citizens who have committed abroad crimes against peace and humanity, whereby the interests of another state or foreign citizens have been affected. It shall also apply to other crimes committed by

foreign citizens abroad, where this is stipulated in an international agreement, to which the Republic of Bulgaria is a party.

Reply to the issues raised in paragraph 18 of the list of issues

155. Yes. According to Article 6, para 1 of the Penal Code, Bulgarian courts have universal jurisdiction when it comes to crimes against peace and humanity. The law does not require even slightest connection to Bulgarian legal order, territory or citizens in order for Bulgarian courts to seek criminal responsibility in such cases.

156. Bulgaria has already implanted the Framework Decision 2008/913/JHA of the EU Council of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law. With this regard, a new provision has been included in the Penal Code in Chapter "Crimes against Peace and Humanity" – Article 419a, which states that a person who in any way condones, denies or grossly trivializes a perpetrated crime against peace and humanity and thus creates a jeopardy for commission of violence or for formation of hatred against individuals or groups of people united by race, color, religion, origin, nationality, or of ethnicity, shall be punished with detention of liberty from one to five years. Furthermore, a person who abets another in the crime under the previous paragraph shall be punished by deprivation of liberty up to one year.

Reply to the issues raised in paragraph 19 of the list of issues

157. The initial training of newly appointed employees is also attended by medical officials, and the topics of the courses include issues related to the recognition of traces of ill-treatment and of conditions that may be linked to the consumption of drug substances (crises and abstinence).

158. Those employed as supervision and security staff in detention facilities, are acquainted with the recognition and documentation of the above traces within the training process and during daily briefings. The Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) is used by the staff of detention facilities.

159. Annual training is organized, jointly with the medical staff in facilities for deprivation of liberty, on current topics related to the provision of services to those deprived of liberty with problematic consumption of drugs or to those living with the HIV/AIDS. This aims at enhancing protection from infections in prisons and reduction of drug related damages.

Reply to the issues raised in paragraph 20 of the list of issues

160. Such training is provided in the framework of the project "Childhood for all". It also includes visits to the homes for children with disabilities. Consultant teams from the English "Lumos" Foundation have been working with 21 homes for children with mental disabilities. The "Lumos" consultants have also started ergotherapy training in the specialized institutions. The ergotherapy leads to improvement of life quality of persons with disabilities, equality and equal chances in public life with other citizens.

Reply to the issues raised in paragraph 21 of the list of issues

161. International human rights law, and particularly the acts regarding the prevention of torture, is studied as an obligatory subject within the initial training, which is provided to all intern-wardens from the detention facilities. This topic is also included in the trainings for enhancement of qualification for all employees, and in short-term courses for employees re-appointed to a superior position or sent to other facilities. In 2010, six state servants were

included in an international project “Twining light”**,** which covered also topics related to detention-facility entry diagnostics, including documentation of traces of violence.

162. Traditionally, these trainings are conducted in cooperation with NGOs. The Chief Directorate “Execution of Punishments” has been cooperating for years in this respect with organizations such as the Institute for Social Activities and Practices and with the Association for Reintegration of Sentenced Prisoners. During the last 5 years, almost all employees in the penitentiary system have passed one and more similar courses.

163. Human rights law has been entirely integrated in the training conducted by the Police Faculty of the Academy of the Ministry of Interior. The absolute ban of all forms of violence and various aspects of violations of human rights are discussed in the framework of the subjects like “Protection of Human Rights”, “Constitutional Law”, “Criminal Law”, “Police Law”, “EU Law”, etc. The international human rights standards are being taught within the course "Protecting Human Rights" with curriculum of 30 academic hours, and the course "Police protection of human rights" with curriculum of 10 academic hours. Their study is mandatory for higher bachelor courses of education and courses for initial training of employees of the Ministry of Interior. The course is conducted annually and involves full-time studying cadets, as well as employees of the Ministry of Interior, who are extramural students. Emphasis is placed on the absolute prohibition of violations of human rights. The observance of human rights when using force and firearms is also discussed in depth. All international standards of the United Nations directly concerning prevention of torture and protection from all forms of violations of human rights are being taught, the best police practices are being presented and examples of everyday policing are being discussed. The content of the course "Protecting Human Rights" is also included in the distance-learning courses.

164. In the period January 2009 - July 2011, a total of 199 employees of the structures of the "Criminal Police", "Economic Police", "Public Order Police" and the Chief Directorate on Combating Organized Crime received training on "Police protection of human rights”. During the 2009/2010 academic year, 98 cadets and students successfully completed the course "Protecting Human Rights". Accordingly, during the 2010/2011 academic year 149 cadets passed an examination in that discipline.

165 Lecturers from the Academy of the Ministry of Interior actively participate in international training courses, seminars, conferences, programs, projects and different fora dedicated to human rights issues. In June 2009 and September 2010, a lecturer from the Academy of the Ministry of Interior participated in an international conference organized by the European Police College (CEPOL), on Human Rights and Police Ethics. In June 2011, a lecturer from the Academy took part in an international course on “Antidiscrimination, diversity and other fundamental rights”, organized by the European Union Agency for Fundamental Rights (FRA), jointly with the Association of the European Police Colleges (AEPC) in the city of Lion, France. The Academy of the Ministry of Interior also participates in the international project of FRONTEX for development of methodology for training Border Police officials on human rights (2010/TRU/13 – 207). The project started in 2010 and will continue in 2011 and 2012.

Reply to the issues raised in paragraph 22 of the list of issues

166. In addition to the information already provided above, training with regard to the use of force by the employees of the penitentiary system is provided both in the Training Centre of the Chief Directorate “Execution of Punishments” in the town of Pleven as well as in the detention facilities. Special attention is paid to the correct assessment of the need to use physical force - physical force as such may only be used after all other forms of influence on the detained person have already been exhausted.

167. Most of the courses that have been conducted in the recent years in the Training Centre of the Chief Directorate "Execution of Punishments" in Pleven have been initial training for newly appointed civil servants for various positions within the penitentiary system. The topics about human rights and use of force by the staff of penitentiary facilities are covered in four of the main disciplines included in the initial training – legal training, penitentiary pedagogy, penitentiary psychology and supervision-and-security activity.

168. The legal training covers topics, through which the officials get acquainted with fundamental international legal acts related to human rights, both on European and UN level. In particular**,** these are the European Convention for the Protection of Human Rights and Fundamental Freedoms; the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment; the European Prison Rules; the Standard Minimum Rules for the Treatment of Prisoners; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Universal Declaration of Human Rights.

169. The penitentiary pedagogy and the penitentiary psychology cover topics indicating the means, practices, means of respecting these international acts by the employees, as well as issues related to the Ethical Code of Conduct of the employees in the penitentiary system. The trainees acquaint with the status and powers of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT); parts of reports from conducted inspections are discussed, findings and conclusions are analyzed.

170. In the field of supervision-and-security activities, the employees study in details specific cases when the use of force in respect of prisoners and detained persons is allowed and what should be the subsequent actions, including rendering first medical aid. Practical role-games take place, in which an employee has to make a decision about the use of physical force, auxiliary means and as a last resort – a weapon. The total number of training hours during the initial training, which are related to human rights, prevention of torture and use of force, together with the practical classes, is 42 school hours.

Reply to the issues raised in paragraph 23 of the list of issues

171. Awareness-raising campaings in this area are being carried out with the active participation of the Commission on Protection against Discrimination and the Ombudsman's Office.

Reply to the issues raised in paragraph 24 of the list of issues

172. The participation of the Academy of the Ministry of Interior in the project HOME/2010/ISEC/FP/C2/4000001454 on "European police and Human rights" under the Specific Program of the EC "Prevention of and Fight against Crime" (ISEC 2010) includes training of trainers on the subject "Respect of the human rights with a focus on the non-discriminatory treatment in the police" and development of methodology after the assessment of the impact of the training. The subject refers also to issues related to prevention of torture and other forms of inhuman or humiliating attitude or punishment.

Article 11

Reply to the issues raised in paragraph 25 (a) of the list of issues

173. In 2009, a long-term Investment Programme was adopted aimed at the improvement of conditions in detention facilities. It also envisages the construction, reconstruction and modernization of the material resources of these facilities. It covers the period 2009 – 2015. The priorities include the construction of new detention facilities in Shumen and Gabrovo.

174. It has been recognized that most of the functioning investigative detention facilities are, in architectural terms, constructed in a way which makes it quite difficult to reconstruct them and make them compliant with the contemporary requirements for treatment of legal offenders. Where possible, the internal windows have been made broader and additional bars have been installed to the doors, in order to ensure more direct sunlight in the cells. The artificial lighting in the cells was also improved.

Reply to the issues raised in paragraph 25 (b) of the list of issues

175. Due to an architectural impossibility to carry out reconstruction in the Slivnitsa detention facility, options are being sought for the transfer of the detainees to other appropriate premises. The Investment Programme for the Svilengrad detention facility provides for reconstruction of the existing building. A new detention facility is also envisaged in Petrich. To this end, a building has been secured and terms of reference have been developed for its reconstruction.

176. The Ministry of Interior has also been undertaking activities for gradual refurbishment of the detention facilities in its structures, in accordance with the requirements of Instruction № Із-1711/15.09.2009. In the framework of a project under the PHARE program, the detention facilities in 22 district police departments already went through a reconstruction. During the period 2010-2013, reconstructions are planned of detention facilities in another 45 district police departments. The necessary financial resources which amount to 2 444 280 EUR are to be provided from the state budget.

Reply to the issues raised in paragraph 25 (c) of the list of issues

177. The provisions of Article79, para 3 of Instruction № Із-1711/15.09.2009 explicitly forbid metal pipes (rails) for fastening handcuffs in the facilities for police detention (up to 24 hours) in the structures of the Ministry of Interior. The metals rails are dismantled and the described practice is eliminated.

Reply to the issues raised in paragraph 25 (d) of the list of issues

178. Each placement in a disciplinary cell is obligatory registered in a special register.

179. According to the law, there are two types of isolation in a disciplinary cell - placement for up to 14 days by an order of the head of the prison for disciplinary violations performed by the prisoner. The order is subject to judicial review, and placement in isolated premises without a right to participate in collective activities, for a term of up to 2 months by an order of the director general of the Execution of Punishments Directorate General, for the purpose of prevention of escape, violation of the life or health of other persons, as well as of other crimes. The order is also subject to judicial review.

180. Persons places in these premises are not deprived of their rights to phone calls, correspondence, stay in the open, access to the daily papers, TV watching, etc.

181. Persons sentenced for serious crimes who systematically breach the order and the discipline (i.e. for two and more serious violations, such as disobedience, etc.) may be placed in a higher security area where movement and contacts with other prisons are restricted. On these grounds, certain categories of prisoners are placed in separate premises for the purposes of conducting group and corrective activities with them. The legal status and the behaviour of the persons placed in such areas are subject to review every six months in order to assess the possibility of them being moved to the common areas.

Reply to the issues raised in paragraph 26 (a) of the list of issues

182. The persons detained under Article 63 of the Law on the Ministry of Interior (police detention for up to 24 hours) are provided with medical aid, food, lawyer's defense, interpreter, and access to WC, bed and room for visits.

183. According to Instruction № Із-1711/15.09.2009 the detention facilities in the structures of MoI should fulfill the international standards for ventilation, heating, lighting, clean beds, WC. In these facilities, immovable fixed seats (benches) are installed.

184. According to the provision of Article 43, para. 3 of the Implementation of Penal Sanctions and Detention in Custody Act, the minimum living area of each person deprived of liberty shall be 4 m^2. The provision will enter into force within three years from the adoption of the "Programme on Improvement of the Conditions in the Facilities for Deprivation of Liberty" by the Council of Ministers of the Republic of Bulgaria. The programme was adopted on 08 September 2010.

185. When the capacity of the detention facilities is reached and exceeded, an information statement is prepared to the administrative heads of the district prosecutor's offices in view of acceleration of the work under the pre-court procedures and transfer of persons to prisons.

186. All cells in the detention facilities are equipped with suction and supercharging ventilation systems. Local heating and air-conditioning of the cells is provided. There is a differentiated day-night lighting system in the cells. The linen and sleep accessories are maintained as blankets are washed once every six months, and linen is changed every week. The hygiene in the cells is responsibility of the persons detained therein, and they are provided with hygienic and cleaning materials for this purpose. Most of the detention facilities have places to stay in the open and for a walk of an open and closed type, which are sufficient to ensure the daily stay of the detained persons. Most of the detention facilities are equipped with rooms for private meetings with defenders, visit rooms and rooms for conduction of procedural activities. The equipped rooms are absolutely sufficient to ensure access to the detained persons for attorneys-at-law and relatives.

187. Detainees have the same rights as the rest of the population with regard to access to healthcare, including emergency medical aid, medical treatment and rehabilitation**.** The emergency medical aid is provided by the regular employees within the system within their regulated working hours, and where necessary the prison administration provides the services of the emergency medical aid centres within the healthcare system for immediate servicing, where necessary.

188. The existing organization of medical aid in the facilities for deprivation of liberty complies in every respect with the capacity of the Chief Directorate "Execution of Punishments", and to a large extent ensures the emergency medical aid, necessary to guarantee the physical and psychic health of the persons detained in custody and the prisoners.

189. Living premises of all facilities for deprivation of liberty are subject to daily control, in order to ensure that property is being taken care of, and the hygiene is being maintained. Systematic care is being taken to ensure the maintenance of personal hygiene. Bathing takes place under a schedule – three or four times a week. All persons deprived of liberty are provided with the opportunity to have drinking water in the bedrooms at any time of the day.

190. All prescriptions of the Medical Sector of the Chief Directorate "Execution of Punishments" reflect the relevant recommendations of the European Committee for the Prevention of Torture about the provision of soap, detergents and washing preparations for sanitary and hygiene needs, washing of linen, disinfection and other personal hygiene

means, bath and washing servicing and sanitation in the facilities for deprivation of liberty, etc.

Reply to the issues raised in paragraph 26 (b) of the list of issues

191. Detained persons with health insurance enjoy all rights of Bulgarian citizens with respect to the receipt of free medicines and medical aid. In emergencies and to persons with no funds free medicine is provided at state account. In some cases detainees or their relatives buy prescription medicines, however they are not in any way obliged to do so.

192. Article 149 (3) of Implementation of Penal Sanctions and Detention in Custody Act provides that persons deprived of their liberty may receive medicines from outside with the knowledge of the doctor of the relevant medical-treatment facility and under the control of the said doctor. The supply of medicines in the 13 prisons and in the regional office "Execution of Punishments" in Sofia is ensured mostly under a contract between the Ministry of Justice and a pharmaceutical company selected through a special tender. The supply includes medicines and consumables for the needs of the medical facilities for treatment of persons deprived of liberty which are listed in detailed specifications. For the rest of the deletion facilities, the medical service, including the provision of medicines is equivalent to pre-hospital and hospital aid rendered to the general population.

Reply to the issues raised in paragraph 26 (c) of the list of issues

193. The difficulties regarding the medical service in the facilities for deprivation of liberty are caused mostly by the fact that a large number of detainees (more than 81%) are with suspended health insurance rights. All persons deprived of liberty obtain health insurance from the budget of the Ministry of Justice, but a large number of them have suspended health insurance rights even before they were placed in the prison, and this makes it impossible for them to benefit from the services of the National Health Insurance Fund – free of charge prescriptions for medicines or hospitalization under a clinical path in an outer medical-treatment facility. Due to the low social and financial status of some patients, treatment in outer medical facilities or expensive medicines is covered from the budget of the Chief Directorate "Execution of Punishments". This results in increased financial burden for medical servicing and supply with medicines.

194. The standard for a general practitioner to be able to provide the basic package of health activities under the National Framework Agreement for rendering of out-of-hospital medical aid, without an assisting staff, is to cover at least 1200 patients.

Reply to the issues raised in paragraph 26 (d) of the list of issues

195. The annual budget allocation for one person detained in prison is BGN 2 138.90 (two thousand one hundred thirty-eight BGN and ninety stotinki), and for a person detained in a detention facility – BGN 1606 (one thousand six hundred and six leva). Information on the standard living area is provided above in the current document.

Reply to the issues raised in paragraph 27 of the list of issues

196. Indeed, even though as isolated cases, breaches have been established relating to the exercising of violence among the very persons deprived of liberty. The lack of sufficient funds for video surveillance, the overpopulation and the lack of the necessary number of employees in prisons impact the capacity to guarantee that no violence is exerted by a person deprived of liberty in respect of another person deprived of liberty. This refers especially to the dark part of the day, when inmates should be provided with a continuous rest and sufficient time for sleep and therefore it is not possible to carry out permanent hourly inspections in the bedroom premises.

197. Registered deaths in the last 3 – 4 years amount to between 40 and 50 annually. Every death case is subject to an in-depth survey by an independent authority and an information statement is prepared. There are no deaths caused by illegal acts of an employee. The Chief Directorate "Execution of Punishments" prepares an annual report on all these cases which is sent to the prosecution authorities and to NGOs engaged in human rights protection.

198. In 2010, there are no cases of death caused by violent acts between persons deprived of liberty. In the period January 2007 - July 2011, a total of 3161 cases of violence between prisoners were established, and 3656 persons were punished in relation thereto. The figure refers to all registered cases, even minor quarrels without any significant consequences, threats and other encroachments. The number of the conducted investigations and opened procedures for the same period is 22.

199. There is no data on sexual or other type of abuse or deaths in the detention facilities under the provisions of Article 63 of the Law on the Ministry of Interior.

Reply to the issues raised in paragraph 28 of the list of issues

200. The job descriptions of the prison staff are elaborated exclusively by the administration of the Chief Directorate "Execution of Punishments" at the Ministry of Justice.

201. Due to budget restrictions, there are no significant changes in the number of the staff or improvement of the ratio between the number of persons deprived of liberty and the number of employees. The salaries of the staff have not been increased for the last two years. This makes the system unattractive for qualified employees and causes a certain fluctuation. To overcome shortage of staff, schedules have been drafted for duties of social workers from the prison and of psychologists from the probation services for crisis interventions and supporting activities in the detention facilities.

202. Regarding the issue of police officers' presence during weekends in the specialized home for temporary detention of foreigners in Sofia (Busmantsi), it has to be clarified that the specialized staff in the home performs its duties in accordance with the approved number of staff and the job descriptions of the employees.

Articles 12 and 13

Reply to the issues raised in paragraph 29 of the list of issues

203. The Inspectorate Directorate of the Ministry of Interior exercises control over and provides methodological assistance to the structures of the Ministry in their activities aimed at detection of and combating corruption, conflict of interests and violations of the Ethical Code of conduct of the civil servants in the Ministry. The Directorate also investigates all complaints received in the Ministry on those issues and implements administrative control for the observance of all relevant legal acts. Table 7 presents data on the number of signals and the results of their investigation carried out in the period January 2005 – May 2011.

Year	*Checks on Signals*	*Justified signals*	*Non-justified signals*	*Disciplinary Sanctions Imposed*	*Submitted to the Prosecution*
2005	2	-	2	-	-
2006	4	-	4	-	-
2007	3	-	3	-	-

Year	*Checks on Signals*	*Justified signals*	*Non-justified signals*	*Disciplinary Sanctions Imposed*	*Submitted to the Prosecution*
2008	4	1	3	1	The materials from the check are sent to the Prosecutor's Office in Plovdiv
2009	2	-	2	-	-
2010	14	6	8	19, including 2 sanctions "dismissal"	1
2011 (as for 31 May)	8	4	4	15	2

Table 7. Complaints and follow-up investigation carried out in the period January 2005 – May 2011.

204. The Standing Commission on Human Rights and Police Ethics which has been functioning at the Ministry of the Interior since 2004 also covers all the structures of the Ministry. It works on awareness raising and general improvement of practices in all areas of activity in the Ministry, related to human rights and professional ethics. Its structures at local level – the regional commissions on human rights and police ethics, work on prevention of police brutality through trainings and in partnership with the local authorities, with vulnerable groups from the society, NGOs, etc. They report annually to the Standing Commission and present follow-up working plans.

205. All detention facilities in the country keep "Logbook of the Requests, Complaints, Reports and Others from Detainees", which contains entries of all complaints sent by detainees through the administration. Where necessary, accompanying information statements are also included. Detainees are entitled to correspondence that is not subject to inspection, whereby they can also send complaints to all authorities. Complaints which have been registered and checked by the Directorate General "Execution of Punishments" disaggregate by year as follows: In 2007, 682 complaints were lodged by persons deprived of liberty and 69 – by citizens; in 2008 – 768 by persons deprived of liberty and 76 – by citizens; in 2009 – 1017 by persons deprived of liberty and 135 – by citizens, and in 2010 – 1005 by persons deprived of liberty and 139 – by citizens.

Reply to the issues raised in paragraph 30 (a) of the list of issues

206. Eventual discrepancies may be linked to the fact that not every allegation is proven to be justified in the process of investigation. In addition, prison staff is also regularly checked for potential violation of human rights, and in some cases punishments are imposed on employees without necessarily related to a specific complaint by a person deprived of liberty.

Reply to the issues raised in paragraph 30 (b) of the list of issues

207. Following Instructions И-42 of 2000 and И-308 of 2008 by the Office of the Supreme Prosecutor of Cassation, prosecutors pay monthly visits to prisons and detention facilities countrywide. The purpose of these checks is to exercise control over the activities

of the officials concerned in their application of the law. The visits may include interviews in private with persons deprived of their liberty and persons detained in custody. On a monthly basis, the relevant prosecution offices send written information briefs to the Office of the Supreme Prosecutor of Cassation on the checks conducted, their findings, the specific violations detected and the remedial action taken. The information briefs furthermore cover each incident which has occurred at the prison or detention facility, including use of force and auxiliary means in respect of the persons deprived of their liberty. These reports analyze the reasons and point out the action taken by the competent authorities.

Reply to the issues raised in paragraph 30 (c) of the list of issues

208. An inspection and investigation is carried out by a state authority under every single grievance, compliant or report from a person deprived of liberty. Based on their results, an assessment is made whether they are justified or unjustified, and a written reply is sent to the complainant. The inspecting authority rules on the grounds of the collected evidence and the objective facts.

Reply to the issues raised in paragraph 30 (d) of the list of issues

209. Table 8 presents data on case files and pre-trial proceedings instituted for violence at places of deprivation of liberty and detention. Data about the case files and cases under Item 2 of Article 131 (1) of the Penal Code are given separately. They concern inflicting bodily injury by an official, a representative of the public, a police authority in the course of, or in connection with, the performance of his or her duty or function.

Period	Files			Proceed-ings supervised by prosecutor		Pre-trail proceedings disposed of									Persons convicted		Persons acquitted	
	Total	newly instituted for the period	total disposed for the period	Total	newly instituted for the period	Total	Suspended pre-trial proceedings	of which against known perpetrator	Terminated pre-trial proceedings	of which against known perpetrator	Pre-trial proceedings submitted to court	Prosecutorial acts submitted to court			total	under enforceable sentence of conviction	total	under enforceable sentence of acquittal
												total acts	indictments	persons under total submitted				
1									0	1	2	3	4	5	6	7	8	9
Total for 2009	0		0															
o/w under Item 2 of Art. 131 (2)																		
Total for 2010	0	0																
o/w under Item 2 of Art. 131 (2)	0	0																
Total for first half of 2011	5			5														
o/w under Item 2 of Art. 131 (2)	5			3														

Reply to the issues raised in paragraph 31 of the list of issues

210. Acting on Order No. 523 of 2 March 2010 by the Prosecutor General, a joint inspection was conducted with representatives of the Bulgarian Helsinki Committee and of the relevant authorities - the State Agency for Child Protection, the Social Assistance Directorates and the Child Protection Departments set up with them, the Regional Inspectorates for Public Health Protection and Control (transformed into Regional Health Inspectorates) at the care homes providing social services to children with physical disabilities and mental retardation. The joint inspection also involved pediatricians, child psychiatrists and psychologists. As a result, cases were detected in which some of the criteria for the standards under the Ordinance Establishing the Criteria and Standards for Social Services for Children were not fully complied with or were in progress. The competent authorities issued mandatory prescriptions for elimination of the violations ascertained. Follow-up inspections are planned to be carried out in 2011 in the care homes providing social services to children with physical disabilities and mental retardation, aiming at establishing what action has been taken in the cases where statutory requirements were breached regarding medical services, the feeding regime, sanitation and hygiene, with regard to the respect for the rights of the child, whether the mandatory prescriptions issued in 2010 have been fully complied with, and whether new violations have been committed.

211. According to the data currently available at the Office of the Supreme Prosecutor of Cassation, the inspections resulted in the institution of a total of 248 pre-trial proceedings. Of these, 178 proceedings are conducted in connection with causing death: two in connection with willful causing of death (Articles 115, 116 of the Penal Code) and 176 in connection with negligent causing of death (Articles 122 and 123 of the Penal Code); 29 pre-trial proceedings are conducted in connection with inflicting bodily injuries (Article 128, Article 129, Article 131, Article 134 of the Penal Code); 16 pre-trial proceedings are conducted in connection with endangering (exposing to danger) helpless persons (Article 137 of the Penal Code); 20 proceedings are conducted in connection with other criminal offences: false imprisonment, leaving unattended, documentary offences etc.

212. The investigations in 34 pre-trial proceedings have been completed so far, 25 of these have been terminated, and 8 have been suspended. The warrants to terminate and suspend the proceedings are subject to review as to correctness and legal conformity by the superior prosecution office and by the competent court. A sentence of acquittal has been rendered in one of the proceedings.

213. Apart from the pre-trial proceedings described above, 27 preliminary inspections have been conducted. Twenty of these have been concluded by a warrant to refuse to institute a criminal proceeding, and 11 of these cases are subjected to a review by the superior prosecution office. In 8 case files, the records of the checks were referred to the competent authorities or prescriptions were issued to the competent administrative authorities.

214. The total number of children with mental disabilities, placed currently in specialized institutions for children with disabilities to 30.06.2011 is 771**.** These are children of 4 to 18 years of age with mental disabilities and multiple other disabilities. In existing homes, these children are provided with services in the form of week and day care. The capacity of the homes for children with disabilities in 2010 was 1 393 places.

215. In 2010, the Prosecutor General ordered assessments from the representatives of appointed district prosecutors' offices in the country and of the Bulgarian Helsinki committee, together with external experts, in homes for children and young people with mental retardation and in the homes for children with physical and mental disabilities. Experts from the State Agency on Child Protection were also included in the assessment. The objective was to find out if there were violations from experts or from the staff which

may lead to death, bodily harm and maltreatment of children and causes and conditions for that. Currently, 22 assessments have been done. The monitoring of these specialized institutions has been performed by multidisciplinary teams. During these assessments, neither inhuman treatment of the staff towards children was found out, nor evidence established for punishing children and thus being derogatory to their dignity or harmful to their health.

216. As a consequence of the assessments, the State Agency on Child Protection elaborated specific proposals to the Minister of the Labour and Social Policy regarding the registration of death cases and providing safeguards for observation of Article 6 of the UN Convention on the Rights of the Child. The relevant Regulation was subsequently updated (SG 48/25 June 2010). The amendments introduce a procedure for registration of death cases in the homes, for information of relevant bodies, keeping a register of the death cases, containing a date and hour of the death, the place of death, leading diagnosis/causes of death and the person who has registered the death. The other amendment concerns the necessary documents which should be attached to the files of children- ending the service because of child's death – a copy of the forensic expertise; an autopsy; a copy of the death certificate; copy from the written application of the parents for autopsy exemption; written report from experts on duty, when the death happened in the social service.

217. The State Agency on Child Protection also proposed to the Parliament to amend the Law on Healthcare aimed at updating the legal base regulating the activities concerning the cases of registration and follow up to cases of death of a child in an institution. The amendment was adopted in Article 98 of the current Law on Healthcare (SG, № 98 from 2010, in power from 14 December 2010), which envisages the mandatory performing of an autopsy in case of a death of a child placed outside the family under the provisions of the Child Protection Act. An opportunity for exemption from such an autopsy is envisaged upon a written application from a parent, trustee or a guardian. The head of hospital can issue an order for exemption from an autopsy only when the child has died in a hospital

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218. A main function of the State Agency for Child Protection is to monitor and control the observation of child rights, the condition, functioning and problems of the child protection system. This process is implemented through regular monitoring and planned inspections, as well as inspections related to specific complaints and signals which may be received by all state, municipal and private schools, kindergartens and crèches, service units, healthcare premises, Social Assistance Directorates, social services for children providers, NGOs working in the area of child protection, as well as specialized child institutions. All processes of implementation and observation of the relevant legislation are being monitored.

219. Since the beginning of 2011, inspections related both to specific complaints and to self-referral have been made basically in 49 Social Assistance directorates, in 31 schools, 26 child social services providers, 10 specialized institutions and 3 hospitals.

220. The main channels for trustworthy information are signals, complaints and suggestions, including from the national hotline on the rights of children 116 111 which has been operating at the State Agency for Child Protection. Since the beginning of 2011, there have been 1594 signals received through these channels, and 985 of them refer to new cases. 172 of them are connected to different forms of violence, and 33 – to the right to protection of a child at risk.

221. The national hotline for children gives opportunities to report cases of violence against children and also to provide consultation to parents on questions, connected with their relationships with children. For the first 6 months of 2011, 40 conversations were held

through the hotline with children from homes for children deprived of parental care, and 3 signals were received from children at risk.

222 Another form for submitting signals by children is the functioning specialized Internet site www.stopech.sacp.government.bg. The main function of the site is to provide information on issues related to cases of sexual and labour exploitation of children, including on the national legislation, the international standards, the existing good practices and other practical information. A signal submission form published on the site may be filled in online. In 2010, 430 signals were submitted via the website.

223. In 2010, the child protection and social protection directorates received 2881 signals for alleged violence against children. All of them were studied carefully, and cases were opened with regard to 1 529 children, e.g. nearly 53,1% of the signals become cases. The total number of cases (old and new) of children, victims of violence, on which specialists from the CPD and SPD worked in 2010, is 2155. Table 9 presents data on these cases.

Type of violence	Number of children	Percentage
- physical	691	32,1%
- sexual	253	11,7%
- mental	409	19%
- neglect	802	37,2%
Total	2155	100 %

Table 9. Cases of children, victims of violence, in 2010.

224. Each signal on violence against a child is assessed by a social worker, and if a risk is identified, a "case is opened", and an action plan is drawn. It defines the short and the long term measures as well as the protection measure to be undertaken.

225. Child protection is done in following order by cooperation, assistance and services in family environment; placement in a family of relatives; placement in foster family; placement in specialized institution; police protection. In 2010, 68% of the cases of violence against children resulted in imposing protection measures in family environment according to Article 23 of the Child Protection Act.

226. The measures were developed in the best interest of the child. 103 (5%) of the children, victims of violence were placed for protection in a family of relatives, 4 – in a foster family, and, having failed to provide family or close to family environment, 296 children (13,7%) were placed in a specialized institution. Urgent measure "police protection" was applied towards 78 children, 118 children were placed in crisis centers, and 95 – in complexes for social services for children and families.

227. Nearly less than 1% of the cases under the Law on Protection against Domestic Violence resulted in limiting or depriving of parental rights in accordance also under Article 75 of the Family Code.

228. In the first trimester of 2011, the child protection and social protection directorates received 680 signals for alleged violence against children. After assessment, cases were opened for 324 children.

229. In March 2010, an agreement was signed for cooperation and coordination of work of the local structures and child protection bodies under the Article 6a of the Child Protection Act. The Prosecutor General is also a party to this agreement. Thus an interdisciplinary approach in the work of the teams on local level has been introduced in one of the most important areas of child protection.

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230. Pursuant to an order by the Minister of Interior (№ Із - 2031/04.11.2009) a commission, consisting of representatives of the Inspectorate Directorate of the Ministry of the Interior, the Migration Directorate and the Chief Directorate of Public Order and Safety have reviewed carefully all the data received by NGOs alleging illegal actions of employees from the specialized home for temporary detention of foreigners in Sofia (Busmantsi), which had resulted in the death of the Syrian citizen Mr. Hasun Albaadzh.

231. The Commission established that the Syrian citizen Mr. Hasun Albaadzh, born on 21 October 1950 in Syria, had been coercively accommodated in the specialized home for temporary detention of foreigners on 30 November 2006 under Order № ЗДМ 4539/2006 of the Director of the Regional Directorate of the Interior in Plovdiv, due to obstacles for

the execution of the coercive administrative measure of coercive escort to the border (based of order No. 3-4537/30.11.2006). The order had been issued because the Syrian citizen had not left the territory of Bulgaria within the legal deadline, as required in Article 41 (2) of the Law on the Foreigners in the Republic of Bulgaria. On 30 November 2006, he had been duly informed in the Arabic language of the content of the above mentioned order.

232. Mr. Albaadzh had stayed illegally in the territory of the country without identity documents or passport, without determined identity and citizenship, without any means for livelihood and means to return back to the country of origin, without shelter and health insurance.

233. According to the chief of the medical service in the specialized home, when Mr. Albaadzh entered the home, he had already been suffering from chronic diseases of the respiratory, cardiovascular and digestive systems. It was established that he had a gunshot chest trauma from 1970. During his stay in the home, Albaadzh frequently visited the medical service. In most of the cases, thorough examinations were carried out. On 4-18 April 2007, he was hospitalized and treated at the Medical Institute of the Ministry of Interior, where he was tested and there were consultations with medical specialists. After the treatment he was discharged in a clinically stable condition and was given recommendations for hygiene, a diet regime and medication maintenance therapy. On 18 April 2007 the treating doctor Dr. Veleva from the Clinic of Pulmology, Allergology and Hematology at the Medical Institute of the Ministry of Interior prepared his epicrisis.

234. During his stay in the home, from 30 November 2006 to the date of his death – 6 October 2009, Mr. Albaadzh was subjected to about 100 medical examinations. His health condition was regularly monitored as well as the fulfillment of the prescribed treatment. He was included in the diet for gastrointestinal diseases, but later he abandoned it and continued with active use of cigarettes and large quantities of coffee. A dentist treated his parodontosis, which was accompanied by quick decomposition of his teeth. This disease process was accelerated by the harmful effects of tobacco smoke.

235. According to witnesses, during the last months before his death Mr. Albaadzh felt subjectively well. Objectively he was in good general condition, corresponding to his age and the illnesses he had. In the days before the incident he had not requested medical examinations. The night before his death, Mr. Albaadzh went to bed and in the morning he did not awake.

236. Initially the death was established by the chief of the medical service at the specialized home and a medical death certificate was issued (memo No. 850/07.10.2009 of the Clinic for Forensic Medicine and Deontology) specifying as a cause acute bruising and duodenal ulcer. The judicial medical expert report was issued by Dr. Zahari Asenov Toshkov – chief assistant in the Clinic of Forensic Medicine and Deontology, who made an examination and found that Mr. Hasun Albaadzh suffered from duodenal ulcer, received acute haemorrhage from the ulcer; there was blood found in the stomach and in the small intestine, anemia of the internal organs, chronic bronchitis and emphysema of the lung, hypertension with hypertension of the left ventricle. The hemorrhage of the ulcer ran without any pains and its diagnosis was possible only in manifestation of specific symptoms, which were not present before the death of Mr. Albaadzh. There was no evidence of violent death.

237. The place of the incident was visited by a group from the Sofia Metropolitan Directorate of the Interior. Explanations were taken from witnesses and the necessary evidence was collected. The materials were transmitted to an investigating police officer from the 8th District Police Department - Sofia Metropolitan Directorate of the Interior. A pretrial proceeding № 3M 1639/2009 was initiated against an unknown perpetrator.

238. During the initial examination and the subsequent procedural investigation activities the following was undertaken: The duty officers who had been at work on 5 and 6 October 2009 were interviewed, as well as the persons accommodated at the specialized home who had been sharing the same room as the deceased man. No data was established on any violent activities by third parties who might have caused the death of Mr. Albaadzh. The recordings of the security cameras were also viewed and there was no evidence of movements, gathering in groups or other actions of the people accommodated in the home which could have led to the death of the Syrian citizen. During the scene investigation and in the course of the procedural investigation activities performed no data was collected on possible violent death of Mr. Hasun Albaadzh.

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239. In cases of domestic violence, punishments are imposed for the respective special section of the Penal Code depending on the specific action comprising the criminal activity, whereby in some cases the family relationship with the victim appears to be a qualifying indicator leading to a more severe punishment. For example, the punishment for rape is deprivation of liberty from three to ten years if the victim of the rape is a descending relative; the punishment for murder of a father or mother, or a brother or sister by birth, is deprivation of liberty from fifteen to twenty years, life imprisonment or life imprisonment without substitution; for inflicting a bodily harm to a mother or father the punishment is deprivation of liberty from three to fifteen years in case of a serious bodily harm; from two to ten years in case of a medium bodily harm; up to three years in case of a light bodily harm under Article 130, para 1 of the Penal Code, and up to one year or probation.

240. The Prosecuting Magistracy has at its disposal the following statistical data on the number of victims of criminal offences under Chapter Two "Offences against the Person", Section VIII "Sexual Offences", Articles 149 through 159 of the Penal Code: In 2009, there were a total of 727 victims, of whom 639 women (including 165 girls aged between 14 and 18 and 143 girls aged under 14) and 88 men (including 29 boys aged between 14 and 18 and 30 boys aged under 14). In 2010, there were a total of 750 victims, of whom 647 women (including 168 girls aged between 14 and 18 and 151 girls aged under 14) and 103 men (including 23 boys aged between 14 and 18 and 49 boys aged under 14). In the first half of 2011, there were a total of 329 victims, of whom 302 women (including 73 girls aged between 14 and 18 and 66 girls aged under 14) and 27 men, of whom 7 boys aged between 14 and 18 and 14 boys aged under 14. Table 10 presents information on the case-law of regional courts for 2010 with regard to acts of domestic violence:

Year	*Cases received*	*Cases completed (total)*	*Cases from a previous period*	*Cases completed (terminated)*	*Cases dismissed*
2010	3320	2841	465	1476	219

Table 10. Cases under the Law on Protection against Domestic Violence.

Reply to the issues raised in paragraph 35 of the list of issues

241. The Penal Code, Section IX, "Trafficking in human beings" (Article 159 a-d) provides that the crime trafficking in human beings is punished with 2 to 15 years imprisonment and a fine from BGN 3 000 to BGN 100 000, including confiscation of the assets of the trafficker. When the crime has been committed to a pregnant woman for the purpose of selling her child, the punishment shall be deprivation of liberty from 3 to 15 years and a fine from BGN 20 000 to BGN 50 000. A person who takes advantage of a

victim of human trafficking for acts of debauchery, forceful labour, dispossession of body organs or holding them in forceful subjection, regardless of their consent shall be punished by deprivation of liberty from 3 to 10 years and a fine from BGN 10 000 to BGN 20 000. Heavier punishments for cases of human trafficking are considered when there has been a crime against a person below 18 years. In addition the Bulgarian criminal legislation specifically criminalizes the trafficking in human beings, especially when the object of crime is the extremely vulnerable group of pregnant women for the purpose of selling their children.

242. Table 11 contains data on the investigations and convictions since the adoption of the Law on Combating Trafficking in Human Beings in 2003.

Year	*Investigations*	*Indicted persons*	*Convictions*
2003		13	0
2004	130	44	3
2005	159	63	33
2006	219	129	71
2007	209	97	73
2008	219	88	34
2009	215	74	108
2010	261	157	77

Table 11. Investigations and convictions on cases of human trafficking for the period 2003-2010.

243. Table 12 presents data on criminal proceedings instituted for illicit trafficking in persons and types of penal sanctions imposed under the enforceable sentences.

Criminal proceedings instituted for illicit trafficking

	Convictions				Sentenced with deprivation of liberty	Sentenced with conditional deprivation of liberty		
	Total	Enforced					Sentenced with probation	Penalized with a fine
		Total	Trafficking for sexual exploitation	Labour exploitation				
2009	108	99	90	2	51	45	1	37
2010	106	97	88	2	34	63	2	47
First half of 2011	64	58	42	1	21	35	2	27

Table 12. Criminal proceedings instituted for illicit trafficking in persons and types of penal sanctions imposed under the enforceable sentences.

244. Information on the victims of trafficking in human beings registered by the National Commission on Trafficking in Human Beings is presented in Table 13.

Year	*January-April 2011*	*2010*	*2009*	*2008*
Total number of victims	154	432	297	187
Women	131	394	220	151
Men	9	38	31	13
Minors	14	70	46	23
Pregnant women	18	6	19	0

Table 13. Victims of trafficking in human beings for the period 2008 – April 2011.

245. As pointed above, the amendments to Penal Code (Art. 159a) introduced in 2006 and 2009, criminalize in particular the phenomenon of phenomenon of pregnant women selling their newborns as a specific form of trafficking in human beings. Police investigations on such cases have intensified significantly since 2010. In June 2010, the Minister of Interior of Bulgaria (who also chairs the National Commission for Combating Trafficking of Human Beings) and the Minister for Protection of the Citizens of Greece signed an agreement on transnational cooperation between the two countries on counteraction of organize crime focusing on smuggling, human trafficking, drugs, skimming devices.

246. At the end of 2010, a Bulgarian police operation in the regions of Yambol, Sliven, Nova Zagora identified 11 pregnant women victims and 10 traffickers (Bulgarians). Up to April 2011, 7 of the perpetrators were sentenced. For the rest 3 of them, European arrest warrants are issued and their detention by the Greek authorities is pending.

247. In early 2011, the first joint Bulgarian-Greek police operation on trafficking of pregnant women was carried out on the territory of the two countries (in Bulgaria in the regions of Varna, Burgas, Sliven and Yambol). This case identified 14 pregnant women victims, and a 13-member organized criminal group. For the first time, 2 Greek citizens were detained in Greece for this crime. Criminal proceedings are still going on.

248. Field activities for prevention of trafficking of pregnant women for the purpose of selling their newborns were conducted in 2010 and 2011. Locally, in the high-risk regions of origin for victims (Varna, Burgas, Sliven, Pazardjik) the Local Commission for Combating Trafficking in Human Beings in partnership with municipalities and NGOs trained Roma prominent persons on the topic of human trafficking, distributed awareness raising materials among the community, and organized gatherings and discussions. Special emphasis was put on the work with youngsters, group and family work and at schools.

249. Regarding human trafficking for the purpose of sexual exploitation, law enforcement officials have reported an increase in cases of Bulgarian citizens trafficked within the country. Internal trafficking for purposes of sexual exploitation is directed mainly to the resort area along the Black Sea coast and at the border with Greece.

250. In 2010, the National Anti-Trafficking Commission together with 6 local commissions focused their attention on trafficking prevention among the Roma community. The activities included carrying out information campaigns and trainings as well as involving high-educated Roma's leaders as mediators. In 2011, the work in this regard continues, building up on the measures already implemented. Currently, the focus is on the regions of Varna and Sliven where large Roma communities live.

Article 14

Reply to the issues raised in paragraph 36 (a) of the list of issues

251. The Support and Financial Compensation to Victims of Crime Act (in force since 1 January 2007) has introduced into Bulgarian legislation the requirements of the Framework Decision 2001/220/JHA of the Council of the European Union of 15 March 2001 on the standing of victims in criminal proceedings and Directive 2004/80 of 29 April 2004 related to compensation to crime victims. The act regulates the terms and conditions for support and financial compensation to Bulgarian citizens or nationals of EU Member States who were victims of crimes.

252. According to the Support and Financial Compensation to Victims of Crime Act, the victims of crime who have suffered pecuniary damages which are a direct consequence of the offence are entitled to support. The act explicitly stipulates the offences which fall within its scope - murder, adultery or rape, trafficking of human beings, terrorism and offences committed by order or under a decision of an organized criminal group, as well as other serious intentional offences which effect in death or severe bodily injury. Thus, victims of a violation under the Convention against Torture would also be entitled to such a support should they meet the conditions under the Support and Financial Compensation to Victims of Crime Act for severe bodily injury.

253. The financial compensation under the Support and Financial Compensation to Victims of Crime Act is provided on a one-time basis for offences committed after 30 June 2005. When the victim has died as a result of the offence, the rights to receive financial

compensation pass to his children, spouse or the person with which he is in a cohabitation. The amount of compensation ranges from BGN 250 to 5000, and upon death of the victim - a total up to 10000 BGN. Financial compensation law may be granted only after the criminal proceedings have ended and by an act of judicial authority, and covers the following pecuniary damages: treatment costs, excluding costs borne by the budget of the National Health Insurance Fund; loss of earnings; expenses for payments of litigation and administrative costs; unpaid maintenance payments; funeral expenses and others.

Reply to the issues raised in paragraph 36 (b) of the list of issues

254. According to the Act on the Political and Civil Rehabilitation of Repressed Persons, adopted in 1991, the persons repressed under those circumstances or the heirs of such persons are paid lump-sum compensation for pecuniary and/or non-pecuniary damages, and they also receive a monthly supplement to their pension or to the sum total of the pensions received. In 2010, the compensations paid through the Regional administrations to victims of the "Revival Process" amounted to 33 218 BGN.

Reply to the issues raised in paragraph 36 (c) of the list of issues

255. Tables 12 and 13 provide information regarding court cases on crimes related to police violence in 2010 and cases of application of the Law on the Liability of the State and the Municipality for Damage by regional courts in Bulgaria for the period of 2008 - 2010:

Year	*Cases (total)*	*Cases new*	*Cases dismissed*	*Prosecuted persons*	*Convicted persons*	*Acquitted persons*
First half of 2010	56	30	13	10	6	1
Second half of 2010	16	13	16	13	6	0
2010 (total)	72	43	29	23	12	1

Table 12. Court cases on crimes related to police violence in 2010.

Courts	*2008*	*2009*	*2010*	*Cases left pending*
Regional courts				241
	335	313	17	
District courts				
	234	232	19	142
Total				
	569	545	36	383

Table 13. Cases under the Law on the Liability of the State and the Municipality for Damage

Reply to the issues raised in paragraph 36 (d) of the list of issues

256. Article 22 of the Penal Procedure Code lays down as a basic principle the requirement for consideration and resolution of cases within a reasonable time. The violation of this principle is considered by the Bulgarian court as a material breach of procedural rules and the rights of the detainees. Affected persons are entitled to compensation under the Liability of the State and Municipalities for Damages Act. In cases of illegal detention, the compensation should include all material damages, including property or financial losses which might have occurred, as well as benefits that might have not been realized during that period. The level of compensation depends on the specific circumstances in each individual case. For example, in its Decision of 26 January 2010, the District Court in Varna imposed compensation of 750 BGN for material damages and 420 BGN for non-material damages caused by illegal 24-hour detention by the Prosecutor's Office in Varna. On another case, the Varna Appellate Court decided for a compensation of 734.34 BGN for material damages and 60,000 BGN for non-material damages caused by illegal detention and illegal indictment by Prosecutor's Office.

Article 15

Reply to the issues raised in paragraph 37 of the list of issues

257. The Prosecuting Magistracy does not keep any statistics on cases where evidence has been held inadmissible.

Article 16

Reply to the issues raised in paragraph 38 of the list of issues

258. Bulgaria attaches primary importance to the protection of the rights of children, including the well-being of children in public care. In line with this, in 2008 the National Assembly adopted the core policy document which defines the priority areas and actions for improvement of the well-being of children in Bulgaria over the next ten years - the National Strategy for Children (2008-2018) which seeks to facilitate the development of integrated policies aimed at strengthening the guarantees for the rights of the child in conformity with the established international standards.

258. The Government's categorical position is that all child-care institutions must be closed within 15 years and replaced by a network of community-based services similar to a family environment. The closure of institutions for children with disabilities and of medical and social care homes for children aged from 0 to 3 years is prioritised. In the meantime, the conditions in state and municipal child-care institutions are being improved.

259. It is in this spirit that on 24 February 2010 the Council of Ministers adopted a National Strategy entitled "Vision for Children's Deinstitutionalisation in the Republic of Bulgaria", which outlined the political commitment to and will for a reform in the child-and-family care system. The document was developed in accordance with the Guidelines for the Alternative Care of Children, adopted by the Committee on the Rights of the Child and approved by the General Assembly. Twenty three non-governmental organisations and the United Nations Children's Fund (UNICEF) were involved in its drafting. An Action Plan has been elaborated for the attainment of the objectives of the Vision.

260. New 149 family-type placement centers will be built, in which up to 12 children will live together with the necessary personnel. 37 day centers for children with disabilities and 34 new centers for social rehabilitation and reintegration will be provided, and there children can spend the day actively, communicating with people. They will also be provided with modern health and educational care will be provided. The funds for the project are provided from several EU operational programs – nearly 80 million BGN for infrastructure on OP «Regional Development» and «development of Rural Regions» and 23 million BGN for sustaining the services under the OP "Human resources Development". Besides this 5 million BGN will be invested in people- training, supervisions, preparation of moving the staff.

261. The first project for implementation of the Action Plan, entitled "Childhood for All", was launched on 2 June 2010. By October 2010, the needs of each of all 1 797 children with disabilities over 3 years of age, placed in 56 institutions (23 care homes for mentally retarded children, one care home for children with physical disabilities and 32 medical and social care homes) were examined and analyzed. The information has been used to prepare a "Services Map" covering all community-based services alternative to institutional care, to update the care plans intended to stimulate the development of the children according to their abilities, and to prioritize the places and scope of work over the next two years. Since February 2011, a personnel training has been underway in all 24 care homes for children and adolescents with disabilities in respect of feeding and the intensive interaction method.

262. Within the current year, experts are also being trained in identifying families' wishes and capabilities to maintain contact with their child. The training aims at developing tools for social workers on parental capacity assessment. A series of trainings for personnel of the specialized institutions for mentally retarded children will start by the end of 2011, alongside with a presentation of the capacity of the personnel to participate and work in the new residential-type services and attendant-care services.

263. To ensure a smooth and adequate transition of the children to the new services, a detailed assessment will be conducted in 2012 of the care homes for mentally retarded children with a view to correctly and properly referring the children to the new residential-type services. This will include the preparation of an individual plan for the deinstitutionalization of each child according to his/ her needs, requirements and skills.

Reply to the issues raised in paragraph 39 of the list of issues

264. At the end of 2009, the Social Assistance Agency assigned the Social Assistance Directorates to conduct checks, acting jointly with the municipal administrations, so as to establish the current status of the specialised institutions and community-based social services for adults with disabilities. The findings in the reports provided a basis for

preparation of a Reform Plan for the Specialised Institutions and Community-Based Social Services for Adults with Disabilities (2010-2011). This Plan lays down specific measures and activities, designates institutions responsible for their implementation, and sets time limits for this implementation. It envisages the phased closure of 14 specialised institutions which do not meet the standards and criteria for location and physical assets, as well as for service staffing. Of these, four are specialised institutions for people with mental disorders, four for people with physical disabilities, and six for people with mental retardation.

265. An inter-agency working group, consisting of representatives of the Ministry of Labour and Social Policy, the Social Assistance Agency, the Ministry of Health and non-governmental organisations, has already prepared a draft National Strategy entitled "Vision for Deinstitutionalisation of Adults with Mental Disorders, Mental Retardation and Dementia" which is currently posted on the Internet site of the Ministry of Labour and Social Policy for public discussion and comment. The document is based on a policy in the best interest of people with mental disorders, mental retardation and dementia and targets a transformation of the institutional model into stationary and mobile community-based services. The situation so far shows that existing community-based social services are the main pillar of deinstitutionalisation. They can assume more serious commitments and react flexibly to the rapidly changing challenges and benefit all people and not just the vulnerable groups.

266. A total of 28 specialised institutions for persons with mental retardation function within the territory of Bulgaria, with an aggregate capacity of 2,349 places, and 71 resident-type social services for the same target group with a capacity of 621 places. Community-based social services for persons with mental retardation total 126, with a capacity to service 4,552 places. Improvement of living conditions in these specialised institutions for elderly people is also one of the priorities of the social service provision policy.

267. Persons with mental retardation are also able to use community-based social services which are provided under other programmes and projects, such as the National Programme "Assistants to People with Disabilities" and the Projects "Social Service for Quality Living: Phase 2" and "Support for Life with Dignity" of Operational Programme Human Resources Development.

268. Permanently disabled people are entitled to a monthly social integration supplement according to their individual needs, depending on the extent of reduced working capacity or the type and extent of disability. The supplement is differentiated and is provided in the form of financial resources which supplement the recipients' own income and are intended to cover the additional costs of transport services, information and telecommunication services, training, hydrotherapy and rehabilitative services, accessible information, municipal housing rent, as well as dietary nutrition and medicinal products.

Reply to the issues raised in paragraph 40 of the list of issues

269. The procedure for establishing tutorship and curatorship as well as the rights and obligations of tutors and curators are laid down in Chapter XI of the Family Code. Upon institution of a curatorship for a limited interdict, the Tutorship and Curatorship Authority must give a hearing to the interdict as well.

270. The Tutorship and Curatorship Authority is the municipality mayor or an official designated by him. In respect of persons for whom there is an enforceable judgment on interdiction, the Tutorship and Curatorship Authority exercising competence over the person's permanent address appoints a tutor/curator, deputies and two advisers from among the members of the interdict's immediate and extended family who will best take care of his interests and have consented to this in writing. The Tutors' Council may include other appropriate persons as well.

271. According to the provisions of the Family Code, persons placed under tutorship or curatorship are obliged to live with their tutor or curator, as the case may be, unless, for compelling reasons, they have to live separately or be placed elsewhere according to a procedure established by the law. In cases where there are no members of the immediate and extended family who have consented in writing to take care of the interests of the persons placed under tutorship or curatorship, the municipality mayor or an official designated by him, in his capacity as a Tutorship and Curatorship Authority, appoints a Tutors' Council which includes other appropriate persons.

272. Apart from being a Tutorship and Curatorship Authority, the municipality mayor also manages the social services within the territory of the respective municipality, which are state-delegated activities and local activities.

273. The Tutorship and Curatorship Authority is vested with powers to determine, at his discretion, whether there is a conflict of interest in the cases where the director of the specialized institution has been designated tutor and to release him from his obligations, according to the provision of Article 160 (1) of the Family Code.

274. A necessary prerequisite for coercive treatment under Article 89 et seq. of the Penal Code is the performance of a socially dangerous act which, under other circumstances related to the perpetrator of the act, would constitute a criminal offence. The court is the only authority competent to order confinement for coercive treatment, as well as a continuation, replacement or termination of coercive medical measures, and in all such cases the court hears the opinion of a psychiatrist in an expert witness capacity. The procedure according to which coercive medical measures are applied is established in Article 427 et seq. of the Penal Procedure Code.

275. Unlike coercive treatment under the Penal Code, involuntary treatment under the Health Act is a preventive measure. The prerequisite for involuntary treatment is the fact that the persons, due to the disease, may commit a criminal offence endangering their relatives, the people around them, society, or may expose their health to a serious risk. The confinement for treatment has to be decided by the court which has to rule out also on the type of treatment and its termination. The court mandatorily hears the opinion of a psychiatrist appearing in an expert witness capacity.

276. According to Article 87, para 1 of the Health Act, medical activities shall be performed upon a informed consent expressed by the patient (Chapter III Medical Services, section II Patient's Rights and Obligations). For the informed consent of individuals with mental dysfunction and proved incapacity of expressing informed consent, the court shall appoint a person. Usually, this is a person from among the relatives of the patient to give the informed consent with the treatment. In the case of conflict of interests or lack of relatives, the court shall appoint a representative of the municipal healthcare service or a person designated by the mayor of the municipality as of the seat of the medical establishment to give the informed consent with the treatment of the person (Article 162, para 3). Measures for temporary physical constraint may be applied to patients with established mental dysfunction in a condition that represents a direct and immediate threat to their own life and health or the life and health of other people. These measures shall be applied only as a precondition for the treatment and shall not replace the active treatment (Article 150).

277. Article 112 of the Health Act stipulates that all decisions of the physician in charge of the treatment are subject to appeal before the Physician Consultative Commission by the parties and organizations concerned within 14 days of receiving these decisions. The decisions of the physician consultative commission may be appealed before the Territorial Physician Expert Commission; the decisions of the territorial physician expert commissions - before the National Physician Expert Commission; and the decisions of the National

Physician Expert Commission - before the Sofia City Administrative Court (in accordance with the Administrative Procedure Code). The time limit is again 14 days of receiving the respective decisions.

278. An Executive Agency for Medical Audit has been established at the Minister of Health for exercising control over the medical care services for citizens. The agency is empowered to verify compliance with the patients' rights in healthcare establishments and with the established medical standards. All citizens and legal entities can file complaints with the Agency regarding the quality of medical services and their compliance with the established medical standards.

279. In 2010, a total of 4 607 case files were instituted at the prosecution offices countrywide in connection with application of coercive measures. These files numbered 4,621 in 2009, 4,558 in 2008, 4,259 in 2007, 4,572 in 2006, and 4,796 in 2005.

280. On the basis of work on these case files, in 2010 prosecutors prepared and submitted to court a total of 2 561 motions for imposition of coercive medical measures, of which 1 328 motions under Article 155 of the Health Act and 230 under Article 89 of the Penal Code. The motions numbered 2,318 in 2008, 2,419 in 2007, 2,253 in 2006, and 2,466 in 2005.

281. Of the 2 561 motions submitted in 2010, the court granted 1 558 or 60.8 per cent and did not grant 203 or 7.9 per cent of the total number submitted. Of the total number of motions submitted, 468 were dismissed by the court and 332 motions remained unexamined at the end of the reporting period.

282. The analysis of the figures shows that, with minor exceptions, the annual caseload of the prosecuting magistracy in this respect has been almost identical in recent years, tending slightly upwards.

283. One of the main reasons for the dismissal of the case files instituted by prosecutors and non-submission of motions to the court is the new regulation in the Health Act, according to which alcohol abuse is not included in the list of mental diseases for which involuntary treatment is ordered. Another main reason for the termination of the court proceedings under Article 155 of the Health Act is the circumstance that during the court hearing the person expresses a wish and voluntarily admits himself/herself for treatment to the relevant medical facility or submits to treatment at home. An analysis of the reports of the prosecution offices shows that one of the main reasons the motions are not granted by the court is an improvement of the patient's condition within the period of observation and certification, which is why the medical experts, even though a mental disease has been diagnosed, do not enter a motion during a court hearing for application of coercive medical measures for treatment of the patient.

284. Acting on a directive from the leadership of the Implementation of Penal Sanctions Sector at the Judicial and Implementation of Penal Sanctions Department of the Office of Supreme Prosecution of Cassation, prosecutors countrywide conducted an inspection of the confinement for involuntary and coercive treatment of persons with mental disorders and exercise of supervision at the places of treatment of those persons. The inspection covered a one-year period from 1 January 2010 to 31 December 2010, and both areas were monitored: involuntary confinement and treatment under the Health Act and coercive confinement for treatment under Article 89 et seq. of the Penal Code. No violations in the application of legislation were established.

Reply to the issues raised in paragraph 41 of the list of issues

285. In implementing the policy to reintegrate children from auxiliary schools, Comprehensive Pedagogical Assessment Teams are established in general education and

vocational schools to assess the educational needs of disabled children and to transfer them to mainstream schooling. Only children with severe and multiple disabilities are enrolled in special schools, including auxiliary schools. As a result of the development of integrated education of children with special educational needs, 43 specialised (auxiliary) schools have been closed over the last three years.

286. In addition to the information already provided above, the State Agency on Child Protection draws attention to the conclusions of the country-wide inspection which took place in all homes for children with disabilities in April 2011. It is established that a feeding regime is introduced, the suitable food being prepared depending on children's illnesses. Doctors and a pediatrician consult the inclusion or exclusion of one type of food or another. Functional norms for qualitative and quantitative assessment of the foods have been developed according to the age and weight of the children. As a result of every child assessment, the medical checkups and consultations and propositions made a positive dynamics is observed in the children development, defined as "critical"- they gain weight, their aggressive behaviour is suppressed, and the health and emotional condition is improving. Suitable material and sanitation life conditions are provided to children. The rooms and equipment in institutions are kept in good functional condition. All homes have auxiliary equipment for children with specific health problems and disabilities.

287. The staff has received training by the "Lumos" Foundation (partner on the project "Childhood for all") on intensive communication, feeding and receiving liquids. The staff, children and young people with very limited possibilities for independence are included in the trainings. Specialists are trained for working on Cath Irving Method. Children are divided in groups depending on their intellectual development. Educators and specialists work with them under a schedule. Teams mark positive results from the work on intensive communication and feeding of children. Lumos representatives periodically perform supervisions and feedback meetings. The staff has also undergone specialized training for raising the quality of social services and individualizing of care.

288. A procedure for registration of death cases is developed and registers are introduced for their enlisting, according to the legislation.

Reply to the issues raised in paragraph 42 of the list of issues

289. In Bulgaria, corporal punishment is explicitly forbidden by the law. The Penal Code (Chapter IV, articles 176 - 193) clearly provides for incrimination and conviction of any person guilty of inflicting severe physical damages to another person or persons, including children. There are no Bulgarian habits or traditions connected with violence and mutilation of children (incl. genital mutilation of girls). Corporal punishment is not practiced either in the Bulgarian penitentiary system.

290. The Child Protection Act for the first time introduced a ban on corporal punishment as a child upbringing method. The text introduced the right of the child to protection against violence, including in the family, envisaged in Article 19 (1) of the Convention on the Rights of the Child. The new Family Code (FC) regulates such a ban for the parent. The text forbids not only the physical punishment of the child , but also the usage of methods of raising unsuitable for his preserving his dignity, which can be verbal or psychological. According to the Law Against Domestic Violence (Article 2) „domestic violence" is „every act of physical, sexual, mental, emotional or economic violence and the attempt for such violence, the forced limitation of personal life, personal freedom and personal rights". The law treats as „mental and emotional violence" over the child every act of domestic violence, performed in his presence.

291. The protection of the child from family violence can be provided in different ways. The most effective one is the simultaneous implementation of the protection measures under the Child Protection Act and the Law against Domestic Violence.

292. Besides the amendments in the legislation, measures for raising the awareness of the society are undertaken, guidelines for professionals working with children and families are developed and mechanisms for cooperation among the child protection bodies are elaborated for providing more effective protection for children victims of violence.

293. The punishments for committed crimes in Bulgaria are clearly and expressly stated in the Penal Code, and they include life imprisonment; deprivation of liberty; probation; confiscation of existing property, and a fine (Article 37). Article 101 of the Implementation of Penal Sanctions and Detention in Custody Act expressly describes the possible disciplinary punishments that may be imposed to persons deprived of their liberty - a caution in writing; an extra cleaning duty for a period of up to seven days; cancellation of a privilege which has not been used; exclusion from association undertakings inside and outside the places of deprivation of liberty; deprivation of a food parcel for a period of up to three months. Furthermore, Article 3 of the same law expressly states that no person deprived of liberty may be subject to torture.

Reply to the issues raised in paragraph 43 (a) of the list of issues

294. By the end of 2010, the total number of children raised in specialized institutions for children was 5 695**.** Compared to 2009, the number has decreased by 15,4% or 1 035 children. From the establishment of the child protection system in 2001 until the end of 2010, the number of children placed in specialized institutions has decreased with 6 914 which is 54,4%.

295. As of January 2011, there are 130 specialized institutions for children in Bulgaria, 31 from which are homes for medico-social care for children from 0 to 3 years of age, 24 homes for children over 3 years of age and young people up to 18 years of age with mental retardation or physical disabilities, and 74 homes for children deprived from parental care.

296. The distribution of placed children in institutions is as follows: There are 2 046 children placed in homes for medico-social care for children from 0 to 3 years of age (healthy and with disabilities, some of them stay in these homes until they reach 7 years of age). The children in homes for children with disabilities are 871, and those in homes for children deprived of parental care are 2778. Children are not differentiated on grounds of ethnic origin.

297. According to the report prepared by the State Agency on Child Protection on the situation of children placed in specialized institutions, the children that come from families with one parent represent the biggest percentage – 57,7%. The parents of 46% of children placed in institutions are unemployed, with low social status and are unable to take for the children. Children from big families, placed in institutions are 38,8 %. Children abandoned or left by their parents are 8,8%, and children with one dead parent are 6,6 %. Full orphans are 1,9 % from all children placed in institutions. 1,8% from children placed in institutions are born from underage mothers. The analysis of the State Agency on Child Protection which makes such surveys on an annual basis shows the main factors for placing children from disadvantaged families in specialized institutions are the difficulties, which they face in raising them (economic, psychological, social. The main risks which children in these families face are connected with the quality of life, the family climate and the access to education.

298. As a follow-up to this analysis, in the end of 2009 a new approach in the child and family policy was introduced, and for the first time the way for realization of deinstitutionalization of child care was clearly pointed out. Information on the National

Strategy “Vision for deinstitutionalization of children in Republic of Bulgaria” is provided above in the current document.

Reply to the issues raised in paragraph 43 (b) of the list of issues

299. The Penal Code does not contain any definition of “antisocial acts”. Information about children placed in social educational boarding schools and correctional boarding schools is provided above.

Reply to the issues raised in paragraph 43 (c) of the list of issues

300. The definition for a "homeless child" applied by the Bulgarian authorities is a person who has not reached 18 years of age, left without care from his parents or from the persons who have the parental functions and because of that his life, health and proper physical and mental development is in danger.

301. The shelters for homeless children are social services in which homeless children are accommodated temporarily and free of charge. They can stay there until they are given back to their parents or to persons with parental functions or placed in suitable health, social or pedagogical institution. The shelters provide homeless children with social and medical help, including psychological assistance.

302. According to the data of the State Agency on Child Protection, in 2010 there were 4 shelters for homeless children in the country. The total number of children placed in them was 115. Homeless children can also visit day centers. By the end of 2010, there are 10 day centers for working with street children. The total number of children in them is 334.

303. Centers for Temporary Placement of children exist since January 2008. As of 1 January 2011, there are 4 such centers, and the children placed there are 185.

304. Under the Child Protection Act, the State Agency on Child Protection receives every month data about the number of registered street children. As of 1 June 2011, the number of registered street children in the country is 56, and 13 of them have been placed outside the family as a protection measure under Article 26 of the Child Protection Act.

Reply to the issues raised in paragraph 43 (d) of the list of issues

305. There are 12 crisis centers providing support to children victims of trafficking and violence, and they all are financed by the state budget. The placement of children in them is for six months period and is done by the court. Until the court ruling, the Social Assistance Directorate makes a temporary placement by administrative order. The main services provided in the crisis centers include food and shelter, health care, psychological support, acquiring life and social skills, educational services, preparing the child for reintegration in the family, and if this is not possible, children receive other protection measures under the Child Protection Act.

306. In 2010, the crisis centers accommodated 182 children placed with a protection measure. 125 of them were victims of violence, 24 – victims of trafficking, and 29 children were placed in a center as a preventive measure against involvement in human trafficking.

Reply to the issues raised in paragraph 44 of the list of issues

307. Approximately 5-6 % from the consultations made on the national telephone Line for children 116 111, are connected with violence against children, mostly domestic violence (parents to children). In nearly half of the cases the calls are made from concerned adults – members of the family and mostly neighbors. When the line receives information that the child is a victim of domestic violence and he/she gives information about his/her address, this information is given by the line staff to the child protection bodies – the Child

Protection Department, and in case of immediate danger - to the police. Their quick involvement is ensured, and they undertake case study on site, perform risk assessment and recommend protection measures.

308. Since the opening of the line (October 2009) until the end of May 2011, 653 consultations have been carried out on issues related to domestic violence. In some of the cases several consultations have been made with the same child in order to gain the victims' trust. For the same period the Child Protection Department received 147 signals for children at risk of domestic violence in the country.

Reply to the issues raised in paragraph 45 (a) of the list of issues

309. The State Agency for Child Protection is the body empowered by the law to gather statistical information from all sources of information with data for the previous year, including from NGOs working with children victims of violence, social professional training centers; day centers for children with disabilities, special schools to the Ministry of Education, Youth and Science; socio-pedagogical institutions, correctional institutions, etc. 4 types of information cards have been introduced which represent the work of the family type placement centers, crisis centers for Children, SOS-children villages, integration center and registration center for children refugees. The specialized institutions for children submit information cards every 6 months, and the Child Protection Departments – every three months. The information is analysed by the State Agency for Child Protection, which prepares the necessary follow up.

Reply to the issues raised in paragraph 45 (b) of the list of issues

310. Since the end of 2005, a Coordination mechanism has been functioning in Bulgaria for referral of cases of unaccompanied children and children-victims of trafficking. It regulates the responsibilities and coordination of all relevant authorities involved in the process of return and referral of unaccompanied minors and children-victims of trafficking. Upon receiving a signal from abroad or from the country about a child who has become a victim of exploitation or human trafficking, the system of bodies on central and local level conduct the repatriation, meeting, identification, removal from the family environment, rehabilitation, reintegration of the child and monitoring of the case.

311. In 2006, the Ministry of Interior, the State Agency on Child Protection and the Ministry of Foreign Affairs developed a joint instruction on the implementation of measures under Article76a (1) of the Bulgarian Personal Documents Act, according to which whenever information is received from a foreign competent body that a Bulgarian citizen person under the age of adulthood may have been involved in or used for the activities under Article 11 of the Child Protection Act (beggary, prostitution, sexual violence, distribution of pornographic materials, receiving unlawful income), his/her leaving the country shall be prohibited, passports and substituting documents shall not be issued and the issued ones shall be taken away from him/her. These are treated as child protection measures and are implemented for the period of two years.

Reply to the issues raised in paragraph 45 (c) of the list of issues

312. In 2010, the State Agency on Child Protection worked on 48 cases under the Coordination Mechanism explained above. 15 of these cases involved children, victims of sexual violence and exploitation, and 2 were cases of trafficking and selling of babies. Of the victims involved in these cases, 34 were girls and 14 – boys. Children victims of human trafficking disaggregate by country of destination as follows: Greece – 13, France -10, Germany – 6, Austria – 6, Italy – 4, Poland – 2, Bosnia and Herzegovina - 2, Finland – 1, Portugal -1, Slovakia – 1.

313. The Chairperson of the State Agency on Child Protection proposed to the Minister of Interior to impose administrative measures under Article 76a (1) of the Bulgarian Personal Documents Act with regard to 32 children involved in activities harmful for their development. In 2010, 11 children were repatriated to Bulgaria.

314**.** As of July 2011**,** the State Agency on Child Protection has worked on 14 cases under the Coordination Mechanism. Two of them are connected to prevention of involvement of two Bulgarian children in trafficking.

Reply to the issues raised in paragraph 46 of the list of issues

315. Regarding cases of violence against children, the State Agency on Child Protection has referred to the Prosecutor's Office 54 cases for the period January – June 2011. The Ministry of Interior has been informed 48 times.

Follow-up procedure

Reply to the issues raised in paragraph 47 of the list of issues

316. Relevant information of the implementation of these recommendations is provided above in the current document.

Other issues

Reply to the issues raised in paragraph 48 of the list of issues

317. Bulgaria signed the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 22 September 2010 in New York. It was ratified by the National Assembly on 14 April 2011 (promulgated, SG № 34 dated 29.04.2011). The law on ratification of the Protocol entered into force on 3 May 2011. On 1 June 2011, Bulgaria deposited the instrument of ratification to the Secretary-General.

318. In July 2010, an inter-institutional Working Group was set up by the Ministry of Justice for the analysis and elaboration of the legislative amendments necessary for the implementation of the Protocol. The group includes experts from the Ministry of Justice, the Ministry of Foreign Affairs, the Ombudsman of the Republic of Bulgaria and the Bulgarian Helsinki Committee.

319. The Ombudsman of the Republic of Bulgaria has expressed agreement to perform the duties of the independent national preventive mechanism for the prevention of torture at domestic level in accordance with the Optional Protocol. To this end, the Working Group has elaborated amendments in the current Ombudsman Act. Their approval by Council of Ministers is pending.

Reply to the issues raised in paragraph 49 of the list of issues

320. The combined Fourth and Fifth Periodic Report on the implementation of the Convention against Torture and the current document have been drawn up on the basis of information provided by the competent central-government departments and the national human rights institutions with whom the Ministry of Foreign Affairs cooperates on a regular basis. The Ministry of Foreign Affairs has co-ordinated the consolidation process.

321. A hyperlink has been provided on the Internet site of the Ministry of Foreign Affairs to all periodic reports of Bulgaria, published on the Internet site of the Office of the High

Commissioner for Human Rights. All persons residing in Bulgaria, as well as all non-governmental organizations have free access to this site.

322. Information on all documents of the Committee related to Bulgaria is published regularly, including in Bulgarian, by the Bulgarian Helsinki Committee.

Reply to the issues raised in paragraph 50 of the list of issues

323. The legislative measures adopted by Bulgaria to combat terrorism conform with the international standards in this sphere, meeting the requirement to ensure respect for human rights, on the one hand, and public security, on the other. Bulgaria is a party to all main international instruments on the prevention and suppression of terrorism, including the International Convention for the Suppression of the Financing of Terrorism, the European Convention on the Suppression of Terrorism, the 2005 Council of Europe Convention on the Prevention of Terrorism.

324. In accordance with the international standards and practice, terrorism and the financing of terrorism are criminalised in the Penal Code of Bulgaria. The relevant articles are 108, 109, 110, 115, 128, 142 (1), 216 (1), 320, 326, 330 (1), 333, 334 (1), 337 (1), 339 (1), 340, 341, 344, 347, 348, 349, 352, 354 (1), 356.

325. Other legislative acts pertaining to the fight against terrorism include the Law on Measures against the Financing of Terrorism (2003) and the List of Natural and Legal Persons, Groups and Organisations Subject to Application of the Measures adopted by the Council of Ministers in 2003. The provisions of the law are consistent with the measures under UN Security Council resolution 1373 (2001) and with the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism of 2005. The Law on Forfeiture of Criminal Assets (2005) contains a list of criminal offences which give grounds for forfeiture, and it expressly refers to terrorism, financing of terrorism, forming, leading or membership of an organised crime group which sets itself the object of committing criminal offences under Article 108a (1) and (2) of the Penal Code (terrorism and financing of terrorism).

326. There are no special provisions restricting the human rights and fundamental freedoms of persons charged with the crime of terrorism or other related crimes. The general principles of protection of human rights are equally applicable to all defendants regardless of the criminal acts they are charged with.