

# **Bulgaria**

## **Amnesty International's Concerns and Recommendations to the Bulgarian government**

### **Summary of Amnesty International's Concerns**

Amnesty International is concerned about the grave lack of respect for basic human rights of people with mental disabilities in Bulgaria. Some of their basic rights are systematically violated when being subjected to treatment against their will in psychiatric hospitals, or when placed for residential care in social care homes for children or adults with mental disabilities.

Many of these violations of basic human rights, arising from legal regulations and procedures which are not in line with international standards, or from the observed, widespread practices, such as the enforcement of seclusion or lack of rehabilitation and active therapy, amount to systematic discrimination against people with mental disabilities. There is a very high probability that any person with a mental disability in Bulgaria, because of their disability, would suffer some violations of his/her basic human rights.

Traditional attitudes to mental and physical disabilities in Bulgaria result in the social stigmatization and consequent discriminatory treatment of people with mental disabilities and their families. In view of its obligation under the provisions of ICCPR Article 2, the Bulgarian government has failed to sufficiently combat this kind of discrimination.

### **Psychiatric Hospitals**

The living conditions in hospitals visited by Amnesty International's representative were inadequate and did not meet international human rights standards. Although psychotherapy and controlled pharmacotherapy were administered in these hospitals, there was a notable lack of other opportunities for rehabilitation and therapy which are considered as essential by international standards.

Electroconvulsive therapy was administered in some institutions in its unmodified form (i.e. without the use of anaesthetic or muscle relaxant) which is regarded as poor practice by medical experts and contrary to international standards.

Hospital procedures for seeking and obtaining informed consent from patients placed for compulsory inpatient hospital treatment were inadequate and did not meet international standards.

Some patients in compulsory psychiatric treatment complained that they had been roughly, sometimes violently, treated by police officers, before they were admitted into the hospital. A number of patients also complained that orderlies, who sometimes exercised security-related tasks, resorted to violence or to excessive force.

Restraint and seclusion practices in psychiatric hospitals were not in line with international standards and in some instances amounted to cruel, inhuman and degrading treatment or punishment. There were no protocols for, nor records kept regarding the use of restraint and seclusion. Seclusion was frequently enforced as a punishment. In some instances, when it concerned patients who were admitted for treatment on a voluntary basis, seclusion amounted to arbitrary deprivation of liberty and detention.

Legal regulations regarding placement for compulsory psychiatric treatment in Bulgaria did not provide sufficient guarantees of independence and impartiality. The Bulgarian authorities have failed to bring the legislation concerning placement for compulsory psychiatric treatment into line with the decision of the European Court of Human Rights in the case *Varbanov vs. Bulgaria*. There is still no statutory obligation for prosecutors to seek a medical opinion prior to a patient's placement for assessment in an inpatient facility. This is in violation of Article 5(1) of the ECHR which, according to the court's ruling, requires that any decision for detention, including the commitment for a psychiatric assessment, should be made following an opinion of a medical expert. Detention authorized by a prosecutor continued not to be appealable to a court, which was in violation of Article 5(4) of ECHR which guarantees the right to judicial review of the legality of detention. The Public Health Act also fails to make obligatory the legal defence of a person who is subjected to the placement procedure.

Furthermore, the legal criteria for involuntary psychiatric treatment under the Public Health Act as defined in Article 36(3) – that a person with a mental illness is "likely to perpetrate crimes constituting a serious danger to society or is dangerous to family members or others, or seriously threaten his/her own health" - are so broad and ambiguous that they allow for arbitrary interpretation. These criteria for placement require proof only of a probable action, without any specification whether such probability is short or long-term. However, it is recognized that modern psychiatry is unable to prove a long-term probability of dangerous behaviour. Secondly, the norm does not make clear what kind of danger the mentally ill should constitute to their family members or others.

Amnesty International is also concerned about the enforcement of Article 61 (3) of the Public Health Act which limits the time for an assessment in inpatient psychiatric hospitals to 30 days. A failure to observe this norm, which is reportedly not infrequent, would result in a violation of the right not to be arbitrarily detained.

Other failings to protect people placed for involuntary psychiatric treatment include:

- lack of any legal requirement or established practice in any of the psychiatric establishments visited to inform patients of their rights;
- contact with the outside world is difficult for most patients in hospitals, such as Karlukovo and Patalenitsa, which are far from the urban centres;
- there were no independent bodies to supervise the conditions and treatment in compulsory psychiatric treatment in Bulgaria or systems for filing and reviewing patients' complaints. Even the prosecutors, who are mandated to supervise the administration of the decisions for compulsory placement, apparently exercise this function with great irregularity.

## **Social Care Homes for Children**

The placement of children into institutions are frequently based on unscientific diagnoses, not on a genuine assessment of the level of support which they require. Once 'labelled' they are seldom reassessed until the age of 16 when they qualify for a state disability pension. There are no rules, no procedures, no practice which would impose consistent monitoring and reassessment of the diagnosis by teams of specialists.

Poor living conditions prevailed in all social homes for children visited. State-allocated resources were reportedly inadequate for even basic maintenance of the facilities, provision of food, heat and clothing. Any improvements depended on donations and the work of charitable organizations. Dormitories were overcrowded and in several places bare and in poor decorative condition, lacking any visual stimulation. Sanitary facilities were inadequate.

The children's contacts with parents were mostly completely severed and any contacts with the community extremely restricted.

None of the institutions visited were staffed or attended (even on an irregular basis) by the range of specialists required to conduct an appropriate rehabilitation program for children with developmental disorders.

Medical care was inadequate. With few exceptions there were no physicians in these institutions. General practitioners were often far away from the social care home. Treatment by specialists, including psychiatrists, rehabilitation and reassessment, was not a standard practice.

Lack of adequate treatment and rehabilitation for children impairs their development and the possibility of leading a more meaningful and useful life. If active and appropriate treatment is not started soon, these children will be permanently and severely affected. Amnesty International is concerned that depriving children with developmental disabilities in social care homes of thorough assessments, adequate medical care and appropriate rehabilitation amounts to cruel, inhuman and degrading treatment and thus violates international law, including Bulgaria's obligations under the Convention on the Rights of the Child, the ICCPR and the Convention against Torture.

Although reports of physical abuse of children are very rare Amnesty International is concerned that they are not investigated promptly and impartially and that the investigations do not meet the requirements of the Convention against Torture. The organization is also concerned that the national authorities responsible for social care homes for children do not exert the necessary supervision of these institutions.

## **Social Care Homes for Adults**

Substantive and procedural norms for placement in social care homes blatantly fail to meet requirements of international human rights standards and violate the rights to due process and freedom from arbitrary detention.

The living conditions in seven of the eight social care homes for adults with mental disabilities visited by Amnesty International amounted to inhuman and degrading conditions in violation of international law. None of the facilities were adequate for the purpose of caring for people with special needs.

Placing many of these institutions in very remote locations, some of which are unsuitable for all-year residential accommodations, appeared to be the result of a deliberate policy of isolating those with disabilities. Most of the buildings were in a poor state of repair.

The level of neglect rendered some buildings derelict, filthy, and, in places, dangerous for the residents. Dormitories frequently contained large numbers of residents and few institutions had any space, even toilets, which afforded privacy. Night-tables or lockers where residents can store their property were rare. Electricity was centrally controlled and there was no possibility of using the lights in daytime.

In all the institutions visited residents were dressed in ragged clothing or old army uniforms.

All the homes were providing three meals a day, but many residents appeared malnourished and complained that the food was of poor quality and insufficient quantity. None of the homes visited kept weight and height records in the medical files of the residents. The dining rooms were no better than the dormitories or other facilities.

In many of the homes visited heating in winter months was grossly inadequate.

Generally, the toilet facilities were filthy and the stench was overwhelming. The bathing facilities were all crude, often broken and for many, inaccessible.

Residents in most institutions visited complained that they were sometimes ill-treated by certain orderlies.

All homes visited by Amnesty International resorted to the use of seclusion methods, usually imposed as punishments, which were cruel, inhuman or degrading and in violation of international human rights standards. No detailed records were kept of how and when seclusion and methods of restraint were used and it appeared that such ways of controlling residents' behaviour would be ordered by a nurse or an orderly.

The institutions visited were severely understaffed. Both medical and non-medical staff (orderlies) lacked appropriate training to work with people with mental disabilities. As already noted, most of the institutions were far from urban centres and it was therefore difficult for residents to receive appropriate medical care and for the institution to recruit staff that had appropriate training.

Most people were placed in social homes on the basis of diagnoses made long ago and of very dubious accuracy. Although these institutions were for people with various mental disabilities, the levels of staffing and the quality of staff training were dangerously inadequate. The role of psychiatrists in the care of residents was extremely limited. Psychiatric treatment in many institutions visited appeared to consist solely of the prescription of medication on the basis of data provided by the medical staff in the home.

Poor records of medical treatment as well as records of incidents in which residents suffered injuries were observed in most social care homes visited. Specialist medical and dental care were rare.

Psychotropic medication was openly used in the institutions visited to subdue behaviours which may well not have a psychiatric basis, but be due to distress and/or anger arising from the environment. The prescribing of drugs was not consistent with good medical practice in some institutions. There was no recognition of the residents' right to free and informed consent to medication. Storage of medication was not adequate in several institutions visited.

Medication was the only available therapy in most of the social care homes visited. Occupational therapy in most places consisted only of residents doing the menial work of the staff without any recompense.

In several institutions visited the staff appeared unwilling or unable to disclose information on the deaths of residents. In some institutions the mortality rates were high, particularly in years that had colder and longer winters. In most of the homes post-mortem examinations had never been performed nor had police or other authorities investigated the circumstances of deaths of residents. Records on deaths in social care homes are not reliably kept and apparently this data is not systematically collected and published by the National Service for Social Assistance.

Legal procedures for incapacitation and appointment of a guardian do not contain necessary safeguards to protect the interests of the person concerned. Representation by a qualified lawyer is not obligatory in the incapacitation proceedings. Judicial proceedings are reportedly frequently conducted in summary fashion and the court seldom if ever questions the medical expert opinion. Legal provisions which set criteria on who can be appointed as a guardian are vague and do not preclude the appointment of a social care home administrator or staff, which is frequently the case. There were reports that incapacitation procedures had been abused by family members or others. Once incapacitated there are no provisions for a periodic review of the situation. Those who were placed in a social home had very limited contact with the outside world and found it impossible to engage a lawyer or draw the attention of the local prosecutor to assist them in initiating a review of their status.

Supervision of social care homes by state authorities was sporadic and inadequate.

## **Amnesty International's Recommendations**

People with mental disabilities who are held involuntarily in psychiatric institutions or in social care homes in Bulgaria suffer a broad range of human rights violations. The most effective way to address these violations is through enforcement of international human rights standards of particular relevance to people with mental disabilities as well as professional best practice. In fact the effective enforcement of many of these rights depends on a thorough and appropriate reform of the mental health care services. Similarly, a successful reform of the mental health care services would not be possible without putting in place all the safeguards for the protection of basic rights of people for whose full benefit these services should be designed.

International human rights standards recognize the need for a greater deinstitutionalization of people with mental disabilities and an increased capacity to support their integration into the community<sup>1</sup>. In this report, Amnesty International focused solely on the conditions in existing institutions in Bulgaria. Providing care within the community was not a priority within the Bulgarian system at the time of the organization's visits. However, this is one of the objectives of the National Program for the Mental Health of the Citizens of the Republic of Bulgaria 2001–2005, adopted by the Bulgarian authorities in June 2001. This program, however, fails to take into account social care homes for children and adults with mental disabilities because such institutions are not treated as part of the mental health care system. Therefore, Amnesty International urges the Bulgarian authorities to initiate a thorough review of all aspects of social care homes with a view to introducing a plan of substantial reform in the entire mental health care system in order to effectively address the inadequacies in all institutions which care for people with mental disabilities.

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<sup>1</sup> The MI Principles note at paragraph 6, "Facilities for the care, support, treatment and rehabilitation of persons suffering from mental illness should, as far as possible, be provided in the community in which they live. Admission to a mental health facility should therefore take place only when such community facilities are not appropriate or not available."

Amnesty International is making recommendations only with regard to concerns which have been identified in this report. The organization urges the Bulgarian authorities to respect their international human rights law commitments and to ensure that the basic rights of people with mental disabilities are effectively protected. All reform programs must meet international professional and human rights standards.

Amnesty International particularly urges the Bulgarian authorities to implement the following recommendations:

### **Public statement**

To publicly acknowledge that the treatment and care of people with mental disabilities in many instances throughout Bulgaria is inadequate and that this situation will no longer be tolerated. Consistent with their commitment under the provisions of ICCPR Article 2, the Bulgarian authorities should undertake all the necessary steps to ensure that people with mental disabilities are not subjected to any form of discrimination. The Bulgarian authorities should also promote public awareness programs which would stress that people with mental disabilities have the same human rights as anyone else in the society.

### **Psychiatric Hospitals**

#### **Living conditions and treatment**

To establish standards for inpatient living conditions and the full range of therapies to be provided to patients, which would be consistent with international standards. To ensure that these standards are maintained in all institutions providing inpatient psychiatric treatment.

To establish regulations which would ensure that, following medical recommendation, electroconvulsive therapy is administered only in its modified form, in a way which meets international standards for best practice and in circumstances which would not be degrading to the patients and medical staff.

To establish regulations which would ensure that patients placed for compulsory inpatient hospital treatment are informed of their rights and that they can effectively exercise their right to free and informed consent to medication in a manner which would be consistent with international standards.

#### **Ill-treatment, restraint and seclusion**

To require medical examination of all patients in compulsory psychiatric treatment on their admission and to refer reports of any injuries observed, including any relevant statement made by the person concerned and the doctor's conclusions, to the public prosecutor in charge. To assist any patient claiming that they had been subjected to police ill-treatment during their admission into hospital to file complaints to the public prosecutor.

To establish regulations which would ensure that all patients are informed about their rights on their admission into a psychiatric establishment for inpatient treatment.

To ensure that patients' contact with the outside world is not restricted, particularly if the establishment is located far from urban centres. For example: all patients on compulsory treatment should have access to a public telephone; patients should be treated in hospitals close to their place of residence or where their families live.

To ensure that public prosecutors regularly visit wards for patients who are placed for compulsory inpatient psychiatric treatment.

To ensure that all orderlies, including those who carry out security-related tasks, are adequately trained for work in the establishment and specifically trained in appropriate methods of restraint of patients exhibiting violent behaviour.

To establish a system for filing patient complaints and an independent mechanism which would have the authority to maintain an oversight of the conditions and treatment in compulsory psychiatric treatment, as well as to review all patient complaints concerning staff conduct and hospital treatment. It would make appropriate recommendations, including referring complaints to authorities responsible for investigation of criminal offences. A complainant should be transferred out of the control of the alleged perpetrator while the complaint is reviewed.

To ensure that restraint and seclusion practices, which should be prescribed or authorized by a doctor, supervised by medical staff and strictly restricted in duration, are in line with international standards, particularly prohibiting the use of seclusion as a punishment. To provide guidelines for all inpatient psychiatric establishments on protocols for and keeping of special records (as well as in the resident's file) concerning the use of restraint and seclusion and to monitor that they are effectively maintained.

### **Placement provisions**

To amend legal regulations regarding placement for compulsory psychiatric treatment and bring these into line with international human rights standards. Procedural norms should be amended to fully take into account the European Court of Human Rights decision in the case *Varbanov vs. Bulgaria*. The substantive norms concerning criteria for placement for compulsory treatment (Public Health Act, Article 36(3)) should be revised to prevent arbitrary detention. Compulsory treatment should not be considered unless it is necessary to prevent **immediate and present** danger to the health or safety of such a person or to protect others. Patients should have the right to seek a second opinion on their treatment.

To ensure that time limits for judicial review of placement as well as for psychiatric assessments in inpatient psychiatric establishments are respected by all authorities concerned.

## **Social Care Homes for Children with Mental Disabilities**

### **Placement**

To ensure that the placement in these establishments is based on a professional assessment of the child's impairments and the required level of support. To ensure that the child is consistently monitored and regularly reassessed by an appropriate team of specialists. To ensure that all children already placed in social care homes are periodically reassessed and ensure that they are cared for in the most appropriate institution.

### **Living conditions**

To improve living conditions in all social homes for children and bring them into line with international standards. To ensure that sufficient resources are allocated to all establishments for the adequate provision of food, clothing, heating and maintenance of the facilities.

### **Contacts with parents and the community**

To ensure that any child considered for placement in an institution, maintains links with the family by encouraging and facilitating, wherever possible, close contacts between the parents and their child. To initiate a comprehensive policy which would ensure that children already

placed in social care homes develop, to the greatest extent possible, contacts with the community.

### **Professional care**

To ensure that each child with developmental disorders has an individualized rehabilitation and training program; to ensure, as a matter of greatest urgency, that all children already in institutions receive active and appropriate treatment based on individualized assessment of their developmental needs. These objectives can be accomplished only if all institutions caring for children with mental disabilities are staffed by the full complement of required specialists.

To ensure that medical care in social care homes for children is adequate and that monitoring and regular assessment by medical specialists is a standard practice.

### **Monitoring**

To set up an independent monitoring mechanism for children in social care homes. This body would maintain an oversight of conditions and care as well as ensure that the responsible municipal and national authorities are exercising their statutory supervisory functions, including their responsibility to promptly and impartially investigate any ill-treatment complaint.

## **Social Care Homes for Adults with Mental Disabilities**

### **Placement**

To review the placement of all residents of social care homes and ensure their rights to due process and freedom from arbitrary detention have not been violated.

To establish substantive and procedural legislation which would regulate placement in social care homes and ensure that these provisions are in line with international law standards.

### **Living conditions**

To significantly improve living conditions in all institutions particularly where these amount to inhuman and degrading treatment in violation of international law, and to ensure that institutions are structurally safe and protected from fire and other hazards. To establish standards for living conditions and treatment appropriate for the purpose of caring for people with special needs. To effectively exercise supervisory functions and ensure that the set standards are respected and maintained.

As a matter of utmost urgency, to ensure that each resident is provided with the following:

- a bed with a mattress, blankets and sheets, which would be cleaned in an appropriate way and at regular intervals;
- basic personal hygiene items such as towels, soap, toothpaste, toothbrush and toilet paper;
- ready access to clean and adequate toilets and bathrooms, where they should be able to take a shower at least once a week; the most vulnerable residents should be appropriately supervised and assisted by staff in maintaining their personal hygiene in a dignified manner;
- clothing and shoes, including socks and underwear, appropriate for the season and the

resident's size which would be cleaned and returned to the resident at regular intervals;

- three meals daily that are of good quality and sufficient quantity;
- a dining room equipped with chairs and/or benches in sufficient numbers; each resident should be provided with appropriate eating utensils and allowed sufficient time to finish the meal; staff should ensure that the most vulnerable residents are able to take their meals under supervision and in decent conditions;
- ready access to appropriate food and drink between meals;
- materials for recreational activities, including writing materials, books, newspapers, games etc.;
- living quarters which are adequately heated.

### **Ill-treatment complaints and safeguards**

To instruct all non-medical staff, particularly orderlies who are also performing security-related tasks, to respect the rights of residents and to make clear that physical or psychological ill-treatment of residents is not acceptable and will be subject to severe sanctions. To ensure that all staff are adequately trained to work in social care homes and that all non-medical staff are closely supervised by qualified health care staff.

To publish a brochure setting out residents' rights and the social care home's routine, which would be issued to residents on their admission, as well as to their families. Any resident unable to understand this brochure would receive appropriate assistance.

To establish an independent monitoring body which would receive on a confidential basis complaints from residents, and have the authority to talk to them privately. This body would also be authorized to monitor conditions and treatment in the social care home, to visit the facilities unannounced, to make necessary recommendations and to initiate legal action against any illegal practices.

### **Restraint and seclusion**

To ensure that any method of restraint and seclusion, which should be prescribed or authorized by a doctor, supervised by medical staff and strictly restricted in duration, is consistent with international standards regarding cruel, inhuman and degrading treatment and regarding care of persons with mental disabilities, and to particularly ensure that seclusion is not used as punishment. To provide instructions for all social care homes on protocols on and special records (as well as in the resident's file) concerning the enforcement of restraint and seclusion and to monitor that they are effectively maintained.

### **Medical care and qualified staff**

To ensure that social care homes are staffed by a sufficient number of medical and non-medical personnel appropriately trained for their role.

To ensure that psychiatric diagnoses of all residents are periodically reassessed and residents subsequently appropriately placed or released. All residents should regularly be attended by, and have easy access, to a psychiatrist. Any prescription of medication should be in accordance with the rules of the profession and standards of the Ministry of Health, which should be made responsible for the supervision of all medical services in social care homes. The ministry should issue strict instructions on the storage and use of medication, particularly psychotropic medication, and ensure effective safeguards against any abuse of such medication. These instructions should also explicitly acknowledge the residents' right to free and informed consent to medication consistent with international human rights standards.

To ensure that all residents undergo a full medical examination on admission. Any findings suggesting episodes of assault or other ill-treatment or neglect should be reported to the investigative authorities. Medical records should contain a comprehensive diagnostic record as well as an ongoing record of the patient's mental and physical state of health and of the treatment. Information about any injury suffered should be recorded in the medical file as well as in a specific register and be subject to an inquiry. Specialist medical and dental care should be prompt and accessible. The personal medical file should contain the resident's weight and height records which should be maintained at regular intervals.

To ensure that active therapy in accordance with international standards is provided to all residents. Any resident who is able and willing to assume some of the work which would otherwise be performed by staff should receive for this appropriate remuneration.

### **Deaths in social care homes and mortality rates**

To ensure that all deaths of residents, wherever these may have occurred, are properly recorded in social home registers and that post-mortem examinations are carried out in all instances. To ensure that all deceased residents whose remains are not claimed by the family are given a dignified burial and their graves marked appropriately.

To ensure that information on mortality in social care homes is collated at the national level and published. Any institution with a significantly higher mortality rate than usual should be thoroughly investigated.

To initiate thorough and impartial investigations into all deaths of residents described in this report, to make public the results and to bring to justice anyone suspected of having committed a criminal offence.

To ensure that all deaths of residents are thoroughly and impartially investigated and that the results are made public. If an investigation uncovers credible evidence that the death has resulted, directly or indirectly, from a criminal offence, those responsible must be brought to justice.

### **Guardianship**

To revise the Persons and Family Act and Civil Procedure Code provisions regarding incapacitation and the appointment of a guardian, ensuring that effective safeguards are in place to protect the interests and the basic rights of the person concerned. As a minimum these should recognize partial as well as full incapacitation and more precisely define conflict of interest as an obstacle to the appointment of a guardian. Procedural rules should contain obligatory legal representation of the person concerned and a mandatory periodic judicial review of the situation.