

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

Workstream 1: Imprisonment in Europe

BULGARIA – COUNTRY REPORT

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I. Introduction: Basic information on imprisonment in the country

The sanction of imprisonment is central to almost all contemporary criminal law systems. In Bulgaria, the custodial sanctions (imprisonment, life imprisonment and life imprisonment without parole) are provided for a broad range of offences and are the ones most often imposed by the courts. According to the 2012 Annual Report of the Prosecutor's Office, the number of the prison population had been gradually increasing between 2000 and 2005 reaching 11,436 persons by the end of 2005, dropping down to 9,006 in 2009 and fluctuating since then from 9,379 in 2010, to 9,886 in 2011 and 9,493 at the end of 2012.

The Ministry of Justice's Directorate General 'Execution of Criminal Sanctions', which manages and controls the prisons and probation offices, is the institution that collects statistical data on imprisonment. The information is not publicly available, except for some figures used in the activity reports of other institutions like the Prosecutor's Office of the Republic of Bulgaria. Data on imprisonment can be obtained upon request by institutions, civil society organisations, individuals and the media.

Directorate General 'Execution of Criminal Sanctions' collects data through a specially designed Information System for the Execution of Penalties. The system connects all of the Directorate General's territorial subdivisions, namely prisons and prison dormitories, juvenile reformatories, and district offices 'Execution of Criminal Sanctions' responsible for investigation detention facilities and probation. The data collected covers registration and transfer of inmates, their sentences and all accompanying information including medical and personal information.

Bulgaria is still in the process of development of a Unified Information System for Countering Crime (UISCC). The system will be an automated one and its main purpose will be to provide the judiciary and the law enforcement authorities with information about the state of and fight against crime in the country. Although the prisons are listed among the institutions that will be authorised to have access to the UISCC they have not been connected to the system yet.

Civil society organisations collect data through field research, mainly interviews, regarding the observation of inmates' rights, incidents in prisons and crime and illegal practices not officially

reported. Such data are usually included in publicly available reports, but are often presented in summarised form or are exploring specific problems and are neither comprehensive nor representative.

In general, statistical data are sometimes used for developing new policies. This is done usually when drafting policy documents such as strategies, programmes or action plans. Most of these documents include an analytical section, which describes the current situation often referring to available statistics. In the same time statistics are practically not used when drafting new legislation. An overview of the justification reports accompanying the draft laws submitted to the parliament shows that no reference is made to statistical data or other empirical information.

II. Domestic legislation on imprisonment in Bulgaria

II.1. International and EU documents

International instruments, which have been ratified and have entered into force for Bulgaria, or are otherwise applicable for the country, include the Universal Declaration of Human Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the Convention Concerning Forced or Compulsory Labour, the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the United Nations Standard Minimum Rules for the Treatment of Prisoners, the European Prison Rules contained in the appendix to Recommendation Rec(2006)2 of the Committee of Ministers to member states of the Council of Europe, etc. Full list of the international documents, ratified by Bulgaria, is available in Annex 1.

The main external evaluation mechanism is the monitoring exercised by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). The monitoring consists of periodic visits of a CPT delegation to Bulgarian prisons and investigation detention facilities followed by detailed reports presenting the CPT's findings and recommendations.

The European Court of Human Rights (ECtHR) in Strasbourg, through its judgments on applications of imprisoned and detained persons, is also an important mechanism for assessing the functioning of the Bulgarian prison system in the light of international standards. During the last years, Bulgaria has been a party to a number of cases before the ECtHR concerning directly the operation of and conditions in Bulgarian prisons. Most often applicants complain about the poor living conditions in the prisons or the excessive use of force or punishment by the prison administration, which often amounts to inhuman or degrading treatment. The noticeable number of cases and the reports by international observers lead to the conclusion that violations of prisoners' rights are usually a consequence of the poor conditions or the slow judicial procedures. According to the authorities, the poor conditions, including the old buildings and the overcrowding, are due to the insufficiency of funds. As regards the slow judicial procedures, this is not a problem typical only for the prison system, but is rather a general weakness of the entire judicial system.

Below is a brief overview of some of the most recent ECtHR judgments against Bulgaria concerning prisoners' rights.

In the Case of *Sabev v. Bulgaria*¹ the applicant, a person sentenced to life imprisonment without parole under a special security regime, complained against the poor living conditions in the prison and the lack of remedies for his complaints regarding those conditions. The applicant has filed three consecutive claims regarding the living conditions before Bulgarian courts. None of these claims was fully allowed although the third court decision actually admitted the fact that the 'applicant's cells had not had toilet facilities or access to running water' and that the 'applicant had been allowed to go out of his cell and use such facilities three or four times a day, and had been required to use a bucket the rest of the time'. The ECtHR found that the poor living conditions and the applicant's strict isolation for a long period of time amounted to a violation of Article 3 of the ECHR (prohibition of torture, inhuman or degrading treatment) and he had no effective remedy against the conditions of his detention within the meaning of Article 13 of the ECHR.

¹ Judgment on the Case of *Sabev v. Bulgaria* of 28 May 2013 (Application no. 27887/06). Strasbourg: European Court of Human Rights, 2013, available at: <http://hudoc.echr.coe.int/sites/fra/pages/search.aspx?i=001-119954> (15 January 2014).

The Case of *Barborski v. Bulgaria*² concerns the duration of the prison term. The applicant argued that he had been unlawfully kept in prison after the expiry of the prison term specified by the court. The prison authorities had refused to release the applicant because they had established that the court had miscalculated the length of the prison term to be served by him. The ECtHR found that the prison administration has detained the applicant in excess of his sentence and, as long as the prison authorities cannot be considered a competent court, there is a violation of Article 5 § 1 (a) of the ECHR (lawful detention of a person after conviction by a competent court).

The Case of *Djalti v. Bulgaria*³ concerns the detention of illegal immigrants. The applicant had applied for asylum in Bulgaria but his application was rejected and he was ordered to leave and return to his country of origin. Since he had no identification documents and no financial resources he was accommodated in a Special Centre for Temporary Accommodation of Foreigners. The applicant argued that he had not been informed of the reasons of his detention and of his right to appeal against it. Once he received this information, he immediately filed an appeal before the court, which cancelled the detention order. The ECtHR found that although the applicant was reasonably detained, the detention lasted 13 months due to the lack of diligence of the authorities to implement the deportation. The ECtHR also found that the Bulgarian court was not able to order the applicant's immediate release, which additionally prolonged the detention. Based on these conclusions the ECtHR proclaimed that the Bulgarian authorities had violated Article 5 § 1 and § 4 of the ECHR.

II.2. Constitution

The adoption of Bulgaria's Constitution of 1991 provided the normative basis for the development of the contemporary penitentiary legislation in the country. The Constitution provides sufficient general safeguards for the observation of prisoners' rights in line with the relevant international instruments.

² Judgment on the Case of *Barborski v. Bulgaria* of 26 March 2013 (Application no. 12811/07). Strasbourg: European Court of Human Rights, 2013, available at: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-117635> (15 January 2014).

³ Arrêt sur l'Affaire *Djalti c. Bulgarie* du 12 mars 2013 (Requête no 31206/05) [Judgment on the Case of *Djalti v. Bulgaria* of 12 March 2013 (Application no. 31206/05)]. Strasbourg: European Court of Human Rights, 2013, available at: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-117212> (15 January 2014).

There are several constitutional provisions, which are related to imprisonment and the rights of prisoners and detainees. The Constitution proclaims that no one shall be subjected to torture or to cruel, inhuman or degrading treatment, or to forcible assimilation (Article 29, Paragraph 1). It also forbids the detention, inspection, search or any other infringement of the personal inviolability of individuals except on the conditions and in a manner established by law (Article 30, Paragraph 2). In urgent cases explicitly stipulated by law the state authorities can detain citizens, but they must immediately notify the respective judicial authorities, which must rule on the legality of detention within the next 24 hours (Article 30, Paragraph 3).

The Constitution proclaims the right to legal counsel. Everyone can have a legal counsel from the moment of detention or the moment of bringing of charges and can meet with him or her in private. The confidentiality of such communications is inviolable (Article 30, Paragraphs 4 and 5).

As regards prisoners, the Constitution stipulates that prison sentences can be served only in places specified by law and that conditions must be created for the exercise of those of prisoners' fundamental rights, which are not restricted by the sentence (Article 31, Paragraphs 5 and 6).

The Constitution also envisages some restrictions applicable to prisoners during the serving of their sentence. While in prison, inmates are not allowed to vote for state and local authorities, participate in referendums, and be elected as Members of Parliament (Article 42, Paragraph 1 and Article 72, Paragraph 1).

Finally, the Constitution empowers the parliament to grant amnesty (Article 84, point 13), the president to exercise the right to pardon (Article 98, point 11) and the Prosecutor's Office to oversee the enforcement of penalties and other measures of compulsion (Article 127, Paragraph 4).

II.3. Substantive and procedural law

II.3.1. Legal framework

The legal framework of imprisonment in Bulgaria includes both primary legislation (laws) and secondary legislation (ordinances, rules and regulations).

The main **laws** governing the serving of prison sentences are the Criminal Code (CC), the Criminal Procedure Code (CPC) and the Law on Execution of Criminal Sanctions and Detention in Custody (LECSDC). Individual provisions related to imprisonment can also be found in the Law on Extradition and European Arrest Warrant, the Law on Foreigners in the Republic of Bulgaria, the Law on Health, Law on Public Education, etc.

The most important pieces of **secondary legislation** include the Rules for the Application of the Law on Execution of Criminal Sanctions and Detention in Custody (RALECSDC), Ordinance for the Determination of Standards for the Annual Budget Maintenance of a Person Deprived of Liberty (applicable to all persons in penitentiary facilities, including detainees), Ordinance No 15 of 4 December 2009 on Electronic Monitoring of the Behaviour of Sentenced Persons, Rules of Organisation and Activities of the Council on Execution of Criminal Sanctions, Ordinance No 1 of 12 February 2010 on the Composition, Tasks and Activities of the Educational Board with the Reformatory, Ordinance No 2 of 22 March 2010 on the Terms and Procedure for Medical Services at Places for Deprivation of Liberty and Rules of Organisation and Activities of the State-Owned Enterprise 'Prison Service Fund'.

In Bulgarian legislation there is **no legal definition of the terms 'prisoner' and 'detainee'**. A legal definition of 'prisoner' is included in a recently published draft of a new Criminal Code. According to this draft, which is yet to be discussed within the government and the parliament, a prisoner is 'every person detained within a procedure specified by a law'.

The legal framework defines the role of each institution involved in the enforcement of prison sentences. The development and implementation of the national policy on imprisonment is assigned to the Ministry of Justice, which is also responsible for the coordination of state and local authorities and NGOs in their work related to imprisonment. The authority directly responsible for the enforcement of criminal sanctions is the Ministry of Justice's Directorate General 'Execution of Criminal Sanctions' (DG ECS). The powers of the DG ECS and the rights and responsibilities of its employees are defined in detail in the applicable legislation. The legal framework governs also the different places for serving prison sentences, including admission, allocation, discipline, use of force, medical care, social activities, work, education, etc. There are specific provisions concerning life imprisonment and life imprisonment without parole, the implementation of sanctions without imprisonment (probation, confiscation of property, fines,

deprivation of rights and public censure) and the enforcement of sanctions regarding juveniles. Finally, there is a detailed legal framework on detention in custody.

In its current version, the Criminal Code envisages **eleven types of criminal sanctions**: (1) imprisonment, (2) life imprisonment, (3) life imprisonment without parole, (4) probation, (5) confiscation of property, (6) fine, (7) deprivation of the right to hold a specific public office, (8) deprivation of the right to practice a specific activity, (9) deprivation of orders, honours, or dignities, (10) deprivation of military ranks, and (11) public censure.

Imprisonment can last from three months to twenty years (Article 39, Paragraph 1 of the CC). As an exception, a person can be sentenced to up to thirty years of imprisonment when the court replaces life imprisonment with regular imprisonment, when the sanctions for several crimes committed by the same offender are added together or when the offence is particularly grave and this option is explicitly provided for in the law.

Life imprisonment can be imposed only for particularly grave crimes and the court can substitute it by imprisonment for a term of 30 years if the sentenced person has served at least 20 years. When life imprisonment is substituted by regular imprisonment the time served counts as regular imprisonment and is deducted from the remaining period.

Life imprisonment without parole is defined as a temporary and extraordinary measure for extremely dangerous intentional crimes or crimes that threaten the foundations of the Republic. Life imprisonment without parole cannot be imposed on persons under the age of 20 (or 18 for military servants) and on pregnant women. Bulgaria is among the few European countries where life imprisonment without parole still exists. It draws strong criticism from researchers, experts and observers for its inhumanity and excessive severity, running counter to the objectives of the execution of sanctions. It is expected that life imprisonment without parole will be abolished with the adoption of a new Criminal Code.

In Bulgaria, imprisonment is provided for a broad range of offences in the Criminal Code and is also the most often imposed sanction by the criminal courts. However, the majority of the prison sentences are actually suspended sentences. Persons convicted by a suspended sentence do not go to prison unless they commit another crime within the suspension period or do not comply with the measures imposed by the court.

After the introduction of probation in 2004, its application is gradually increasing and is currently the second most often imposed criminal sanction.

According to Bulgarian criminal law, **minors of under the age of 14** are not criminally liable. **Juveniles between 14 and 18 years of age** are liable only if they fully understand the nature and meaning of the criminal act and they are able to guide their own actions. Juveniles sentenced to imprisonment serve their sentences in reformatories instead of prisons.

II.3.2. Service of prison sentences

According to Article 41, Paragraph 6 of the CC, the court determines the initial **regime for serving the sentence** and the type of prison facility, at which the sentenced person will be accommodated. According to Article 61 of the LECSDC persons sentenced to life imprisonment or life imprisonment without parole are placed under special security regime, persons accommodated in prisons and prison dormitories of closed type are placed under high security regime, and those accommodated in prison dormitories of open type are placed under medium security regime. The law also envisages a low security regime, which cannot be applied as initial regime for serving the sentence and can only be granted as an award for good behaviour.

Each prison or reformatory has a separate **reception unit**, where newly admitted inmates are accommodated for a period of 14 days up to one month (Article 47 of the LECSDC). Those transferred from investigation detention facilities are placed in the reception unit for seven days (five days before the amendment of 2012). During their stay at the reception unit inmates get familiar with the prison's internal rules and with their own rights and obligations and complete certain formalities such as inventory of belongings, photographing, medical and psychiatric checks, etc. The availability of such reception units fulfils the requirements of Rules 14 to 16 of the European Prison Rules.

From the reception unit inmates are **allocated to prisons, reformatories or prison dormitories**. The allocation of inmates follows two basic principles. According to the first principle, sentenced persons should be accommodated at the nearest penitentiary facility to their permanent address (Article 57, Paragraph 2 of the LEPSDC). This provision, although corresponding to Rule 17.1 of the European Prison Rules, is often disregarded in practice. The second principle provides for

differentiation and individualisation depending on the gender, age, the nature of the offence committed and previous convictions.

Offenders sentenced for the first time to imprisonment of less than five years for intentional crime and those sentenced for unintentional crime are accommodated in open prison dormitories (Article 59 of the LECSDC). All other offenders, including recidivists, serve their sentence in prisons and closed prison dormitories (Article 60 of the LECSDC). Women are placed in separate prisons and dormitories, juveniles serve their sentence in reformatories and foreigners are accommodated in prisons and dormitories specified by the Minister of Justice (Article 58 of the LECSDC).

The different **regimes** give inmates a different **scope of rights and obligations** (Articles 51 to 54 of the RALECSDC):

- Prisoners on **low security regime** serve their sentence at open prison dormitories. They are accommodated on premises with corridors locked at night, can use a monthly home leave of up to two days, can be awarded with the opportunity to spend their annual rest or part of it outside the dormitory, can be assigned to perform services within the prison and can work unguarded on sites outside the territory of the dormitory.
- Prisoners on **medium security regime** serve their sentence at prisons and open and closed prison dormitories. They are accommodated on premises, which are locked at night (in prisons and closed dormitories) or where the corridors are locked at night (open dormitories), can be assigned to perform services within the prison and, if placed in open dormitories, can work on sites outside the territory of the dormitory.
- Prisoners on **high security regime** serve their sentence at prisons and closed prison dormitories. They are accommodated on premises, which are locked at night, can be assigned to perform services within the prison, and can work on sites within the territory of the prison or the prison dormitory or, as an exception, on stand-alone sites outside that territory under guard.
- Prisoners on **special security regime** serve their sentence at closed prisons. They are accommodated on permanently locked premises under close supervision and security, are

excluded from joint activities with prisoners on other regimes, and may perform suitable work, if available, on separate premises under increased supervision and security.

The prison administration can change the regime for serving the sentence in accordance with the conditions and procedure specified in the law.

Prisoners who serve their sentences at **open dormitories** under a **low security or medium security regime** have **additional rights** (Article 72 of the LECSDC and Article 37 of the RALECSDC). They can receive medical care at medical-treatment facilities outside the hostel (including unguarded in-patient treatment), attend sports, religious, cultural and other events taking place in the city where the dormitory is located, study at schools at the location of the dormitory and be enrolled in professional qualification courses together with the other citizens, move freely and unguarded within the perimeter of the dormitory (either individually or in groups), have access to their visitors without fences, use their own clothing and footwear, etc. Along with that, individual prisoners may be allowed to spend the night at the work sites outside the dormitory.

Special rules apply to **prisoners serving life imprisonment sentences** (Articles 197-199 of the LECSDC). They are accommodated in separate prisons or prison units and are initially placed on special security regime. The regime can be replaced with a lighter one as an award for good behaviour after the prisoner has served at least five years of his or her sentence. Persons sentenced to life imprisonment cannot be placed under low and medium security regimes and cannot benefit from privileges, which are used outside the prison. However, if placed under a high security regime and following a personality assessment, they can be accommodated on premises shared with other prisoners and can participate in joint work, correctional, educational, sports and other activities. Persons initially sentenced to life imprisonment, whose sanction was replaced by ordinary imprisonment, can be transferred to open dormitories and are no longer subject to the restriction applied on those serving life sentences (Article 199, Paragraph 2 of the LEPSDC).

II.3.3. Detention in custody

Detention in custody is one of the **remand measures** applied on accused persons and defendants during criminal proceedings. The conditions and procedure for its imposition are described in the

Criminal Procedure Code, while the Law on Execution of Criminal Sanctions and Detention in Custody (Articles 240-261) provides the rules for its execution. Unless otherwise explicitly provided for in the law, the provisions on prisoners apply accordingly to the detainees.

The persons detained in custody are placed in the detention facility located in the same area where the pre-trial proceedings or the trial takes place (Article 241 of the LECSDC). They can notify their family and relatives about their detention and are immediately informed about their rights to visits, phone calls, correspondence, food parcels and sums for personal allowance (Article 243 of the LECSDC).

Accused persons and defendants are **sent to a prison or a reformatory** (for juveniles under the age of 18) on the basis of a written order issued by the prosecutor at the pre-trial stage (after obtaining the written opinion of the investigating body) or by the judge during the trial. Under certain conditions, the prosecutor may also order the transfer of an accused person from a detention facility to the closest prison or reformatory in the area where pre-trial or trial proceedings are taking place (Article 244 of the LECSDC). In prisons and reformatories, accused persons and defendants are placed in dormitories, separate from those of sentenced persons (Article 246, Paragraph 3 of the LECSDC). Special rules apply when accused persons and defendants are transferred from one prison or detention facility to another or are sent to a medical establishment (Article 250 of the LECSDC).

According to Article 253 of the LECSDC, **access to accused persons and defendants** is granted to the prosecutor, the investigating authority, judges, experts, attorneys and counsels on the case, as well as experts performing visits under international treaty mechanisms. The prosecutor or the court may allow meetings with human rights, religious or other registered organisations. Access is granted within the working time of the administration upon presenting relevant documents and can be exceptionally prolonged for not more than two hours. Only the prosecutors exercising supervision in the places of detention have access round the clock.

According to Article 256 of the LECSDC, accused persons and defendants are entitled to visits, food and other parcels, correspondence, outdoor stay and personal allowance. Their correspondence cannot be inspected by the administration. They can also work, if there is such opportunity and if they expressly wish so, and attend education or professional qualification

courses. The awards and punishments envisaged for prisoners can also be applied on persons detained in custody (Article 257 of the LECSDC).

II.3.4. Other types of detention

The Law on Foreigners in the Republic of Bulgaria (LFRB) provides for the **compulsory accommodation of foreigners before their expulsion** from the country. According to Article 44 of the LFRB, the measure applies to foreigners who are waiting to be taken to Bulgaria's border or to be expelled and who have unknown identity, obstruct the execution of expulsion or there is a risk they can hide. Such persons are placed in special homes for temporary accommodation of foreigners.

Compulsory accommodation could generally last up to six months but, by way of exception, can be prolonged by up to six more months. In exceptional cases, accompanied minors and juveniles can also be accommodated in the special homes for temporary accommodation of foreigners for a period of up to three months. The measure cannot be applied to unaccompanied minors and juveniles.

The accommodation order can be appealed within 14 days of the actual placement of the foreigner in the special home. However, the appeal does not suspend the execution of the order (Article 46a of the Law on Foreigners in the Republic of Bulgaria).

The Criminal Code (Articles 89-91) provides for the **compulsory medical treatment of persons who have committed an offence** in a state of insanity or who have fallen into such a state either before the issuance of the sentence or during the serving of the sanction. The compulsory medical treatment is imposed by the court and can take place in an ordinary psycho-neurological establishment or, if the person is particularly dangerous to the society or to his or her close ones, in a specialised psychiatric hospital or unit. In the latter case the person must be kept under strict supervision in order to prevent him or her from committing another offence. The compulsory treatment lasts until the court decides that it is no longer necessary because either the condition of the person or the need of the treatment has changed.

The Law on Health (Articles 155-165) regulates a different form of **compulsory medical treatment**, which applies to **persons with psychiatric disorders**, who, due to their illness, can

commit a crime, which endangers their relatives, other persons, society or threatens seriously their own health. Such persons can be placed in psychiatric medical establishments specified by the law. This is done on the basis of a court order, by which the court must determine the period and the form of the treatment and the medical establishment where the person will be accommodated.

II.3.5. Recent legislative developments

The Law on Execution of Criminal Sanctions and Detention in Custody underwent two recent amendments, adopted in December 2012 and February 2013 respectively. Some of the changes concerned the operation of Directorate General 'Execution of Criminal Sanctions' while the rest were related to imprisonment and probation.

A significant part of the amendments addressed issues related to the **discipline in prisons**. As of 2012, prisoners in closed facilities are no longer allowed to hold cash money (Article 97). The list of disciplinary violations was expanded to include the acts of assaulting or threatening to assault other inmates and prison officials and the attempts to smuggle into the prison arms, drugs or other goods, which can be used for escape or assault (Article 100). The statutory limitation for the imposition of disciplinary sanctions was increased and is now one year after the violation was committed or two months after it was revealed (Article 106, Paragraph 1). Before the amendments the limitation was six months or one month respectively. The rules governing the procedure to appeal against disciplinary cell confinement were revised and an explicit provision was added that appeals did not suspend the execution of this punishment unless otherwise ordered by the court (Article 111).

Other amendments were related to **prisoners' rights**. The provision on placing prisoners in the nearest prison facility was improved. Now, if a sentenced person cannot be accommodated in the closest prison to his or her permanent address, the authorities are obliged to do their best to send this person to the closest prison to his or her current address (Article 57). Prisoners in open dormitories were allowed to have free access to their visitors and meet them without fences (Article 72, Paragraph 1). Inmates were explicitly given the opportunity to see their defence counsel during the night. Before the amendments this option was applicable only to phone calls (Article 76, Paragraph 2). The scope of voluntary work, which prisoners can perform, was

expanded to include, in addition to cleaning, also reconstruction and maintenance work as well as other activities (Article 80). More detailed rules were introduced concerning the days off from work given for educational purposes (Article 81, Paragraph 2). The period, for which prisoners can be forbidden to receive visits, phone calls, or correspondence from persons who can negatively influence them, was limited to six months (Article 86, Paragraph 2). The mandatory search of prisoners applied upon their return from leave or from a temporary suspension of the execution of the sanction was repealed (Article 92). The ban for inmates in disciplinary cells to receive visits was also repealed (Article 103).

A very disputed amendment envisaged that prisoners have to pay the postal expenses of their correspondence and only inmates whose indigence is formally established can have their expenses covered by the prison (Article 90, Paragraphs 3 and 4). Before the amendment, the prison covered all postal expenses on inmates' requests and complaints, related to the execution of the penalty.

The amendments also revised the rules governing the assessment of the threat of recidivism and the obligatory psychological assessment.

Finally, the amendments postponed for 1 January 2019 the entry into force of the provision stipulating that the **minimum accommodation area per prisoner** must be at least four square meters (Article 43, Paragraph 3). The provision was introduced in the law in 2009 to comply with Rule 18 of the European Prison Rules. However, due to the problem of overcrowding in Bulgarian prisons, its entering into force was delayed for three years for the government to adopt a programme to improve conditions in places of detention. Such a programme was adopted in September 2010 but the envisaged construction and reconstruction of prison facilities until 2013 did not manage to assure the availability of the minimum residential area as by law. Therefore the entry into force of the provision was further postponed for 2019.

II.3.6. Compliance with international standards

In general, Bulgarian legislation on imprisonment corresponds to the international standards. With a few exceptions (e.g. the minimum accommodation area per prisoner) the legal provisions are in line with the international treaties signed by Bulgaria and with the relevant EU legislation.

Furthermore, Bulgaria has adopted several policy documents aimed at improving the situation in prisons and is gradually working towards their practical realisation.

The main problems are in the area of enforcement. Due to the lack of resources some of the existing provisions are not properly implemented, which often affects the rights of prisoners. The major problems are related to the poor living conditions, overcrowding, old infrastructure, insufficient human resources, lack of employment opportunities, etc. However, most of these problems are not directly related to the legal framework and therefore need to be addressed on practical level.

II.4. Other legislation

II.4.1. Other laws and legislation

Other legislation related to imprisonment includes the **laws and regulations in the area of healthcare, education, child protection**, etc. These legal acts do not have specific provisions for prisoners or detainees but rather apply accordingly to the respective activities performed in the prisons.

For example, the Law on Health does not include any specific provisions related to prisons. However, the hospitals and medical centres attached to the prisons are organised and operate on the same principles as the regular ones. The only provision that mentions prisoners is Article 145, Paragraph 2, which proclaims that the state, the municipalities and the non-governmental organisations should perform activities to protect the mental health of vulnerable groups of people, including prisoners and detainees.

Another example is the Law on Public Education, which also does not have special provisions concerning prisoners, but at the same time the schools in the prisons are organised according to the same rules and procedures as the rest of the schools. The only major difference is that the Minister of Education opens and closes the schools in the prisons upon proposal by the Minister of Justice.

II.4.2. Monitoring mechanisms

The **Prosecutor's Office** exercises supervision over the places of detention with regard to **compliance with the law**. Prosecutors perform monthly inspections (including meetings with prisoners and detainees) checking the observation of the law in admission and accommodation, the respect of inmates' rights, the transfers between prison facilities, the observation of the standards for food, housing conditions, medical care, rights to visits, unauthorised contacts, possession of allowed or forbidden objects, etc.

International organisations and local NGOs exercise monitoring over the places of detention primarily as regards the **observation of prisoners' rights**.

In 2011, the parliament ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, under which Bulgaria was obligated to establish a National Preventive Mechanism with a main function to monitor all places of detention. That structure was attached to the Ombudsman of the Republic of Bulgaria and became functional on 1 July 2012. The National Preventive Mechanism performs visits to closed institutions according to an annual plan and publishes its main findings and recommendations in an annual report.

III. Statistics of penitentiary system

Several institutions in Bulgaria collect statistics on imprisonment. However, due to the different methodologies applied by each of them, the data often do not match and are not reliable for comparative analysis.

The **Directorate General 'Execution of Criminal Sanctions'** collects detailed **statistics on the prison population** (both stock and flow data), including data broken down by prison, type of offence, duration of imprisonment, age, gender and nationality of the offender, etc. According to these statistics, as of 1 September 2012, in Bulgarian prisons there were 12.137 prisoners.

The **Prosecutor's Office** collects **data on enforced convictions**. When the court convicts the defendant and the sentence enters into force it is sent to the Prosecutor's Office for enforcement. According to the 2012 Annual Report of the Prosecutor's Office, in 2012, prosecutor's offices

throughout the country received 28.718 final court acts for enforcement, of which 10.332 (35,9%) for imprisonment (including seven life imprisonment sentences), 13.811 (48%) for probation, 7.320 for various types of deprivation of rights, and 1.102 for public censure. A total of 28.695 (99%) court acts were enforced. The figures do not include the financial sanctions (fines and confiscation of property), which are enforced by the National Revenue Agency.

The **National Statistical Institute** collects **statistics on convicted individuals** broken down by different criteria such as type and amount of the sanction, profile of the offender (age, gender, occupation, education, etc.), place where the crime was committed, etc. According to these data, in 2012, the total number of convicted individuals was 37.996, of which 25.152 were sentenced to imprisonment (including life imprisonment). The National Statistical Institute also collects data on the prison population, but it has not been updated since 2010.

Detailed statistics are included in Annex 2 to this report.

IV. Institutions and organisations

IV.1. Governmental institutions

IV.1.1. Directorate General ‘Execution of Criminal Sanctions’

Directorate General ‘Execution of Criminal Sanctions’ (DG ECS) is responsible for the direct management of the operation of all penitentiary facilities. DG ECS is subordinate to the Minister of Justice and is based in Sofia. It has three different types of territorial subdivisions: 12 prisons and 22 open and closed prison dormitories, two juvenile reformatories (one for boys in the town of Boychinovtsi and one for girls attached to the prison in the city of Sliven), and 27 district offices ‘Execution of Criminal Sanctions’.

DG ECS manages the State-Owned Enterprise ‘Prison Service Fund’. The fund is based in Sofia and has territorial subdivisions attached to the prisons and reformatories. Its purpose is to increase the employment opportunities for prisoners and to improve the living and production conditions in the places of detention. The fund’s territorial subdivisions have their own areas of

activity in accordance with territorial specifics (e.g. agriculture, renting of recreational and conference areas, carpentry, etc.).

DG ECS has its own Training Centre, which organises education and professional qualification courses for its employees. The Training Centre is located in the town of Pleven.

IV.1.2. Council on Execution of Criminal Sanctions

The Council on Execution of Criminal Sanctions is attached to the Ministry of Justice and is chaired by the Deputy Minister of Justice responsible for the activities of DG ECS. The Council carries out research in relation to the execution of penalties, develops methodological guidance for the places of detention and the probation services, drafts legislative acts and organises qualification courses for the employees of the DG ECS.

IV.1.3. Committees on execution of criminal sanctions

Each prison or reformatory has a committee on execution of criminal sanctions. It is chaired by the director of the prison or reformatory and includes a representative of the supervisory commission, the deputy director responsible for security, the head of the social services department and the psychologist of the prison. The committees can place prisoners on a different regime, transfer prisoners to a facility of more/less strict type, propose to the district court parole and suspended parole with or without probation measures, accommodate inmates sentenced to life imprisonment into common rooms with other prisoners, etc.

IV.1.4. Supervisory commissions

The supervisory commissions exercise civic monitoring over the places of detention, assist for the re-socialisation of prisoners, help prisoners' families, propose the transfer of prisoners to stricter or lighter regime or facility, etc. They are attached to the municipal councils and must include a probation officer and a representative of the prison or reformatory.

The Law on Execution of Criminal Sanctions and Detention in Custody (Article 170) stipulates that the supervisory commissions are responsible for the re-socialisation of prisoners jointly with the committees for countering the antisocial behaviour of minors and juveniles, the territorial subdivisions of the Ministry of Labour and Social Policy, civic and religious organisations, and

non-governmental organisations. However, there is no mechanism in place for the coordination of the activities of all these institutions and organisations.

IV.1.5. Ombudsman

The Ombudsman can recommend to the Minister of Justice the closure, redevelopment or extension of prisons, prison dormitories or detention facilities where, owing to severe overcrowding or poor hygiene and material conditions of detention, it is impossible to implement correctional intervention or there is a risk of impairment of the physical or mental health of the detainees (Article 46, Paragraph 1 of the LECSDC).

The Ombudsman performs monitoring of the places of detention and receives complaints from prisoners. The institution can send proposals and recommendations to the relevant authorities and can serve as a mediator for solving problems. According to its Annual Report for 2012, the Ombudsman received 200 complaints from prisoners, which amounts to 4 % of all complaints sent to the institution.

The Ombudsman is also the National Preventive Mechanism for Bulgaria under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

IV.2. Non-governmental organisation and research institutions

The non-governmental organisations working on prison-related issues in Bulgaria can be grouped into three categories. Those are the organisations providing legal advice to prisoners and detainees, research institutes, and support organisations. Among those, organisations providing legal advice are the most active. Representatives of NGOs are often invited to participate in legislative working groups with the Ministry of Justice, but their opinions are rarely taken into account.

Human rights organisations like the [Bulgarian Helsinki Committee](#) and the Bulgarian Lawyers for Human Rights provide free of charge **legal advice** to prisoners and detainees who wish to complain of having their rights violated. Such assistance is project-based, mainly funded by external donors and information about monitoring of the quality of service is not available. None

of the government bodies related to the penitentiary system provides financing for such activity. The Bulgarian Helsinki Committee is also monitoring the places of detention for complying with the international standards applicable to Bulgaria. This is part of the organisation's core activities and is not financially supported by state authorities.

There are several **research institutes** working in the area of imprisonment. The most influential of them are the [Center for the Study of Democracy](#), [Open Society Institute – Sofia](#) and [Crime Prevention Fund – IGA](#). The Bulgarian Helsinki Committee is also doing research on imprisonment in addition to its legal advice services. Research institutes monitor the overall operation of the penitentiary system, publish studies and reports, evaluate policies and make recommendations to relevant stakeholders.

There are several **support organisations** working on specific needs of prisoners and detainees. The [Association For Reintegration of Sentenced Prisoners](#) works on the re-socialisation of offenders by delivering qualification and professional orientation training and psychological support to former prisoners. The [Initiative for Health Foundation](#) is active in the area of health protection among drug users and sex workers based on the approach of harm reduction. A religious organisation [Mission – Salvation](#) organises religious and cultural events, qualification courses, charity campaigns and family support in the prison in Sofia and the prison dormitory in Kazichane. The [Bulgarian Prisoners Rehabilitation Association](#) brings together prisoners and ex-prisoners for providing legal support and protection of their rights. The Association for the Religious and Social Support of Prisoners recruits volunteers to assist the visitors of prisoners and detainees, provides moral support to former prisoners to assist their reintegration and supports children whose parents are serving sentences.

The **Council on Execution of Criminal Sanctions** coordinates the work of different state institutions and non-governmental organisations in the area of imprisonment. Among its members are the [Bulgarian Association of Criminology](#), an association of state agencies, NGOs and individuals promoting criminological research in Bulgaria, and the [Crime Prevention Fund – IGA](#). There is no publicly available information about the results of the Council's operation.

The Council on Execution of Criminal Sanctions is the only formal mechanism for cooperation between the government and NGOs in the field of imprisonment. In its 2012 Annual Report, the

Prosecutor's Office underlined the need to increasingly involve NGOs, especially in correctional activities and the re-socialisation of the prisoners, and to have more joint activities between the government and NGOs, including public discussions and monitoring.

V. Policies and programmes

V.1. Policies

There are two main policy documents focusing exclusively on imprisonment, which provide the strategic framework for the development of the penitentiary system.

The **Strategy for Development of the Places of Deprivation of Liberty in the Republic of Bulgaria for the Period 2009-2015** and the Action Plan for the Implementation of the Strategy envisage measures in three main priority areas: (1) improving the material conditions in prisons, decreasing the overcrowding and achieving compliance with international standards; (2) creating conditions for humane treatment of prisoners and respect of their rights and freedoms through legislative amendments; and (3) organisational development and increasing the administrative capacity of the penitentiary system.

The **Programme to Improve Conditions in Places of Deprivation of Liberty** and the Action Plan for the Implementation of the Programme for the period 2011-2013 offers a set of measures aimed at improving the living conditions in prisons and achieving the minimum accommodation area per prisoner of at least four square meters. The measures are grouped under two main priorities: (1) bringing the premises in the prisons in compliance with the international standards by expanding and modernising the existing infrastructure and (2) decreasing the overcrowding and creating conditions for humane treatment of offenders.

The policy on imprisonment is closely linked to other policies such as the ones on crime prevention and crime repression. The **Strategy for Crime Prevention 2012-2020** and the Action Plan for the Implementation of the Strategy for 2013 place the persons released from prison among the so-called 'individuals in risk of offending' and envisage specific measures to prevent them from re-offending. The **Concept Paper on Penal Policy 2010-2014** also views the former

prisoners as a 'group in risk' and formulates specific measures aimed at facilitating their re-socialisation.

The re-socialisation of offenders features mainly in crime-related policies but is missing from other equally important policies such as for example the social inclusion policies. Existing policies focus primarily on the period of serving the sentence and seem to neglect the time after the offender is released.

So far, none of the policies related to imprisonment have been assessed in terms of results, impact or efficiency.

V.2. Preventive initiatives

Although the government has adopted strategic documents for crime prevention and social inclusion of vulnerable groups, there is no information about specific governmental initiatives targeting potential offenders or vulnerable groups of prisoners.

Non-governmental organisations providing support to prisoners or former prisoners implement occasional projects on support and prevention. However, such initiatives have limited scope and sustainability. They usually cover individual prisons and are discontinued with the completion of the respective project due to lack of funding.

V.3. Awareness raising initiatives

The personnel of all penitentiary facilities undergo **specialised training** at the Training Centre of the Directorate General 'Execution of Criminal Sanctions' in the city of Pleven. The centre provides initial training of guards in prisons and detention facilities, social workers, lawyers and psychologists, inspectors, junior inspectors and probation officials, all other experts having a direct contact with prisoners, detainees or persons sentenced to probation. Each year the Director General of DG ECS approves an annual training programme specifying the time and place of delivering the courses. The courses last three months and those who pass the exams obtain a specific penitentiary professional qualification. The training includes a component on improving

the skills of prison staff to communicate with vulnerable groups of prisoners and prisoners with specific needs.

VI. Summary and recommendations

The analysis of the prison system shows the need of further development of the penitentiary reform. This implies continued alignment of national legislation with European standards, accompanied by comprehensive practical modernisation and humanisation of the penitentiary system. Such reforms require considerable costs which can be optimised by introducing a balanced complex of measures, including abolition of imprisonment for less serious offences and expanding the scope of application of non-custodial measures, shortening the term of custodial sentences, broader application of suspended sentencing, release on parole, etc. At the same time, the investments in the reform must match the benefits they are supposed to generate.

The most important indicators of the benefits of the reforms and of the effectiveness of the penitentiary system are the reduction of crime at large and of recidivism in particular, successful reintegration of prisoners after their release and enhancement of public security.

Inspections, monitoring and independent civic oversight combined with the publicity of their results, are and will continue to be an important guarantee of control over the further progress of the penitentiary reform and over the all-round functioning of the penitentiary system.

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15. Закон за екстрадицията и европейската заповед за арест [Law on Extradition and European Arrest Warrant], promulgated SG 46/2005, last amended SG 55/2011, available in Bulgarian at: <http://www.lex.bg/bg/laws/ldoc/2135504378> (15 January 2014)
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Glossary of terms

| | |
|-------------------|---|
| Monitoring | Supervising activities in progress to ensure they are on-course and on-schedule in meeting the objectives and performance targets. |
| Offender | A person, who has committed a crime and has been found guilty by a court. |
| Probation | Relates to the implementation in the community of sanctions and measures, defined by law and imposed on an offender. It includes a range of activities and interventions, which involve supervision, guidance and assistance aiming at the social inclusion of an offender, as well as at contributing to community safety. |
| Prisoner | A person deprived of liberty and kept in custody, captivity, or a condition of forcible restraint, especially while on trial or serving a prison sentence |
| Re-socialisation | An aggregate of measures of social behaviour correction and social rehabilitation, which is directed towards the promotion of the model of lawful behaviour, the creation of awareness of valuable social values in the convicted person and the achievement of the purpose of the sentence of deprivation of liberty. |
| Vulnerable person | A person, who needs care services (by such reasons as mental or other disability, age, illness etc.) and who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation. |

List of abbreviations

| | |
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| ECHR | Convention for the Protection of Human Rights and Fundamental Freedoms |
| ECtHR | European Court of Human Rights |
| CC | Criminal Code |
| CPC | Criminal Procedure Code |
| CPT | European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment |
| DG ECS | Directorate General ‘Execution of Criminal Sanctions’ |
| EC | European Commission |
| EU | European Union |
| LECSDC | Law on Execution of Criminal Sanctions and Detention in Custody |
| LFRB | Law on Foreigners in the Republic of Bulgaria |
| NGO | Non-governmental organisation |
| RALECSDC | Rules for the Application of the Law on Execution of Criminal Sanctions and Detention in Custody |
| UN | United Nations |
| UISCC | Unified Information System for Countering Crime |

Annex 1: Treaties and legislation

Legally binding international instruments/documents

United Nations treaties

| Entry into force | Name of the treaty | Signed - date | Ratified - date |
|-------------------------|---|----------------------|------------------------|
| 4.1.1969 | International Convention on the Elimination of All Forms of Racial Discrimination | 1.6.1966 | 8.8.1966 |
| 26.6.1987 | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment | 10.6.1986 | 16.12.1986 |
| 22.6.2006 | Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment | 22.9.2010 | 1.6.2011 |
| 3.1.1976 | International Covenant on Economic, Social and Cultural Rights | 8.10.1968 | 21.9.1970 |
| 23.3.1976 | International Covenant on Civil and Political Rights | 8.10.1968 | 21.9.1970 |
| 11.11.1970 | Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity | 21.1.1969 | 21.5.1969 |
| 18.7.1976 | International Convention on the Suppression and Punishment of the Crime of Apartheid | 27.6.1974 | 18.7.1974 |
| 3.9.1981 | Convention on the Elimination of All Forms of Discrimination against Women ⁴ | 17.7.1980 | 8.2.1982 |

⁴ On 24 June 1992, the Government of Bulgaria notified the Secretary-General of its decision to withdraw the reservation to article 29 (1) of the Convention, regarding the setting of disputes between two or more parties to the Convention.

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| 22.12.2000 | Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women | 6.6.2000 | 20.9.2006 |
| 3.4.1988 | International Convention against Apartheid in Sports | 10.6.1986 | 18.8.1987 |
| 2.9.1990 | Convention on the Rights of the Child | 31.5.1990 | 3.6.1991 |
| 12.2.2002 | Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict | 8.6.2001 | 12.2.2002 |
| 18.1.2002 | Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography | 8.6.2001 | 12.2.2002 |
| 11.7.1991 | Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty | 11.3.1999 | 10.8.1999 |
| 3.5.2008 | Convention on the Rights of Persons with Disabilities | 27.9.2007 | 22.3.2012 |

Council of Europe legislation

| Entry into force | Name of the treaty | Signed - date | Ratified - date |
|-------------------------|--|----------------------|------------------------|
| 3.9.1953 | Convention for the Protection of Human Rights and Fundamental Freedoms | 7.5.1992 | 7.9.1992 |
| 18.5.1954 | Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms | 7.5.1992 | 7.9.1992 |

| | | | |
|------------|--|-----------|-----------|
| 21.9.1970 | Protocol No. 2 to the Convention for the Protection of Human Rights and Fundamental Freedoms, conferring upon the European Court of Human Rights competence to give advisory opinions | 7.5.1992 | 7.9.1992 |
| 21.9.1970 | Protocol No. 3 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending Articles 29, 30 and 34 of the Convention | 7.5.1992 | 7.9.1992 |
| 2.5.1968 | Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto | 3.11.1993 | 4.11.2000 |
| 20.12.1971 | Protocol No. 5 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending Articles 22 and 40 of the Convention | 7.5.1992 | 7.9.1992 |
| 1.3.1985 | Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty | 7.5.1999 | 29.9.1999 |
| 1.11.1988 | Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms | 3.11.1993 | 4.11.2000 |
| 1.1.1990 | Protocol No. 8 to the Convention for the Protection of Human Rights and Fundamental Freedoms | 7.5.1992 | 7.9.1992 |

| | | | |
|------------|---|------------|------------|
| 1.11.1998 | Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, restructuring the control machinery established thereby | 11.5.1994 | 3.11.1994 |
| 1.7.2003 | Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances | 21.11.2002 | 13.2.2003 |
| 1.6.2010 | Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention | 23.9.2005 | 17.11.2005 |
| 18.4.1960 | European Convention on Extradition | 30.9.1993 | 17.6.1994 |
| 20.8.1979 | Additional Protocol to the European Convention on Extradition | 30.9.1993 | 17.6.1994 |
| 5.6.1983 | Second Additional Protocol to the European Convention on Extradition | 30.9.1993 | 17.6.1994 |
| 12.6.1962 | European Convention on Mutual Assistance in Criminal Matters | 30.9.1993 | 17.6.1994 |
| 12.4.1982 | Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters | 30.9.1993 | 17.6.1994 |
| 17.12.1969 | European Convention on Information on Foreign Law | | 31.1.1991 |
| 31.8.1979 | Additional Protocol to the European Convention on Information on Foreign Law | | 31.1.1991 |

| | | | |
|-----------|--|------------|------------|
| 26.7.1974 | European Convention on the International Validity of Criminal Judgments | 9.10.2003 | 30.3.2004 |
| 30.3.1978 | European Convention on the Transfer of Proceedings in Criminal Matters | 9.10.2003 | 30.3.2004 |
| 28.2.1977 | European Agreement on the Transmission of Applications for Legal Aid | 27.11.1995 | 31.5.1996 |
| 1.7.1985 | Convention on the Transfer of Sentenced Persons | 30.9.1993 | 17.6.1994 |
| 1.6.2000 | Additional Protocol to the Convention on the Transfer of Sentenced Persons | 30.9.1993 | 17.6.1994 |
| 1.2.1989 | European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment | 30.9.1993 | 3.5.1994 |
| 1.3.2002 | Protocol No. 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment | 4.3.1997 | 27.10.1997 |
| 1.3.2002 | Protocol No. 2 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment | 4.3.1997 | 27.10.1997 |
| 1.2.1998 | Framework Convention for the Protection of National Minorities | 9.10.1997 | 7.5.1999 |
| 1.1.1999 | European Agreement relating to persons participating in proceedings of the European Court of Human Rights | 3.7.2000 | 31.5.2001 |
| 1.7.2004 | Convention on Cybercrime | 23.11.2001 | 7.4.2005 |
| 1.7.2010 | Council of Europe Convention on the | 25.10.2007 | 15.12.2011 |

| | | | |
|--|---|--|--|
| | Protection of Children against Sexual Exploitation and Sexual Abuse | | |
|--|---|--|--|

EU legislation

| Entry into force | Name of the treaty | Transposition – date/legislation/etc. |
|-------------------------|---|--|
| 18.12.2000 | Charter of Fundamental Rights of the European Union (2000/C 364/01) | Direct effect |
| 5.12.2008 | Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union | Direct effect |
| 1.6.2012 | Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings | Direct effect |
| 15.6.2010 | Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings | Direct effect |

Annex 2: Imprisonment statistics

Table 1. Prison population

| | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|--|--------|--------|--------|--------|--------|--------|-------|--------|------|
| Prison population total | 10,935 | 12,240 | 12,218 | 11,032 | 10,723 | 10,028 | 9,379 | 11,137 | - |
| Prison population rate (per 100.000 inhabitants) | 140.2 | 157.7 | 158.8 | 150.7 | 147.6 | 131.8 | 124.0 | 151.1 | - |
| Entries to penitentiary institutions in a given year | 8,112 | 8,621 | 8,894 | 6,780 | 6,276 | 6,447 | 7,070 | 7,492 | - |
| Rate of entries to penitentiary institutions (per 100.000 inhabitants) in a given year | 104.0 | 111.1 | 115.6 | 92.6 | 86.4 | 84.8 | 93.5 | 101.7 | - |
| Pre-trial/ remand | 1,928 | 2,802 | 2,323 | 1,713 | 1,657 | 1,665 | 1,471 | 2,351 | - |
| Rate of pre-trial/ remand (per 100.000 inhabitants) | 24.7 | 36.1 | 30.2 | 23.4 | 22.8 | 21.9 | 19.4 | 31.9 | - |

Table 2. Prison population by socio-demographic characteristics (total numbers)

| | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | |
|----------------------------|-------|------|------|------|-------|-------|-------|-------|-------|---|
| Females | 339 | 373 | 434 | 355 | 326 | 298 | 291 | 329 | - | |
| Minors | 144 | - | 78 | 50 | 85 | 21 | 44 | 60 | - | |
| Age structure of prisoners | 14-16 | 144 | - | 78 | 50 | 9 | 0 | 0 | 19 | - |
| | 16-18 | - | - | - | - | 76 | 21 | 44 | 41 | - |
| | 18-21 | 505 | - | 865 | 1,170 | 476 | 160 | 330 | 336 | - |
| | 21-25 | - | - | - | - | 1,448 | 626 | 1,083 | 1,070 | - |
| | 25-30 | - | - | - | 2,381 | 2,435 | 1,583 | 1,643 | 1,726 | - |
| | 30-40 | - | - | - | 3,308 | 3,664 | 3,270 | 3,003 | 3,126 | - |
| | 40-50 | - | - | - | 1,594 | 1,768 | 1,746 | 1,467 | 1,633 | - |
| | 50-60 | - | - | - | 640 | 665 | 714 | 580 | 631 | - |
| | 60-70 | - | - | - | - | 150 | 196 | 130 | 168 | - |
| 70+ | - | - | - | 176 | 32 | 47 | 40 | 36 | - | |

Table 3. Prison population by offences (total numbers)

| Type of offence | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|-------------------------|---|------|--------|------|------|--------|--------|--------|--------|
| Criminal offences total | - | - | 11,028 | - | - | 10,703 | 12,131 | 12,000 | 12,137 |
| Major traffic offences | - | - | 324 | - | - | 280 | 417 | 479 | 462 |
| Intentional homicide | - | - | 1,110 | - | - | 948 | 1,012 | 981 | 988 |
| Bodily injury (assault) | Total | - | 250 | - | - | 171 | 259 | 274 | 230 |
| | <i>of which:</i> Aggravated bodily injury | - | - | 164 | - | - | - | - | - |
| Sexual assault | Total | - | 552 | - | - | 577 | 562 | 520 | 492 |
| | <i>of which:</i> Rape | - | - | 442 | - | - | 409 | 333 | 311 |
| | <i>of which:</i> Sexual abuse of a child | - | - | - | - | - | - | - | - |
| Robbery | - | - | 1,614 | - | - | 1,471 | 1,619 | 1,582 | 1,572 |
| Theft | - | - | 6,278 | - | - | 3,769 | 4,409 | 4,278 | 4,444 |
| Drug offences | - | - | 420 | - | - | 563 | 667 | 612 | 545 |
| Smuggling | - | - | - | - | - | 152 | 133 | 138 | 148 |
| Fraud | - | - | 296 | - | - | 314 | 343 | 348 | 313 |

Table 4. Prison population by length of sentence (percentage) and average length of imprisonment (months)

| | | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|--|-------------------------------------|-------|------|-------|-------|-------|-------|-------|-------|------|
| Prison population by length of sentence (percentage) | Less than 1 month | - | - | 8 | 2,646 | 0 | 3 | 2,727 | 2,817 | - |
| | From 1 month to less than 3 months | 414 | - | 12 | | 8 | 286 | | | - |
| | From 3 months to less than 6 months | 769 | - | 1,284 | | 555 | 752 | | | - |
| | From 6 months to less than 1 year | 1,601 | - | 1,493 | | 1,232 | 1,401 | | | - |
| | From 1 year to less than 3 years | 3,039 | - | 3,187 | 2,934 | 2,838 | 2,646 | 2,720 | 2,952 | - |
| | From 3 years to less than 5 years | 1,095 | - | 1,486 | 1,341 | 1,670 | 1,131 | 1,019 | 1,106 | - |
| | From 5 years to less than 10 years | 812 | - | 1,032 | 1,113 | 1,298 | 984 | 828 | 806 | - |
| | From 10 years to less than 15 years | 1,140 | - | 1,230 | 1,109 | 1,107 | 979 | 847 | 860 | - |
| | From 15 years to less than 20 years | | - | | | | | | | - |
| | 20 years and over | 44 | - | 38 | 32 | 212 | 32 | 23 | 23 | - |
| Life imprisonment | 93 | 110 | 125 | 144 | 146 | 149 | 156 | 222 | - | |
| Average length of imprisonment (months) | Imposed by the court | - | - | - | - | - | - | - | - | - |
| | Factual ⁵ | 14.4 | 17.0 | 16.5 | 19.5 | 20.5 | 18.7 | 15.9 | 17.8 | - |

Table 5. Number of different facilities and number of prisoners in different types of facilities (total numbers)

| | | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|--------------------------------|--|------|------|------|------|------|-------|-------|-------|-------|
| Pre-trial detention facilities | Number of pre-trial detention facilities ⁶ | 65 | 51 | 50 | 44 | 43 | 43 | 43 | 43 | 42 |
| | Number of prisoners in pre-trial detention facilities ⁷ | 858 | 862 | 786 | 760 | 723 | 1,087 | 1,283 | 1,025 | 1,024 |
| Prisons | Number of prisons | 12 | 12 | 12 | 12 | 12 | 12 | 12 | 12 | 12 |
| | Number of prisoners in prisons | - | - | - | - | - | - | - | - | - |
| Open prison dormitories | Number of open prison dormitories | 7 | 7 | 7 | 7 | 7 | 19 | 19 | 19 | 19 |
| | Number of prisoners in open prison dormitories ⁸ | 632 | 696 | 855 | 820 | 730 | 1,853 | 1,653 | 1,665 | 1,568 |

⁵ The average length of imprisonment is calculated by dividing the total number of prisoners (stock data) to the total number of entries during the respective year (flow data) and then multiplying the ratio by 12.

⁶ Source: Bulgarian Helsinki Committee.

⁷ Source: Bulgarian Helsinki Committee.

⁸ Source: Bulgarian Helsinki Committee.

| | | | | | | | | | | |
|--------------------------------------|---|-------|-------|-------|-------|-------|-----|-----|-----|-------|
| Transitory prison dormitories | Number of transitory prison dormitories | 12 | 12 | 12 | 12 | 12 | 0 | 0 | 0 | 0 |
| | Number of prisoners in transitory prison dormitories ⁹ | 1,273 | 1,439 | 1,590 | 1,856 | 1,523 | 0 | 0 | 0 | 0 |
| Closed prison dormitories | Number of closed prison dormitories | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 |
| | Number of prisoners in closed prison dormitories ¹⁰ | - | - | - | - | - | 905 | 835 | 960 | 1,029 |
| Reformatories (for juveniles) | Number of reformatories | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 |
| | Number of prisoners in reformatories | - | - | - | - | - | - | - | - | - |
| Total number of different facilities | | 101 | 87 | 86 | 80 | 79 | 79 | 79 | 79 | 78 |

Table 6. Situation of penal institutions

| | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|--|-------|-------|-------|-------|-------|-------|-------|-------|------|
| Total capacity of penal institutions/ prisons | | | | 7,923 | 7,948 | 7,891 | 8,740 | - | - |
| Density per 100 places | 122.8 | 194.1 | 115.6 | 105.2 | 134.9 | 94.9 | 107.0 | 127.1 | - |
| Surface area per prisoner (in m ²) | - | - | - | - | - | - | - | 2.3 | 2.3 |

Table 7. Persons under parole, probation and surveillance orders (total numbers)

| | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|---|------|-------|--------|--------|--------|--------|--------|--------|------|
| Probation (including the attached measures) ¹¹ | - | 3,252 | 11,962 | 12,814 | 13,012 | 14,414 | 14,705 | 15,423 | - |
| Parole (including the attached measures) ¹² | 995 | 907 | 1,034 | 1,249 | 1,176 | 1,223 | 1,093 | 844 | 838 |
| Surveillance orders | - | - | - | - | - | - | - | - | - |

Table 8. Groups of (possibly vulnerable) prisoners (total numbers)

| | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|---|------|-------|-------|-------|-------|-------|------|------|------|
| Foreigners | 217 | 262 | 233 | 211 | 198 | 223 | 113 | 226 | - |
| Ethnic/ cultural/ religious groups | - | - | - | - | - | - | - | - | - |
| Alcohol addicted persons | - | - | - | - | - | - | - | - | - |
| Persons addicted to other drugs than alcohol (excluding nicotine) | 693 | 1,071 | 1,342 | 1,143 | 1,180 | 1,038 | - | - | - |
| Mentally handicapped persons (e.g., lower IQ) | - | - | - | - | - | - | - | - | - |
| Persons with a psychiatric | - | - | - | - | - | - | - | - | - |

⁹ Source: Bulgarian Helsinki Committee.

¹⁰ Source: Bulgarian Helsinki Committee.

¹¹ Probation is a set of measures for control and influence over the offender without imprisonment.

¹² Parole means earlier release from prison. Source: Association For Reintegration of Sentenced Prisoners.

| | | | | | | | | | |
|---|---|---|---|-----|-----|-----|-----|-----|-----|
| handicap | | | | | | | | | |
| Physically handicapped persons | - | - | - | - | - | - | - | - | - |
| HIV/AIDS | - | - | - | - | - | - | - | - | - |
| “Querulous persons”/ “trouble makers” | - | - | - | - | - | - | - | - | - |
| Sexual offenders | - | - | - | 552 | - | 577 | 562 | 520 | 492 |
| Former police officers, prosecutors, judges, etc. | - | - | - | - | - | - | - | - | - |
| (Functional) illiterates | - | - | - | - | - | - | - | - | - |
| Persons not speaking the local language | - | - | - | - | - | - | - | - | - |
| Old prisoners (reached retirement age; or ≥ 60 years) ¹³ | - | - | - | 176 | 182 | 243 | 170 | 204 | - |

Table 9. Deaths and injuries in penal institutions (total numbers)

| | | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|----------|--|------|------|------|------|------|------|------|------|------|
| Deaths | Total | 40 | 51 | 40 | 34 | 40 | 46 | 38 | - | - |
| | <i>of which:</i> natural death | - | - | - | - | - | - | - | - | - |
| | <i>of which:</i> suicides | 2 | 1 | 2 | 2 | 4 | 6 | 2 | - | - |
| | <i>of which:</i> accidents | - | - | - | - | - | - | 0 | - | - |
| | <i>of which:</i> homicides | - | - | - | - | - | - | 1 | - | - |
| | <i>of which:</i> drug/alcohol intoxication | - | - | - | - | - | - | 3 | - | - |
| | <i>of which:</i> other (including illness) | - | - | - | - | - | - | 32 | - | - |
| Injuries | Total | - | - | - | - | - | - | - | - | - |
| | <i>of which:</i> assaults | - | - | - | - | - | - | - | - | - |
| | <i>of which:</i> accidents | - | - | - | - | - | - | - | - | - |
| | <i>of which:</i> self-harm | - | - | - | - | - | - | - | - | - |
| | <i>of which:</i> other (please specify) | - | - | - | - | - | - | - | - | - |

Table 10. NGO, volunteers, re-socialisation programs, legal advice (total numbers)

| | | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|--|--|------|------|------|------|------|------|------|------|------|
| NGO's collaborating with penitentiary institutions | Total | - | - | - | - | - | - | - | - | - |
| | <i>of which:</i> prisons | - | - | - | - | - | - | - | - | - |
| | <i>of which:</i> probation agencies | - | - | - | - | - | - | - | - | - |
| Volunteers | Total | - | - | - | - | - | - | - | - | - |
| | <i>of which:</i> in prisons | - | - | - | - | - | - | - | - | - |
| | <i>of which:</i> in pre-trial/ remand | - | - | - | - | - | - | - | - | - |
| | <i>of which:</i> in probation agencies | - | - | - | - | - | - | - | - | - |
| Re-socialisation (rehabilitation) | Number of programs | - | - | - | - | - | - | - | - | - |

¹³ The figures represent the total number of prisoners over 60 years of age.

| | | | | | | | | | | |
|--|---|---|---|---|---|---|---|---|---|---|
| programs | Number of persons attending such programs | - | - | - | - | - | - | - | - | - |
| Legal advice in penal institutions free of charge or via legal aid | | - | - | - | - | - | - | - | - | - |

Table 11. Prisoners who are studying and/or working (total numbers)

| | | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|---|---|------|------|------|------|------|------|------|------|------|
| Number of prisoners who are studying at a given year (high school, vocational school, university) | | - | - | - | - | - | - | - | - | - |
| Number of graduated prisoners at a given year | | - | - | - | - | - | - | - | - | - |
| Other education (skills improvement) (<i>please specify</i>) | | - | - | - | - | - | - | - | - | - |
| Number of prisoners who are working at a given year | In a state companies / In private firms | - | - | - | - | - | - | - | - | - |
| | Involved in individual work, creative or other activity | - | - | - | - | - | - | - | - | - |
| | Working fatigue in penal institutions | - | - | - | - | - | - | - | - | - |
| | Total | - | - | - | - | - | - | - | - | - |

Table 12. Financing of penal institutions (total numbers in euros)

| | | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|---|---|------|------|------|----------|----------|----------|----------|----------|----------|
| Total budget of penal institutions ¹⁴ | | - | - | - | 34,318.3 | 37,709.4 | 29,586.9 | 29,511.3 | 32,026.3 | 35,762.5 |
| Average amount spent per day for one prisoner ¹⁵ | | - | - | 9.50 | 16.66 | 2.41 | 2.58 | 3.03 | - | - |
| Average amount spent per day for one prisoner for: | nutrition | - | - | - | - | - | - | - | - | - |
| | clothing and bedding | - | - | - | - | - | - | - | - | - |
| | medicines | - | - | - | - | - | - | - | - | - |
| | social rehabilitation programmes and services | - | - | - | - | - | - | - | - | - |
| | drug substitution (methadone) | - | - | - | - | - | - | - | - | - |
| | harm reduction | - | - | - | - | - | - | - | - | - |

¹⁴ The amount is in Million Euro and includes the overall budget of the prison system.

¹⁵ The amount includes security, health care, services, support and rehabilitation and excludes administration.

Annex 3: Discussions and consultations with knowledgeable individuals and organisations (semi-standardised interviews)

| Name of individual | Name of institution / organisation | Affiliation to group / body / org. / etc. | Date of discussion | Place of discussion | Did the individual agree to publish his/her name in the report? | Notes |
|--------------------|---|--|--------------------|----------------------|---|---|
| E.M. | Professor in legal psychology South-West University 'Neofit Rilski' | N/A | 2013 | Sofia | Not explicitly for this report | Former deputy director of Directorate General 'Execution of Criminal Sanctions' |
| L.K. | Director of 'National Preventive Mechanism and Fundamental Rights' | Ombudsman of the Republic of Bulgaria | 2013 | Sofia | Not explicitly for this report | N/A |
| M.P. | Director of Sliven Prison | N/A | 2013 | Sliven | Not explicitly for this report | N/A |
| S.I. | Inspector, Directorate General 'Execution of Criminal Sanctions' | N/A | 2013 | Sofia | Not explicitly for this report | N/A |
| G.M. | Assistant Professor, Sofia University 'St. Kliment Ohridski' | N/A | 2013 | Sofia | Not explicitly for this report | Professor in criminal procedure and execution of criminal sanctions |
| P.P. | Supreme Prosecutor's Office of Cassation | N/A | 2013 | Sofia | Not explicitly for this report | Public prosecutor responsible for the execution of criminal sanctions |
| M.K. | Chair, Regional Court of Gotse Delchev | Member of the Council on Execution of Penalties, Ministry of Justice | 2013 | Sofia, Gotse Delchev | Not explicitly for this report | N/A |
| Y.G. | Initiative for Health Foundation | N/A | 2013 | Sofia | Not explicitly for this report | N/A |
| N.K. | Penitentiary expert | N/A | 2013 | Sofia | Not explicitly for this report | Former Director of Plovdiv Prison |
| V.R. | Directorate General 'Execution of | N/A | 2013 | Sofia | Not explicitly for this report | N/A |

| | | | | | | |
|------|------------------------------|-----|------|-------|--------------------------------|-----|
| | Criminal Sanctions' | | | | | |
| G.B. | Bulgarian Helsinki Committee | N/A | 2013 | Sofia | Not explicitly for this report | N/A |
| K.K. | Bulgarian Helsinki Committee | N/A | 2013 | Sofia | Not explicitly for this report | N/A |