Fundamental Rights situation of persons with mental health problems and persons with intellectual disabilities: desk report Bulgaria

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1. EXECUTIVE SUMMARY

For people with intellectual disabilities and mental health problems in Bulgaria, the right to independent living is not respected. The majority of them live with their families and cannot choose where and with whom to live. Those who have no families or who cannot live with them are moved to social care institutions where they are placed involuntarily. Some of them were abandoned as children or as adults by their families. A slowly growing tendency is for people with intellectual disabilities and mental health problems to live in “protected homes” – small groups of homes that are meant to be an alternative to large institutions, which do not provide more opportunities for independent living in practice. Access to community-based services is not guaranteed to all potential users and the quality of care provided in them is generally low, with a few exceptions. Users’ opinions are not being sought and taken into account while the services are being developed and while they are functioning. This would not be in conformity with Article 4 (3) of the UN Convention on the Rights of Persons with Disabilities if Bulgaria ratifies it.

People with intellectual disabilities and mental health problems living in institutions cannot exercise their rights to privacy, to have relationships, to choose and organise their daily activities, to marry or to have children. They are medically treated involuntarily, often at risk to their health and lives. The practice of unlawful seclusion and restraint of some residents of institutions continues (both children and adults).

People with intellectual disabilities and mental health problems are often deprived of their legal capacity and placed under guardianship. This automatically deprives them of the right to be recognised as “persons” before the law. They do not receive any support for decision making and are not allowed to enter into legal commitments. Some people have been placed under guardianship but have not had a guardian appointed for years.

People with intellectual disabilities and mental health problems have no access to any mechanisms of complaint before the courts, within the institutions where they live or before human rights institutions or organisations.
The only access to justice they benefit from so far is ensured by one NGO in Bulgaria which performs project-based monitoring for people in these two groups living in institutions or with their families. The NGO receives complaints and pursues litigation on selected cases. It does not receive governmental funding.
2. COMMUNITY LIVING

2.1. Freedom to Choose where to Live

The most recent statistical data\(^1\) in Bulgaria (as at 31 December 2008) found that people with intellectual disabilities (ID) numbered 39,304 and people with mental health problems numbered 75,981 out of a total population of 7,563,710. As at 31 December 2008, 1,502 children and young adults lived in 26 childcare institutions for children with intellectual disabilities, 767 young people lived in nine social/educational professional centres (boarding schools for people with disabilities aged 14 to 35) and 4,401 people lived in 58 institutions for adults with intellectual disabilities, mental health problems and dementia.\(^2\) The Social Assistance Agency provided information about five protected homes with a total capacity of 44 places for people with mental health problems and 46 protected homes with a total capacity of 391 places for people with intellectual disabilities, in which, as at 30 November 2008, 133 people were accommodated.\(^3\)

According to the *Plan for Implementation of the National Strategy: Vision for the Deinstitutionalisation of children in Bulgaria*\(^4\) in 2010 1,376 children and young adults were placed in 24 institutions for children with intellectual disabilities. Of those, 420 are over 18.

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\(^1\) According to the National Centre for Health Information as at 31 December 2008 people with intellectual disabilities number 39,304, people with schizophrenia number 29,912, people with schizoaffective disorders number 3,896, people with bipolar disorder number 11,484, people with depression number 18,207, people with anxiety disorders number 8,954, and there are 3,528 people with dementia. [http://www.nchi.government.bg/statistika/B_5.pdf](http://www.nchi.government.bg/statistika/B_5.pdf) (accessed 24 October 2010).


According to the Vision for the Deinstitutionalisation of People with Intellectual Disabilities, Mental Health Problems and Dementia 2010-2011, in 2010 a total of 2,349 people with intellectual disabilities lived in 28 institutions, 1,249 people with mental health problems lived in 15 institutions and 843 people with dementia lived in 13 institutions (the total number of institutions is 56 and their residents number 4,441).

(a) Extent of choice as compared with that of others and trends since 2005

• People with Intellectual Disabilities

The research did not find any specific studies regarding the extent of choice of community living for people with intellectual disabilities. People with intellectual disabilities who have not been abandoned in institutions usually live with their parents or close relatives. They are dependent on them for meeting everyday needs as the majority of them do not have the skills for independent living and do not have income as they are unemployed. Thus their opportunity to choose where to live is significantly reduced.

• People with Mental Health Problems

People with mental health problems are dependent on their families regarding their place of residence and their everyday needs.

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6 “Abandonment” in this study means voluntary as well as non-voluntary giving up of parental rights and duties by the parents or legal guardians de jure or de facto.
7 here are no studies on this issue but a report on guardianship in Bulgaria mentions when describing typical guardianship cases of people with ID and MHP in 2005 and 2006 that most of the people who were to be incapacitated were living with their relatives and the majority of them did not have their own income and were not able to take care of themselves. See Guardianship and Human Rights in Bulgaria, Mental Disability Advocacy Centre, 2007, Budapest, pp.78, 79, 85, available in English at: http://www.mdac.info/documents/Bulgaria%20report_comprehensive_English.pdf (accessed 24 October 2010).
A piece of sociological research carried out in Sofia in 2009 reveals that, according to 61.7% of social workers in the city, the main problem they have to deal with relates to people with mental health problems who have been placed in institutions.\(^9\)

They state that, in 94.6% of cases, they learn about the problems of these people from their close relatives.\(^10\) The same research found that the people with mental health problems in Sofia who were interviewed consider socialising and communication to be their biggest problems (54.6% and 53.3% of those interviewed respectively) as well as the lack of access to income (21.4%).\(^11\) According to the research findings, it is the close relatives of the people with mental health problems who end up in charge of ensuring out-patient care for them,\(^12\) and it is they who are in fact the main providers of care and services.\(^13\) On the other hand, according to a Bulgarian human rights NGO (Bulgarian Helsinki Committee (BHC)), “people with mental health problems often fall victim to various types of property fraud and abuse”.\(^14\) The BHC further specifies that some of the victims are placed under guardianship and accommodated in a social care institution outside the community by relatives intending to take over their assets. This was confirmed by the above-mentioned sociological research in Sofia in 2009.\(^15\) In other cases, according to the BHC, similar abuse is perpetrated by various individuals against people with mental health problems facing a crisis, with the former taking advantage of the placement of the latter in a psychiatric facility by court order. The same results were confirmed by the sociological research in 2009 in Sofia.\(^16\)


\(^10\) Ibid., p.45.

\(^11\) Ibid., p.64.

\(^12\) Ibid., p. 49.

\(^13\) Ibid., p. 56.


\(^16\) Ibid., p.36.
(b) Concerns

People with intellectual disability and mental health problems face dependency in their everyday life and no safeguards exist in practice to support them to make the decision where and with whom to live. This would not comply with Article 19 or Article 23 of the UN Convention on the Rights of Persons with Disabilities if Bulgaria ratifies it.

(c) Examples of Good Practice

No examples of good practice were identified by the research.

2.2. Access to Services and Facilities Offered to the General Population

(a) Extent of Access and any Relevant Trends

People with intellectual disabilities and mental health problems are not specifically mentioned in any policy document adopted during the period 2005-2010, aside from the Vision for the Deinstitutionalisation of People with Intellectual Disabilities, Mental Health Problems and Dementia 2010-2011 and the plan for its implementation.17 The other relevant documents are the Strategy for Ensuring Equal Opportunities for People with Disabilities 2008-2015, which has been adopted by the Council of Ministers, and the Action Plan for Ensuring Equal Opportunities for People with Disabilities 2008-2009.18 They basically repeat all the objectives of the previous policy documents. Again, they do not specify clear deadlines, the amount of necessary funding and the responsible authorities. According to the strategy and the action plan, people with disabilities should be provided with an accessible environment, quality education, access to employment, social services, leisure, cultural and sports activities. According to the Vision for the deinstitutionalisation of people with mental disabilities, the 4,441 people with mental health problems and intellectual disabilities living in institutions should be deinstitutionalised and provided with small-group home accommodation and day-care services.19

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18 Ibid.
In 2007, the Bulgarian Helsinki Committee carried out monitoring of the community-based services that have been developed for children and adults with intellectual disabilities and adults with mental health problems: 19 day centres for children and adults were visited (approximately 500 clients), as well as 17 protected homes (120 clients) and two rehabilitation and social integration centres (approximately 60 clients). Despite the fact that during the period 2005-2007 the efforts of the Bulgarian authorities and of the European funds were targeted on these services, the monitoring concluded that that they do not provide a real alternative to institutional care; as a concept, they do not lead to effective deinstitutionalisation, do not meet the individual needs of the clients and cannot provide quality care.

This is so because social, rehabilitation and educational services are being developed without preliminary needs assessment, without an understanding of the desired result, without the involvement of the local authorities that are often the managers of such programmes, without respect for the opinions of the clients, and without skilled staff. In fact, there is no competition between the services, and it seems very easy for them to function as institutions in practice.

The number of services is insufficient; they are available to a still very small number of people with intellectual disabilities and people with mental health problems, but the costs are higher, as new and modern buildings are often built which local authorities later find impossible to maintain.


21 Vision for the Deinstitutionalisation of People with Intellectual Disabilities, Mental Health Problems and Dementia 2010-2011, p.5, available at: http://www.mlsp.government.bg/bg/docs/indexstr.htm. The document lists the challenges for deinstitutionalisation and among them are: insufficient number of services to meet the needs of the target groups and their uneven distribution within the country; insufficient number of community-based services as alternatives to institutions; large number of adults who wish to be placed in institutions; lack of social services for target groups in municipal and regional strategies; and lack of annual development plans. See also 2008 Annual Report, Human Rights in Bulgaria, Bulgarian Helsinki Committee, April 2009, p.38, available in English at: http://www.bghelsinki.org/index.php?module=resources&lg=en&id=631. "In 2008, the deinstitutionalization of people with mental disorders and developmental disabilities, deprived of access to life in the community in the long term, remained a term void of meaning and consistency. The process was painfully slow and sabotaged by both the lack of legislative reforms and discriminatory practices, lack of consistency and understanding of the essence of the process and the real needs. It is not accidental that, despite the large amounts allocated for the implementation of this process, only 42 persons have been reintegrated in the community."
It is still not possible to present clear statistics on the number of people with intellectual disabilities and mental health problems who wish to use certain services and the number of those who are provided some kind of service as the state authorities do not keep such data. The staff who provide the services are no more skilled than those in the institutions, and a discriminatory attitude is demonstrated towards clients.

In 2009 a piece of sociological research was carried out to explore attitudes and levels of access to health and social services for people with intellectual disabilities and mental health problems in Sofia municipality. It was supposed to be the basis of the mental health strategy in Sofia that had been developed at that time. The research revealed that the people who are most neglected by the authorities and by society are those with mental health problems, according to 37.3% of respondents.

However, even this number should be questioned as many of the so-called ‘sheltered houses’ in which many of the people from the institutions are being integrated, are built in the courtyards of the institutions, in the same remote locations, at the same conditions that provide no opportunity for future development. The interdepartmental commissions on the deinstitutionalization of the people from institutions for adults with disabilities are an exotic form of inaction masked as action. The activities of these commissions remain vague and unclear, and the results are dubious. The decisions made by these commissions are not subject to control and the people affected by them are not involved in any way in the results and often don’t even know that they were the ‘object’ of such judgment. In most cases, these commissions work on a piece by piece principle, without any connection with reality. For example, three persons from the institution for adults with developmental disabilities in the village of Rusokastro, municipality of Kameno, were selected for deinstitutionalization. One of them was a BHC client. The ‘selection’ led to nothing. The response to an official request for information sent by BHC to the Social Assistance Agency with regard to this client’s desire to live in the community clearly demonstrated the helplessness of the state bodies and the lack of will for deinstitutionalization. We were told that our client has been ‘selected’ for deinstitutionalization but that there are only two ‘sheltered houses’ for people with mental health problems in Bulgaria in which there is no vacant place for him”.

22 2007 Annual Report, Human Rights in Bulgaria, Bulgarian Helsinki Committee, April 2008, p.46, available in English at: http://www.bghelsinki.org/index.php?module=resources&lg=en&id=631. The research further revealed that, in most protected homes the monitoring established evidence of incidents that had resulted in serious violations of clients’ rights: a fire that resulted in returning a client to the institution; demonstrable severe poisoning with neuroleptic drugs of another client; escape and rape of a women that ended with the complete removal – without her knowledge – of her reproductive organs. The protected homes are not managed or inspected periodically by specialists. The day centres confirm the discriminatory model of raising and educating children with disabilities away from their coevals and from skilled staff, without any idea of integration in mainstream schools. The staff of the alternative services are generally not aware of the current state policy, legislation and practices concerning people with mental disabilities.

The next most neglected group is people with intellectual disabilities, according to 23.4% of those interviewed. According to 45.7% of the social workers in Sofia, the group of people who are the most neglected by institutions in Bulgaria is that of people with mental health problems (compared to people with intellectual disabilities, whom only 19.1% of respondents think of as neglected). People with mental health problems and their relatives were of the opinion that their most serious problems were a low level of social insurance (64.1%) and problems with adaptation to society (19.6%). Public opinion was that these problems should be solved mainly by the Ministry of Healthcare (67%), the general hospitals (48%) and the special facilities for psychiatric treatment (57.8%).

In September–October 2009 another research project was initiated by the Protection Against Discrimination Commission (PADC) and carried out by the MBMD sociological agency, to explore stereotypes and prejudices in the pre-school and primary education systems on the grounds of gender, disability, ethnic origin and religion. It was found that 26% of parents and 30% of teachers were of the opinion that children with disabilities should study in special schools. One quarter of parents and teachers stated that children with disabilities should study in mainstream schools but in different classrooms, and only 40% of respondents were of the opinion that children with disabilities should be integrated in mainstream schools in classrooms together with non-disabled children. Only 9% of teachers stated that they had undergone a qualification course on teaching children with special needs. The PADC reported that the special schools for children with intellectual disabilities still discriminate against these children, as the enrollment procedure is outdated and imprecise. Furthermore, the teaching programmes need to be updated, and healthcare services for the children are lacking in the schools. The PADC also points out that the Ministry of Education still does not keep a database for children with special educational needs, which makes it difficult to estimate the share of children with disabilities who are ensured access to education overall.

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25 Ibid.
Government estimates show that more children with intellectual disabilities and mental health problems use institutional care than community day-care. According to the State Agency for Child Protection (SACP), as at 31 December 2009 there were 94 day-care centres for children with disabilities (mainly those with intellectual disabilities) providing services to a total of 2,253 children. As at 31 December 2009, institutions for children with disabilities (aged 3 to 18) hosted 956 children, of whom 879 had intellectual disabilities, 396 had physical and multiple disabilities and 465 had mental and neurological problems.

The institutions for children aged 0 to 3 hosted 2,334 children, of whom 536 had developmental delay, 550 had inborn malformations and 305 had physical and multiple disability. In the institutions for children deprived of parental care aged 7 to 18, 3,440 children were accommodated, of whom 505 had intellectual disabilities and 213 had mental and neurological problems. Child Protection Departments received information about 5,661 children who were assessed as disabled during 2009, and produced social reports on interventions with the families of a total of 9,034 disabled children (the rest were old cases opened during previous years).

- **People with Intellectual Disabilities**

The only state-published information on access to services for people with disabilities is contained in the Social Assistance Agency’s annual reports. The annual reports never present disaggregated data on the type of disability of the people served.

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26 [http://www.sacp.government.bg/programi-dokladi/statistika/] (accessed 24 October 2010). Sixty-one of the centres are run by municipalities, eight by NGOs (these two types of centres have a total capacity of 2,139 places and served a total of 1,648 children, 920 of whom had intellectual disabilities), 21 by medical/social care institutions for children aged 0 to 3 (serving 511 children), and four by institutions for children with disabilities aged 3 to 18 (serving 94 children).

27 The institutions for children with disabilities (aged 3 to 18) answered to the Ministry of Labour and Social Policy until 2003 (currently they are run by the municipalities) and children who were placed there were diagnosed with severe intellectual disabilities or multiple disabilities. The children were denied access to any form of education and lived in these institutions from the age of 3 until the age of 18 when they were moved to social care institutions for adults with intellectual disabilities. Before the age of 3 they lived in institutions for children (aged 0 to 3) under the Ministry of Healthcare. Children with disabilities were usually placed there after birth. Until the age of 3 they would be diagnosed with severe intellectual or multiple disabilities and moved to institutions for children with disabilities (aged 3 to 18). Out of the children aged 0 to 3, those who did not have a disability or whose disability was not severe were moved to care homes for children without disabilities (aged 4 to 18) where they were provided with access to special or mainstream education. These institutions used to be answerable to the Ministry of Education until 2007. Currently the municipalities run them.
However, a piece of Bulgarian Helsinki Committee research estimates that people with intellectual disabilities have access to day-care centres, protected homes, monitored homes, half-way homes, centres for social rehabilitation and integration, small group homes, personal assistants and social assistants.\textsuperscript{28} There are no data on the number of people with intellectual disabilities who need each of the above-mentioned services and the number of people who use them in practice. The table below presents the dynamics of the development and use of services for people with intellectual disabilities.

<table>
<thead>
<tr>
<th></th>
<th>2005</th>
<th>2007</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>number</strong></td>
<td><strong>capacity</strong></td>
<td><strong>users</strong></td>
<td><strong>number</strong></td>
</tr>
<tr>
<td>Day-care centres for adults with intellectual disabilities\textsuperscript{29}</td>
<td>10</td>
<td>250</td>
<td>196</td>
</tr>
<tr>
<td>Day-centres for children with intellectual disabilities\textsuperscript{30}</td>
<td>45</td>
<td>1,551</td>
<td>1,260</td>
</tr>
<tr>
<td>Centres for social rehabilitation and integration for people with different disabilities\textsuperscript{31}</td>
<td>241</td>
<td>6,927</td>
<td>48,659</td>
</tr>
</tbody>
</table>


\textsuperscript{29} Day-care centres are services that provide food, individual and group therapies, psychological help and social work support to their clients. In general all day-care centres and all centres for social rehabilitation and integration function on the principle of small institutions and are not sufficiently flexible to meet the specific needs of their clients. http://www.nsi.bg/otrasal.php?otr=22&a1=537&a2=540#cont. (accessed 24 October 2010).

\textsuperscript{30} Ibid.

\textsuperscript{31} Ibid.
According to the Social Assistance Agency in 2009 there remained a tendency not to use the full capacity of day-care centres for children and adults with intellectual disabilities. The agency reported that 14 day-centres for adults with intellectual disabilities were set up in 2009 as well as eight centres for social rehabilitation and integration and 25 protected homes, five half-way homes and seven monitored homes. However, the same annual report emphasises that people with disabilities are obviously more willing to search for residential services, as there is a clear upward trend in the number of people with intellectual disabilities and mental health problems being added to the waiting lists for institutional care. The agency does not explain this increase and it is not clear whether people have added themselves onto the waiting lists.

Studies from 2004 showed that most residents in institutions did not apply for their placement themselves, so it is more likely that relatives and other people with an interest applied for the placement on behalf of the person with intellectual disabilities or mental health problems.

A piece of research carried out by an NGO in 2008-2009 in six large regions of Bulgaria found that institutional care is still the prevailing service option for people with intellectual disabilities.

- In Smolian region 50% of all users with intellectual disabilities or mental health problems used institutional care. In 2008, 200 of them lived in institutions and 159 lived in the community; 100 people with intellectual disabilities used personal and social assistants. Only two of them used the centre for psycho-social rehabilitation, and 24 used day-care centre services. In 2006, the number of people with intellectual disabilities or mental health problems using personal or social assistants was 152.

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33. Ibid., p.16.
• In Vraca region 183 people with intellectual disabilities and mental health problems lived in institutions and 64 used community-based services. 14 people with intellectual disabilities were accommodated in two protected homes, and 25 persons with intellectual disabilities used a day-care centre.

• In Varna region 234 people with intellectual disabilities and mental health problems lived in institutions, and 22 were waiting to be placed. Seven community-based services for people with ID, with a total capacity of 151 places, provided services to 130 people. Six community-based services were set up for people with mental health problems, with a capacity of 80 places. Two different programmes provided personal assistants for 53 people with intellectual disabilities and mental health problems.

• In Veliko Turnovo region 355 people with intellectual disabilities and mental health problems were institutionalised, 63 of whom were placed in institutions during the period 2006-2008, with 31 waiting to be placed in institutions. A total of 32 people with intellectual disabilities were accommodated in four protected homes.

• In Kystendil region 281 people with intellectual disabilities and mental health problems lived in institutions, out of whom 186 were young people and children, and 43 were waiting to be institutionalised. No day-care service, protected homes or centres for social rehabilitation and integration were available.

• In Svilengrad region 147 people with intellectual disabilities and mental health problems lived in institutions, and 82 were waiting to be placed in institutions. Only 79 people with intellectual disabilities and mental health problems used community-based services – four of them lived in a half-way home, 50 used a centre for social rehabilitation and integration and 25 used a day-care centre.

The Regional Social Assistance Departments in the six regions could not provide precise data on the number of people with intellectual disabilities and mental health problems who used personal and social assistants but they all underlined that this is the most successful service of all community-based services.

• People with Mental health problems

The projects and services provided to people with mental health problems are rarely separated from those provided to persons with intellectual disability. This is why information about them is scarce.
The most recent NGO research\textsuperscript{36} also contains non-disaggregated data about services provided to both groups – intellectual disabilities and mental health problems. However, in the Smolian region the two big institutions for adults are for people with mental health problems, and they accommodated 200 residents in 2008 (out of whom 19 had intellectual disabilities and were to be moved into another institution in 2008-2009) while only 33 people with mental health problems used personal assistants. None of the people with mental health problems used any other community-based service. In Vraca and Veliko Turnovo regions there were no services, either institutional or community-based, for people with mental health problems. In Kystendil region 85 people with mental health problems used institutional services and no community-based services were available (the number of people with intellectual disabilities and mental health problems who used social or personal assistants is not clear from the data provided by the Social Assistance Departments). In Slivengrad region 147 people with mental health problems used institutional services, only one person used psycho-social rehabilitation and no information was provided on whether people with mental health problems used personal assistants. In Varna region only six community-based services were set up, with a total of 80 places, for a total of 1,947 people with mental health problems – one protected home with a capacity of eight places (five occupied) and a protected home in the town of Goren Chiflik also with a capacity of eight places (all occupied). The number of personal and social assistants was unclear, as the local authorities did not provide precise information. Forty-one people with mental health problems used institutional care in the region.

In Sofia there are two day-care centres for people with mental health problems (with a total capacity of 50), one protected home for eight people and one information centre.

A piece of sociological research, which was carried out in Sofia in 2009 among psychiatrists, social workers, relatives and people with mental health problems themselves, revealed several tendencies:

- medical doctors and social workers are not trained to work with people with mental health problems, which results in a poor quality of service;
- social workers do not satisfy the needs of people with mental health problems;

\textsuperscript{36} \textit{Ibid.}
• people with mental health problems use more medication than any other types of service and value above all a positive attitude towards them during their treatment;
• people with mental health problems have no or little experience with community-based services and search for social assistance only when they or their relatives need residential services;
• the personal assistant is not perceived by either social workers or people with mental health problems as offering a necessary or useful service for this target group. Social workers and medical doctors think the most required service is the centre for rehabilitation, although people with mental health problems did not express the same opinion.

According to the research the basic problem for people with mental health problems is the loss of social skills.\textsuperscript{37} It found that only the private psychiatric practices provide social rehabilitation and therapies, but because they work on the market principle,\textsuperscript{38} and sometimes on the project principle,\textsuperscript{39} they are either inaccessible or unaffordable for the people with mental health problems.\textsuperscript{40}

The research assessment points out that the biggest difficulties for people with mental health problems, according to general practitioners, are socialising (26%), finding suitable medical treatment (23%), the diagnostic process (22%) and relatives coming to terms with the patient’s problem (19%).\textsuperscript{41}

\textsuperscript{37} \textit{Assessment of the Mental Health Care System Functioning on the Territory of Sofia Municipality}, sociological research of the MBMD agency, June-August 2009, p.3, available in Bulgarian at: \url{http://www.psihichnоздраве.com/downloads/downloads_upload/Analysis_Health_Social_System-final.pdf}.

\textsuperscript{38} The service provision is based on the ability of the patients to pay for the services; the type and design of the service meet the needs of the patients.

\textsuperscript{39} The services are developed and provided to a certain target group for a certain period of time under a certain project, but after the project term is over the target group are not able to access these services because they are not able to pay for them.

\textsuperscript{40} \textit{Assessment of the Mental Health Care System Functioning on the Territory of Sofia Municipality}, sociological research of the MBMD agency, June-August 2009, p.13, available in Bulgarian at: \url{http://www.psihichnozdrave.com/downloads/downloads_upload/Analysis_Health_Social_System-final.pdf}.

\textsuperscript{41} The authorities from which people with mental health problems seek help most often according to general practitioners are GPs and psychiatric emergency care.
Although these figures show that many people with mental health problems have expressed their difficulties to medical doctors, around 70% of GPs do not think they need special training with regard to their patients with mental health problems and they evaluate the level at which they manage to satisfy the needs of their patients with mental health problems at medium (4.13, with 6 points being the maximum). GPs think that the most necessary municipal services for their patients with mental health problems are centres for social rehabilitation (51%) and personal assistants (36%). They were of the opinion that the municipality would be most useful if it could provide everyday care for people with mental health problems using personal and social assistants, social rehabilitation, training for relatives about the needs and the potential of the person with intellectual disabilities or mental health problems and supported employment.

The same research found that the healthcare and social assistance systems do not cooperate sufficiently to improve the quality of life of people with mental health problems. Within the social system the legal regulation of the obligations and powers of the national and municipal social departments is problematic - not clearly defined, too bureaucratic and with too much tension and complication, which results in a clumsy and ineffective system. Thus the people with mental health problems do not trust social assistance and are inconsistent in searching for it, as an individual approach is missing. This is the case because neither the hospitals nor the Social Assistance Departments keep a database about the people with mental health problems who use their services.

43 They claim they work in good cooperation with the police and specialised psychiatric facilities, but that it is much worse with social services and NGOs.
46 Ibid., p.33.
According to 55.3% of social workers the most required service for people with intellectual disabilities and people with mental health problems in Sofia is placement in an institution (61.7% of the cases that social workers work on involve this); 35.1% replied that they find the question of which services are available hard, and 17% replied that they are requested to provide a personal assistant service.\(^48\) Personal and social assistant services are barely accessible for people with mental health problems in Sofia, because of the lack of awareness of mental health problems, a perception of the mentally ill as dangerous and the lack of training for potential assistants and social workers.\(^49\) Another problem is that some of the people with mental health problems are homeless, do not have ID documents, have not been diagnosed and are not health insured, which makes it impossible for them to be provided with any social services or assistance.\(^50\)

Lack of competency and training seems to be a significant problem for social workers in Sofia, which hinders the support for people with mental health problems.\(^51\) Social workers from Social Assistance Departments in Sofia indicated that they manage to meet the needs of people with mental health problems at a level of 3.71 (1 being the minimum and 6 being the maximum) and the needs of people with intellectual disabilities at 3.16. 29.3% of the people with mental health problems who were interviewed had never asked a Social Assistance Department or the Employment Department for assistance, and only 22.7% had asked the SAA for help.\(^52\) Of those who searched for assistance 50% actually found some and 14% received help but with some delay; 7% got some assistance with a significant delay, while 28.6% never received any.

Social workers are of the opinion that social services, out-patient care, psychiatrists in direct contact with the patients, psychiatric hospitals, the relatives of the patients and the Ministry of Healthcare should be most involved when dealing with the problems of people with mental health problems.
In evaluating the satisfaction of their group needs from the services they receive, the people with mental health problems themselves ranked highest medical doctors, the staff who took care of them, the general medical care they received and then the social services provided to them. The people with mental health problems stated that they would recommend that the staff in hospitals and institutions have more commitment to their work (50.7%). They were not in favour of segregating people with mental health problems, and instead favoured their integration into society (33.3%).

Social workers evaluated their cooperation with social services providers, general/psychiatric hospitals and the police as most beneficial in dealing with cases of people with mental health problems. They evaluated the work carried out by the Sofia municipality on the problems of people with mental health problems at 3.39 (6 being the maximum). They pointed out that the municipality can help in the provision of the following social services: centres for social rehabilitation (31.9% of the social workers stated this), higher amounts of financial social assistance (27.7%) and ensuring the availability of protected homes (23.4%).

The Ministry of Healthcare reports on only one implemented EU project for the provision of psychiatric/healthcare services in the community under the 2006 PHARE programme (phase 3): Desinstitutionalisation by provision of services in the community for risk groups BG2006/018-343.01.01, the total funding for which was EUR 1.45 million. The project was implemented for one year and finished in November 2009. Under it a ward for acute mental health disorders was opened in a small hospital in the town of Levski (cost EUR 115,735); two day-care centres, protected homes and community information centres were opened respectively in the municipality of Smyadovo (cost EUR 215,217) and the town of Levski (cost EUR 171,990); the state psychiatric hospital in the town of Lovech was “transformed” (cost EUR 340,762); suitable conditions for treatment and resocialisation for people with mental health problems were created in St. Naum hospital in Sofia (cost EUR 287,524) and a new type of psycho-social therapy was introduced for people with mental health problems in the State Psychiatric Hospital for the Treatment of Drug Addiction and Alcohol Addiction in Suhodol (for EUR 321,401).

53 Ibid., p.46.
54 Ibid., p.46-47.
(b) Concerns

The main concern is the lack of sufficient or effective community-based services for both people with intellectual disabilities and people with mental health problems. Although the official policy of several governments underlines the need to develop educational and social services for these groups as well as the need for deinstitutionalisation, practice shows that the only long-term option of basic care for people with intellectual disabilities and mental health problems whose relatives are not able to take care of them remains placement in institutions.

(c) Examples of Good Practice

On 23 February 2011 a new project started in Sofia. It envisages the provision of mobile social services to people with mental health problems living in the community. It is funded by the European Social Fund and the Operational Programme ‘Human Resources’. It will last 14 months and will be implemented by an organisation of medical specialists providing psychiatric care in the community, the Global Initiative of Psychiatry – Sofia (NGO) and the Association of relatives of people with mental health problems, ‘Adaptacia’.

2.3. Support for Meaningful Community Participation

(a) Nature of Support

- People with Intellectual Disabilities

No information is publicly available about the number of children and adults with intellectual disability who used or use the services of a personal/social assistant. Even upon special requests, no such information was supplied by the Social Assistance Agency. These services, as well as the ‘assistant for independent living’ in Sofia, were the only ones that provided support for independent living to people with disabilities in general.

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There is only one new provision, which was adopted on 1 June 2010 in the Regulations for Implementation of the Social Assistance Act (Article 53a), which entitles persons with intellectual disabilities and mental health problems assessed with at least 71% reduced labour capacity, to use an assistant for up to 10 hours annually when visiting state, municipal, healthcare, educational and other institutions. This costs BGN 5 (EUR 2.50) per hour. This amount is paid by the Agency for People with Disabilities to the local structures of the Bulgarian Association of Persons with Intellectual Disabilities (BAPID). The local structures of the association are obliged to present monthly reports to the Agency for Persons with Disabilities about the number of people who have used assistance and the amounts spent on this.

There are no data about the implementation of Article 53a of the regulations, as they were very recently introduced. However, it is clear that this amount of hours and payment would be far from sufficient for meeting even the basic needs of the potential beneficiaries given the clumsiness of the administrative procedures and the lack of coordination between healthcare, educational and social facilities. Even the scarce data available (see. Section 2.2 a)) show that people with intellectual disabilities and mental health problems use more institutional services and that the number of people who used personal assistants decreased between 2006 and 2008.

- **People with Mental health problems**

As is the case for people with intellectual disability, no information is available about the number of people with mental health problems who were or are beneficiaries of the personal assistant and social assistant programmes.

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57 [http://ahu.mlsp.government.bg/](http://ahu.mlsp.government.bg/) (accessed 9 May 2011). The Agency keeps a database of people with long-lasting disabilities and of the companies that provide employment to people with disabilities; issues licences for the production, import and maintenance of special devices for people with disabilities; controls the way in which they are provided to people with disabilities; elaborates programmes and funds projects aimed at entrepreneurial initiatives, social integration and rehabilitation of and for people with disabilities; participates in the elaboration of national legislation concerning people with disabilities and funds the employers who employ certain groups of people with disabilities.
Some assistance for everyday life, such as provision of information regarding the symptoms of the mental condition, provision of information from the authorities about the procedures for applying for social assistance, employment, education, etc. is provided by the Global Initiative of Psychiatry (NGO)\(^{58}\) in Blagoevgrad and by Chovekolubie (NGO) in Pazardzhik.\(^{59}\)

\(\text{(b) Eligibility and Take-Up}\)

- **Criteria**

Under Article 40 of the *Regulations for Implementation of the Social Assistance Act* those persons who wish to use social services should submit a written application to the mayor (if the service is provided by the municipality) and to the local Social Assistance Department (SAD) at their place of residence (if the service is provided and paid for by the State). The required documents are: ID card, medical assessment document showing the level of reduced labour capacity and personal medical file. Social workers at the Social Assistance Department assess the needs of the applicant and issue a report/proposal for the provision of social service. The director of the SAD issues an order based on this report to allow the applicant to use the service. This is the only regulation about the eligibility criteria under the law. The legislation does not specify any exact criteria for the eligibility of persons to certain social services. However, different programmes and schemes for the provision of social services introduce different additional criteria.

Below are the eligibility criteria for social and personal assistants under the two available schemes:

<table>
<thead>
<tr>
<th>Personal assistant under the National Programme for Personal Assistants for Persons with Disabilities.</th>
<th>Social assistant under the National Programme for Social Assistants for Persons with Disabilities.</th>
</tr>
</thead>
<tbody>
<tr>
<td>• For adults – at least 90% reduced labour capacity, needing assistance from another person&lt;br&gt;• For children – at least 50% reduced adaptation capacity, needing assistance from another</td>
<td>• For adults – at least 90% reduced labour capacity, needing assistance from another person&lt;br&gt;• For children – at least 50% reduced adaptation capacity,</td>
</tr>
</tbody>
</table>

\(^{58}\) [http://mh-center.info/Files/Newsletter/Public/e68163c0dabb723d2915eff5c26a987.pdf](http://mh-center.info/Files/Newsletter/Public/e68163c0dabb723d2915eff5c26a987.pdf) (accessed 24 October 2010).

Deinstitutionalisation of persons with disabilities is a priority in the 2006 National Program of the Agency for Persons with Disabilities (chapter 2, item 3 and chapter 3, item 2). The total number of people with disabilities who were deinstitutionalised with the help of a social assistant in 2006 and 2007 was 28. In 2008 only 19 assistants were appointed for people who had been deinstitutionalised in this way. In 2009, 20 assistants were appointed to help deinstitutionalised adults with disabilities.


• Variation According to Region or Age (or Other Personal Characteristic)

The eligibility criteria are the same for all regions and age-groups.

• Take-up

See section c) below.

• Trends

It is obvious from the tables below and from the previous and following sections that the trends are for a gradual increase in the amount is being allocated for each supported individual, and for a gradual increase in the number of individuals supported by the personal and social assistant schemes. However, the concerns about the effectiveness of the schemes towards ensuring independent living still remain as they are completely based on a medical assessment, which narrows the range of people who can benefit from them. There is no intention whatsoever either on the part of the state and municipality or on the NGO side for collecting and publishing the data about the numbers of people with intellectual disabilities and mental health problems who benefited from assistants’ services. It is of concern that the personal assistant and social assistant, as forms of social service, are not so far regulated by any legislation. They are only mentioned in Article 36, paragraph 2 of the Regulation for Implementation of the Social Assistance Act as community-based services; in the additional provisions of the regulations there are definitions of both services.63

(c) Effectiveness

• Monitoring Mechanisms/Research

63 Regulations for Implementation of Social Assistance Act, paragraph 1 of the Additional Provisions, items 17 and 18 (entered into force on 1.05.2003): Personal assistant: is a person rendering permanent care services to a child or adult person with permanent disability, or to a seriously ill person, for the purposes of satisfying their normal daily needs. Social assistant: is a person rendering a set of services, directing social work and consultation to users and concerned with the satisfaction of their needs, ranging from leisure time organisation to the establishment of social contacts.
Only one piece of NGO research in 2009 discussed the effectiveness of the personal and social assistant programmes in Bulgaria.\(^64\)

It concluded that the assistant services place the user in a passive, dependent position and in some cases even deepen the user’s social isolation and dependency (p.1).

It recommended that access to assistant services should not be linked to the level of reduced labour capacity or to the financial income of the users; the users should not pay for the service, and the salaries of the assistants should be adequate for the labour market.

This should be ensured by one central institution – the Agency for Persons with Disabilities, the capacity of which should be increased to allow it to be transparent and clear in its work. The research also recommended a gradual move towards a personal budget scheme.\(^65\) It does not present data disaggregated according to type of disability, which does not allow for a clear notion about the precise number of persons with intellectual disabilities and mental health problems who have used assistant services. However, it presents data about the number of all users and the costs of the different programmes per year and per month under the two different existing schemes.\(^66\) The research did not find information about the number of users with mental health problems and those with intellectual disabilities.

The Social Assistance Agency (and its local departments) together with the Employment Agency (and its local departments) are in charge of implementation. The Ministry of Labour and Social Policy, to which both agencies are subordinate, monitors this process.

\(^{64}\) Assessment of Assistant Services for People with Disabilities in Bulgaria, Centre for Independent Living (NGO protecting the rights of physically disabled persons), Sofia, 2009, available in Bulgarian at: http://www.cil.bg/%D0%9D%D0%B0%D0%B1%D0%BB%D1%8E%D0%B4%D0%B0%D1%82%D0%B5%D0%BB%D0%BD%D0%B8%D1%86%D0%B0.html (accessed 24 October 2010).

\(^{65}\) There is no legal definition of ‘personal budget scheme’, but lobbying NGOs in the disability field are referring here to an amount allocated by the State to an individual with disability to meet their specific needs of access to buildings, information, education, employment, etc. which individuals would be free to manage themselves.

\(^{66}\) Assessment of Assistant Services for People with Disabilities in Bulgaria, Centre for Independent Living, Sofia, 2009, p.31, available in Bulgarian at: http://www.cil.bg/%D0%9D%D0%B0%D0%B1%D0%BB%D1%8E%D0%B4%D0%B0%D1%82%D0%B5%D0%BB%D0%BD%D0%B8%D1%86%D0%B0.html.
<table>
<thead>
<tr>
<th>Scheme</th>
<th>Period</th>
<th>Total budget (for 12 months)</th>
<th>Number of users</th>
<th>Average annual cost per user</th>
<th>Average monthly cost per user</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal assistant under the National Programme ‘Assistants for people with disabilities’ from the Social Assistance Agency 67</td>
<td>2008</td>
<td>EUR 15,160,480</td>
<td>8,645</td>
<td>EUR 1753.67</td>
<td>EUR 146.13</td>
</tr>
<tr>
<td>Social Assistant under the National Programme ‘Assistants for people with disabilities’ from the Social Assistance Agency</td>
<td>2008</td>
<td>EUR 2,092,746</td>
<td>3,637</td>
<td>EUR 575.40</td>
<td>EUR 47.94</td>
</tr>
<tr>
<td>Personal assistant under the Operational Programme ‘Development of Human Resources’</td>
<td>2009</td>
<td>EUR 6,338,675</td>
<td>3,436</td>
<td>EUR 1844.77</td>
<td>EUR 153.73</td>
</tr>
<tr>
<td>Social assistant under the Operational Programme ‘Development of Human Resources’</td>
<td>2008 – 2009 (phase 1)</td>
<td>EUR 4,196,690</td>
<td>4,826</td>
<td>EUR 869.60</td>
<td>EUR 72.46</td>
</tr>
</tbody>
</table>

The above-presented figures do not comply with the state reports. In 2008, 11,020 people were appointed as personal assistants (the number of personal assistants is equal to the number of users), of whom 2,119 were assistants to 2,134 children. The executive director of the Agency appointed 1,156 assistants who did not meet some of the requirements. Clearly, there were other programmes under which the SAA appointed personal assistants apart from the programmes mentioned above – or it did not present any data about the personal assistants who were hired under the Operational Programme “Development of Human Resources” in 2008. In 2009 the Social Assistance Agency reported that 9,450 unemployed people were appointed as personal assistants out of whom 1,737 were the personal assistants of 1,742 children. The executive director of the Agency also employed 896 personal assistants who did not meet some of the requirements.

As the Agency does not provide any feedback from the people with disabilities who used a personal or social assistant about their view on that assistant’s work, no conclusions about the effectiveness of the programmes can be drawn.

The Social Assistance Agency also presents reports about other types of assistance it provides to people with disabilities in general, again without presenting data on the type, age, gender, location, education and employment status of the beneficiaries. Still, the figures below give some idea of the number of the beneficiaries, the amounts of State funding spent on assistance and the types of assistance provided to persons with disabilities. However, the figures themselves are not clear enough to allow analysis of the criteria and effectiveness of this assistance. In 2009, 481,811 people with disabilities (average monthly figure) received assistance under the Regulations for Implementation of the Integration of Persons with Disabilities Act, out of whom 19,490 were children with disabilities (the total budget spent on this was EUR 104,804,806 including EUR 24,305,521 for the purchase and repair of medical devices). In 2008 the average monthly number of persons with disabilities who were beneficiaries of such payments was 472,773 people, of whom 19,569 were children. This costed EUR 952,232,269 including EUR 24,534,665 for the purchase and repair of medical devices. The basic assistance programmes and their parameters are presented below.

69 Ibid., p.8.
Monthly allowances for social assistance and the integration of persons with disabilities allocated from the state budget during 2008-2009:

<table>
<thead>
<tr>
<th>Year</th>
<th>Monthly assistance for social integration</th>
<th>Monthly assistance for transport</th>
<th>Monthly assistance for information/communication technologies</th>
<th>Monthly assistance for education</th>
<th>Monthly assistance for food and medicines</th>
<th>Monthly assistance for access to information</th>
<th>Monthly assistance for parents of children with disabilities</th>
</tr>
</thead>
</table>

- **Concerns**

The eligibility criteria are based solely on medical assessment and do not take into account the real needs or the opinions of the people with disabilities. Personal and social assistance providers do not present precise data on the type of disability, gender or location, or the social, education or family status of the beneficiaries.

**(d) Restrictiveness and Gaps in Support Provision**

- People with disabilities are not involved in the process of choosing their personal/social assistants.
- Assistant services were introduced more to help unemployed people to get jobs than to assist and empower people with disabilities.
- An individual approach is not applied in the appointment of the personal or social assistant.
- The personal and social assistants are not sustainable services.
- They are not regulated in legislation, which allows different authorities implementing different schemes to introduce different eligibility criteria, which narrows the access to these services.
- No information is available about the number of people with intellectual disabilities and mental health problems who benefit from personal and social assistance, which makes it difficult to analyse the gaps in the provision of these services to both target groups.
A lack of training and awareness on the part of personal and social assistants about the needs of people with intellectual disabilities and mental health problems and the stigma that is attached are possible reasons for the difficulty experienced by people with intellectual disabilities and mental health problems in accessing these services.70

2.4. Involvement in Decision-Making Regarding the Design and Provision of Support

2.4.1. Involvement of Relevant Individuals in the Assessment Process

• Primary decision-maker

The primary responsibility for determining state policy on support for community living for individuals with intellectual disabilities or mental health problems lies with the Council of Ministers, which determines state social policy, and with the Minister of Labour and Social Policy, who elaborates, coordinates and implements it.71 The latter launches the programmes and schemes. The local structures, being Regional Social Departments (on the district level) and Social Assistance Departments (on the municipal level) are obliged to implement them. When the assistance and support is provided by the municipality, the mayor (as employer for all social services in the municipality) and the municipal council (in terms of policy) have the main responsibility for determining whether a person with intellectual disabilities or mental health problems should have access to support services.


71 Article 4, paragraphs 1 and 2 of the Social Assistance Act.
• **Consultation and Involvement**

There are no requirements that the person with intellectual disabilities or mental health problems must be consulted or involved in the assessment process. According to sociological research, people with mental health problems in Sofia evaluate their access to social services and support at 4 (the maximum is 6) as, in 50% of cases when they asked for support from the Social Assistance Departments, they did not receive it at all or received it with some delay.\(^2\) It is not clear whether people with mental health problems are involved in the provision of the services as the social workers explained that in 94.6% of cases they learn about the problem of a person with mental health problems from that person’s relatives, and that the most required services are placement in an institution (55.3%) and that of a personal assistant (17%).\(^2\)

• **Opportunity to Challenge and Access to Independent Advocate**

The person with intellectual disabilities and mental health problems (if not placed under plenary guardianship) has the right to challenge the assessments that have been made under Article 40b of the Regulation for the Implementation of the Social Assistance Act and under the procedure provided for in the Administrative Procedural Code. The person with intellectual disabilities or mental health problems is not entitled to call on the assistance of an independent advocate.

• **Concerns**

If the person with intellectual disabilities or mental health problems is under plenary guardianship they do not have either the right to challenge the assessment of their needs or the right to sign over power of attorney. Relatives and directors of institutions are usually the guardians of people with intellectual disabilities and mental health problems.

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\(^3\) *Ibid.*
As this puts the guardians in a conflict of interest they often do not support the people with intellectual disabilities and mental health problems and do not protect their best interests.⁷⁴

- **Examples of good practice**

No examples of good practice were identified by the research.

### 2.4.2. Choice and Control of Relevant Individuals over Delivery of Support

- **Extent of Control**

There are no policy or legislative documents that clearly entitle persons with intellectual disability or mental health problem to the relevant service. Some services like day-care centres for children or adults with disabilities clearly outline their target group as people with intellectual disability or mental disorder. However, the legislation (Article 36 of the *Regulations for Implementation of the Social Assistance Act*) does not specify any services apart from those provided by institutions as being particularly tailored for people with intellectual disabilities or mental health problems. Even when these target groups use personal or social assistants, choice and control seem to be missing.

- **Trends**

The reports of the authorities in charge of appointing and monitoring personal assistance do not contain information about the number of people with intellectual disabilities or mental health problems who were provided with such assistance, and its quality is never discussed. A main reason for this might be that there are no legislatively regulated criteria about the quality of assistance and there is no obligation on the part of the relevant authorities to evaluate it.


• **Concerns**

People with intellectual disabilities and mental health problems are not involved in the process of assessing their needs, do not have control over the services they use and are not allowed to choose the services they would like to use. The services are insufficient and have not been tailored to the needs of any particular group of people with disabilities, which effectively makes any potential choice impossible.\(^75\)

• **Examples of good practice**

No examples of good practice were identified by the research.

2.4.3. Involvement of Relevant Groups in the Design and Review of Policies about Support Services

• **Nature and Extent of Involvement and any relevant Trends**

During the period 2005-2010 only one nationally representative organisation for people with intellectual disabilities (Bulgarian Association for People with Intellectual Disabilities BAPID)\(^76\) was working in the field of intellectual disabilities. No such organisations for people with mental health problems exist in Bulgaria. The research did not find information that BAPID was involved in practice in any design or review of policies governing support services.


The only improvements on the legislation side are the newly adopted provisions in the Regulation for Implementation of the Social Assistance Act (in force since 9 April 2010), which oblige regional governors (Article 36a) and mayors (Article 36b) to develop local five-year strategies and plans for support and services for persons with disabilities based on preliminary assessments of the needs and availability of both institutional and community-based services (type, capacity, quality of the provided services). The development of these strategies and plans should involve service users (Article 36a, paragraph 4, item 1 (z) and Article 36b, paragraph 3, item 6).

- Concerns

People with mental health problems and intellectual disabilities are not involved in the design and review of support services.

- Examples of good practice

No examples of good practice were identified by the research.

77 Vision for the Deinstitutionalisation of People with Intellectual Disabilities, Mental Health Problems and Dementia 2010-2011, p.5, available at: http://www.mlsp.government.bg/bg/docs/indexstr.htm. The document lists among the challenges for deinstitutionalisation the fact that social services for the target groups are missing in municipal and regional strategies and in annual development plans. Furthermore, the interviews and the focus groups with stakeholders under the current project (carried out in January-April 2011) proved that none of the NGOs (service providers) were involved in the deliberations of regional governors or mayors.

78 The current field research (interviews and focus groups with people with intellectual disabilities and people with mental health problems) did not find any information about the involvement of users in the elaboration of regional strategies and plans.
2.5. Forced Treatment and Other ‘Support’ or Intervention Imposed on People Living in the Community Against their Will

- Forced medical treatment – legality, extent, duration, characteristics of recipients

No specific research about the forced treatment of people with intellectual disabilities or mental health problems living in the community was identified. The Health Act provides that registration and medical activities shall be carried out following informed consent. The adopted practice in the inpatient psychiatric facilities is to have patients sign a declaration of informed consent upon admission. It remains quite unclear what part of the information envisaged by the Act is actually given to the patient and in what format. Most patients interviewed during a national monitoring exercise carried out by the Bulgarian Helsinki Committee in 2005 stated that they had often signed a declaration, the content of which they did not know or which they disagreed with. There is no further research proving that this practice has ceased.

79 Bulgaria/Закон за здравето [Health Act] (01.01.2005), Articles 155 and 162, paragraph 2. People with severe mental health problems, people with moderate, severe and profound intellectual disabilities and people with dementia might be subjected to compulsory treatment if there is a risk that they could commit a crime which is dangerous for their close relatives, society or themselves. The court decides on each case and may decide that the person is to be placed under compulsory treatment at home.

80 Bulgaria/Закон за здравето [Health Act] (01.01.2005), Articles 84 and 87. According to Article 88 “…consent has to be granted after receiving information with respect to: the diagnosis and the nature of the illness, a description of the goals and the nature of the treatment, reasonable alternatives, expected results and prognosis, potential risks related to the proposed diagnostic and treatment methods including side effects and undesirable reactions to medications, pain and other discomforts, the probability of a positive effect, the risk to health resulting from the application of other treatment methods or from the refusal to undergo treatment.”

81 Inpatient Psychiatric Care and Human Rights in Bulgaria in 2005, Bulgarian Helsinki Committee, December 2005, p.24, available in English at: http://www.bghelsinki.org/index.php?module=resources&lg=en&id=370 (accessed 24 October 2010). There are several reasons for this: the patients are told that if they do not sign the declaration of informed consent, a judicial procedure for involuntary placement will be instituted against them and that “this is the order in the hospital”; in other cases, patients who are disoriented sign the declaration without being able to read and understand it. In any case, the information received by the patients was quite scarce or incomprehensible.
• **Other forced interventions/services**

There are some disturbing facts about the treatment of clients in protected homes.⁸²

• **Concerns**

There is little research on this topic and the most recent piece of work concludes that forced treatment of persons with mental health problems and intellectual disabilities is performed, in breach of the legislation.⁸³

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⁸² 2007 Annual Report, Human Rights in Bulgaria, Bulgarian Helsinki Committee, April 2008, p.46, available in English at: http://www.bghelsinki.org/index.php?module=resources&lg=en&id=631. The research further revealed that, in most protected homes the monitoring established evidence of incidents that had resulted in serious violations of clients’ rights: a fire that resulted in returning a client to the institution; demonstrable severe poisoning with neuroleptic drugs of another client; escape and rape of a women that ended with the complete removal – without her knowledge – of her reproductive organs. The protected homes are not managed or inspected periodically by specialists. The day centres confirm the discriminatory model of raising and educating children with disabilities away from their coevals and from skilled staff, without any idea of integration in mainstream schools. The staff of the alternative services are generally not aware of the current state policy, legislation and practices concerning people with mental disabilities.

3. **FUNDAMENTAL RIGHTS IN INSTITUTIONS**

3.1. **Involuntary Placements**

*(a) When Involuntary Detention is Permitted*

Under the Bulgarian Health Act, persons who are likely to commit a crime that constitutes a danger to their relatives, to others or to the public, or who seriously threaten their own health due to their illness, are subject to committal to *inpatient psychiatric facilities*. Bulgarian legislation provides for two hypotheses of compulsory/involuntary treatment. In the first case, treatment is provided under the terms of committal to an inpatient facility for compulsory treatment. The second hypothesis is related to emergency circumstances and conditions constituting a threat to life. The Health Act provides for two options to apply for the committal of mentally ill persons. Under the first option, a prosecutor who has been informed about a person’s psychotic behavior initiates the procedure; after a police investigation it may be ascertained that the person’s criminal behavior probably owes to a mental condition. Under the second option, a person with some mental illness will already have been placed at a health facility and the head of the facility can instigate a procedure for their committal. A piece of NGO research in 2005 showed that the patients undergoing compulsory inpatient treatment were predominantly committed following recommendations by the heads of the psychiatric facilities where they had previously been placed.

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84 Bulgaria/Закон за здравето [Health Act] (01.01.2005), Article 146, paragraph 1, 1 and 2: “Persons with mental illnesses who need special health care as follows: 1. mentally ill with established serious disorder of the psychic functions (psychosis or grave personality disorder) or with expressed durable psychic damage as result of psychic disease; 2. persons with moderate, severe or profound mental retardation or vascular and senile dementia; 3. persons with other disorders of the psychic functions, difficulties in education and troubles in adaptation, requiring medical help, care and support, in order to live adequately in family and in social environment.”

85 Bulgaria/Закон за здравето [Health Act] (01.01.2005), Article 155.

86 Bulgaria/Закон за здравето [Health Act] (01.01.2005), HA, Articles 153 and 160, paragraph 2.

Inpatient compulsory treatment takes place only in specialised psychiatric hospitals and psychiatric wards of general hospitals.

The procedure for placement in **social care institutions**\(^{88}\) under the Regulations for Implementation of the Social Assistance Act requires that the candidate or their legal representative submit a request to the local Social Assistance Department (SAD), along with a medical document that certifies the candidate’s health condition and their identity document. The SAD conducts a social assessment, in which the family, property and social situation of the candidate are studied, and prepares a proposal for placement in a social care institution (or a denial of placement). Then the entire set of documents is sent to the SAD’s director and the latter decides on the candidate’s placement in an institution. Upon placement, a formal contract is signed between the institution and the individual in need of care or their legal representative, stating the extent and time frame of the provision of social services, as well as the fee the resident will pay for them. The placement procedure does not contain any safeguards against involuntary placement and in fact the majority of the residents live in these institutions against their will. Moreover, they are placed under orders issued by the Social Assistance Agency which oblige the local authorities to place the candidate into a certain social care institution. Then the person is offered a formal contract in parallel with the order.

Upon placement residents are deprived of their legal capacity under of an order by the Ministry of Labour and Social Policy.\(^{89}\) This is why monitoring of all institutions for adults with intellectual disabilities and mental health problems in 2005 revealed that about 85% of the residents of institutions for people with intellectual disabilities, about 73% of the residents of institutions for people with mental health problems and about 44% of the residents of institutions for people with dementia had been placed under guardianship.

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\(^{88}\) Social care institutions are long-term residential institutions that used to be directly answerable to the Ministry of Labour and Social Policy, but which have been run by the municipalities since 2004. No special medical care or treatment is provided in them.

\(^{89}\) In letter SG-91-00-77 of 20.10.1999, paragraph 9, subparagraph b), the Deputy Minister of Labour and Social Policy at the time, Dr Tatyana Vassileva stipulated that: “when an individual placed in a social care home has no parents or designated guardian/trustee, it is the responsibility of the director of the home for mentally disabled adults to send a request to the court that the individual be declared incompetent and placed in the home”.
Among these, the overwhelming majority were cases of plenary guardianship: 92% of those committed with intellectual disabilities, 89% of those committed with mental health problems and 88% of those committed with intellectual disabilities.90 In 2008-2009 another monitoring exercise revealed that these numbers had not changed.91

Although the procedure for placement in a social care institution does not appear to presume involuntary detention, in practice there are exceptionally few individuals with intellectual disabilities and mental health problems who have been placed in social care institutions upon their own request.92 Often, placement requests and social service contracts contain not only the name of the provider of the services and of the candidate for placement, but also the names of relatives, neighbours or spouses of the disabled person, who are not even the candidate’s guardians or trustees, but who have submitted a request for placement in an institution in their name. Even when the placement is made in the candidate's own name by a guardian, the will of the candidate is not taken into account. The candidate is not represented by an attorney. There is also no follow-up court supervision of the social assistance agencies.93 In 2008 the BHC reported that “people in such institutions are placed there against their will and are legally incapacitated”.94


91 Needs Assessment of the Structures Involved in the Process of Deinstitutionalisation of the Care of Persons with Severe Mental Diseases and Mental Disabilities, Monitoring report, August 2008-August 2009, Bulgarian Helsinki Committee, Bulgarian Institute for Personal Relations, Sofia, available in Bulgarian at: http://www.bgvelinski.org/index.php?module=resources&lg=bg&id=0&cat_id=19#2009. In the IPMHP in Petkovo, out of 100 residents, 81 were under plenary guardianship and eight under partial guardianship. During the period 2000-2008, 64 residents died and 63 were placed in the institution. Only 12 left the institution to live with their families. In the IPMHP Rovino, out of 99 residents 87 were under plenary guardianship and 11 under partial guardianship. In the IPID Pchelishte, out of 77 residents 60 were placed under plenary guardianship and four under partial guardianship. In the IPID Prekolinca, out of 60 residents 42 were placed under plenary guardianship and one under partial guardianship – and so on.


This practice would not be in conformity with Article 14 of the UN Convention on the Rights of Persons with Disabilities if Bulgaria ratifies it.

(b) Statistics and Trends

- **Numbers in institutions**
  - **with intellectual disabilities**

The Social Assistance Agency reports that, as at 31 December 2009, there were 28 institutions for adults with intellectual disability, with 2,379 places.\(^95\) In 2008 there were 28 institutions with a capacity of 2,476 places. In 2005 the institutions for adults with intellectual disabilities numbered 26, with 2,500 residents. Special schools for children with intellectual disabilities are not included among these data. The trend is one of gradual decrease in the capacity of these institutions, but with an increase in the number of residents. Some of the childcare institutions for children with intellectual disability were renamed as institutions for adults as the children reached the age of 18 and were not provided with any other residential service in the community. This happened with the institutions in the villages of Dzhurkovo and Tri Kladenci.

- **with mental health problems**

The Social Assistance Agency reports that, as at 31 December 2009, there were 15 institutions for adults with mental health problems, with 1,249 places (in 2008 there were 1,266 places) and 13 institutions for adults with dementia, with 843 places. In 2005 there were 13 institutions for people with mental health problems, with some 1,200 residents, and 13 institutions for people with dementia, with 800 residents. The trend is that the institutions for people with mental health problems have increased in number but also in capacity.

- **Numbers in institutions involuntarily**
  - **with intellectual disabilities**

No official state or NGO research work providing information on the number of involuntarily placed individuals in psychiatric hospitals or social care institutions was identified. Currently it is likely that more people with intellectual disabilities are placed in institutions involuntarily, first of all because they are the biggest group of residents in institutions, and secondly because the majority of institutionalised adults with intellectual disabilities were abandoned as babies in such institutions and so they are not offered any other residential options. A further reason is that in the institutions for people with mental health problems and dementia there are always several other people with intellectual disabilities also placed there.

The majority of them are placed under guardianship – neither during the incapacitation procedure nor during the placement procedure are their opinions sought. Moreover, the majority of residents in institutions have the directors or the social workers as their guardians, which makes the prospect of leaving even more impossible.

- **with mental health problems**

People with mental health problems who live in institutions are also placed under guardianship and are not considered able to give consent for the placement (see section 3.1). They also have the director or the social worker in the institutions for their guardian. In some cases the guardians of the residents are their relatives whose only aim is to own or sell the property of the people with mental health problems and to place them in an institution.

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98 Ibid.

• **Average length of detentions**

Both pieces of monitoring research in institutions in 2005 and 2008-2009 concluded that after placement it is only in exceptional cases that those living in social care institutions are transferred or taken in by their families; most of those placed in institutions live the remainder of their lives in them.  

  o **for people with intellectual disabilities**

After 2005 the process of setting up protected homes for people with intellectual disabilities was begun. This led to the placement of some residents from big institutions in the protected homes.

However, as at 30 November 2008, the Social Assistance Agency reported that only 88 people with intellectual disabilities and mental health problems were moved from institutions to community-based protected homes, although 46 such homes were set up, with a total capacity of 391 places.  

  o **for people with mental health problems**

As at 30 November 2008, the Social Assistance Agency reported that five protected homes were set up for persons with mental health problems with a total capacity of 44 places, but the agency did not provide precise data on the number of institutionalised persons with mental health problems who were placed there.

• **Profiles of residents (age, gender, ethnicity etc)**

The research did not find any statistics on the age and ethnicity of the residents of the social care institutions.

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102 Ibid., p.9-10.

103 Ibid.
The statistical data only provide information about the gender of the residents of all social care institutions – out of a total of 4,401 residents in institutions for the intellectually disabled, mentally ill and ill with dementia, 1,972 were men and 2,429 were women as at 31 December 2008.\textsuperscript{103} The data do not even disaggregate the total number of residents in the different types of institutions.

- with intellectual disabilities
- with mental health problems

\textit{Trends since 2005}

\textbf{(c) Personal Experience}

No written evidence of personal experience was identified by the research.

- Residents generally
- Mental health-specific experiences
- Intellectual disability-specific experiences
- Families of residents

\textbf{(d) Challenge and review}

- Right of appeal against involuntary detention

The right to appeal against involuntary detention in psychiatric facilities is not effectively ensured in practice as the person in detention does not have information about the reasons for their detention, is not in an appropriate condition to appeal and is provided with legal aid in too formal a manner. An NGO mentions in its 2006 annual report that, regardless of the fact that the rule for mandatory legal aid is complied with during the procedure for placement in involuntary detention, the quality of the free legal aid provided remains low. It further specifies that very often the \textit{ex officio} lawyers see their client for the first time in the courtroom and they plead in a manner that is not in the best interest of their client.

\textsuperscript{103} \url{http://www.nsi.bg/otrasal.php?otr=22&a1=537&a2=542#cont}
They also take it for granted that it is in the interest of their client to be assigned for treatment without showing any interest in the history of the person or what the conflicts were that led to instigating the court proceedings against the person, and without discussing issues around the form of treatment. Thus, in many cases, people with mental health problems placed for mandatory treatment benefit formally from a public defence, although in practice they are denied any.\textsuperscript{104} Persons placed in social care institutions are not recognised under the law as being detained and they cannot appeal this detention. This was challenged in the case \textit{Stanev v. Bulgaria} for which a Grand Chamber hearing was set for 9 February 2011 by the European Court of Human Rights in Strasbourg.

- \textit{Reviews of the continuation of detention}

No research was carried out during the period 2005-2010 discussing reviews of the continuation of detention.

\textbf{(e) Concerns}

Persons with intellectual disabilities and mental health problems under involuntary detention either in psychiatric hospitals or in social care institutions are not given a real opportunity to appeal and ask for a review of their detention.

\section*{3.2. Coercive Medical Treatments in Institutions}

\textbf{(a) Accounts of personal experience of such treatment}

No written evidence of personal experience of coercive medical treatment was identified by the research.

(b) Statistics and trends

According to the only human rights NGO (Bulgarian Helsinki Committee (BHC)) that performs monitoring of psychiatric facilities and social care institutions in Bulgaria, in principle, people with mental health problems placed in psychiatric facilities are not requested to give informed consent for treatment. If there is actual consent, it has to be given formally without any need to support it with the necessary clarifications for the patient. The BHC adds that “a common practice in the social care institutions is not to request informed consent at all and that on many occasions the voluntary treatment is in fact concealed forced treatment.” BHC’s observations in 2005 showed that the routine prescriptions of the residents are rarely changed. They are updated depending upon the health insurance fund's requirements for the reimbursement of medications. Psychotropic medicines are either free-of-charge or to a great extent reimbursable.

The list of psychotropic medications used in the social care institutions does not reflect the true level of different types of illness. According to the BHC’s monitoring in 2009 in the institution for people with mental health problems in Radovec almost all residents apart from one were medicated with Haloperidol, so the men moved and reacted slowly and their limbs were trembling.

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106 Ibid. “Very often the patients are surprised to find that they were admitted to the psychiatric hospital ‘voluntarily’ on the grounds of a signature affixed on a document, the content of which they have never been aware. On many occasions the formal consent is attained through gross manipulation of the patients, threats that their pensions or other ‘privilege’ would be taken away from them, through a real threat, even through the use of physical force.”

107 The Archipelago of the Forgotten: Social Care Homes for People With Mental Disorders in Bulgaria, monitoring report of the Bulgarian Helsinki Committee, 2005, Sofia, p. 7, available in English at: http://www.bghelsinki.org/index.php?module=resources&lg=en&id=0&cat_id=18#2005. The report explains further the reasons for this phenomenon: “In order to fit into the National Health Insurance Fund’s (NHIF) requirements for reimbursable medications, psychiatrists are forced to modify their diagnoses or to forgo treatment for certain diseases and conditions. Antidepressants, for example, are not prescribed or used in the social care homes, because the NHIF does not pay for them. Thus, the residents who require medication receive those medicines that are 100% covered by the NHIF; for example, Finlepsin, Carbamazepine, Tegretol, neuroleptics (Rispolept, Leponex, Haloperidol, depo-neuroleptics), Parkisan, Amitriptilin. Medications that are not 100% covered by the NHIF must be purchased with funds from the home's budget (such as Chlorazin, which is 50% covered). Funding for purchase of medications not covered by the NHIF is inadequate in all of the homes, but there is a clear disparity in the amount of funding that different homes have at their disposal for the purchase of medicines. The NHIF’s ‘positive’ list of medications fluctuates quite dynamically, but the general impression is that financial assistance to the patients is decreasing. This places an ever-greater burden on the homes' budgets for the drug treatment of their residents.”
Inadequate medical treatment was also revealed in the institution for people with intellectual disabilities in Oborishte and the institution for people with mental health problems in Pastra. In the first institution the monitoring team discovered serious side-effects and dyskinesia. Their psychiatrist confirmed that the doses of medication were strongly increased to facilitate the restraint of the aggressive impulses of the clients. The medical files of the clients proved that this treatment has not been changed for years.\textsuperscript{108}

Residents with intellectual disabilities and mental health problems are systematically abused through medical treatment for several reasons – insufficient number and qualifications of staff, which means that residents are heavy medically treated to suppress their aggression; lack of knowledge on the part of local psychiatrists about modern forms of medication and rehabilitation; lack of monitoring and inspections of the type and doses of treatment; and lack of control over the informed consent of the clients. Another concern for the monitoring team in 2009 was the continuous practice of isolation and seclusion of residents, which is in breach of Bulgarian legislation.\textsuperscript{109}


\textsuperscript{109} Needs Assessment of the Structures Involved in the Process of Deinstitutionalisation of the Care of Persons with Severe Mental Diseases and Mental Disabilities, Monitoring report, p. 145-149, August 2008-August 2009, Bulgarian Helsinki Committee, Bulgarian Institute for Personal Relations, Sofia, p.9-10, available in Bulgarian at: http://www.bghelsinki.org/index.php?module=resources&lg=bg&id=0&cat_id=19#2009. In the IPMHP Rovino, 12 female clients had been secluded in dark, ground-floor rooms with the purpose of suppressing their acute conditions. The administration explained their seclusion during the period 1-15 August 2008 with reference to aggression outbursts, psycho-motor agitation, verbal aggression and self-pouring with water. Four of the clients have been secluded for several years. Physical restraint was applied totally illegally. Legislation allows it to be applied only in a healthcare facility, if prescribed by a medical doctor and controlled and monitored, especially during the night. Some of the cases when seclusion was applied were not registered in any documents in the institution. In 2009 the BHC reported that in IPID Goren Chiflik there was a one-floor pavilion with part of the yard fenced off with metal netting, where the most severely disabled residents lived. This sector was locked almost all day and night. In this sector in the spring of 2009, 45 residents were locked in because of construction work being done in the main building. Some of them were sleeping on mattresses on the floor, some were agitated and some were sitting in the yard. In parts of the rooms, there were traces of faeces on the walls, the floor and bedcovers. For five of the bedridden residents hospitalisation was urgent as their lives were at risk. In August 2009 when the BHC visited the institutions for the third time some of the residents were moved to the reconstructed area, but 25 remained living in the same awful conditions.
(c) Challenge and review

No information about the challenge or review of medical treatment was identified by the research.

(d) Concerns

Neither legislation nor practice ensure that people with intellectual disabilities and mental health problems living in institutions are protected effectively from coercive medical treatment, given the lack of:

- effective guardians;
- effective procedures to obtain informed consent;
- freedom or information on the part of medical doctors for choosing the appropriate medication of their patients;
- control on the part of the state authorities over the medication used in institutions;
- complaint mechanisms for the clients.

3.3. Living conditions

- Concerns Identified in Monitoring/Inspection reports

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited mental health hospitals and social care homes for people with intellectual disabilities and mental disorders three times during the period 2002-2006. The 2003 visit was an ad hoc one. Regarding social care institutions for people with intellectual disabilities and those with mental health problems the CPT found, in 2003 and 2006, that in most cases placement in a specialised institution for people with mental disabilities leads to a de facto deprivation of their liberty. The CPT made recommendations concerning the introduction of an initial judicial review of placement, with automatic reviews, initiated by the residents, at regular intervals. 

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The committee also found that placement is not based on objective medical expertise, even psychiatric expertise. The Bulgarian authorities stated that they were considering amendments to the Social Assistance Act and the regulations for its implementation, which would introduce court supervision over the placement procedure. However, such amendments had not yet been introduced by the end of 2010.

Specifically regarding material conditions, the CPT found in 2006 that the institution that they visited for women with intellectual disabilities did not provide enough personal space for the residents as they still lived in large, cramped dormitories; access to the toilet during the night was not ensured and the residents used buckets.

The CPT also found that the most used toilet was located outside the main building and was dilapidated; personal wardrobes could not be locked; some of the residents were underweight; and only some attempts were made to individualise their clothing.

The Social Assistance Agency reports that it performed 149 inspections in social care institutions in 2009. Its main findings related to poor maintenance of material conditions, poor hygiene and no provision of special diets when necessary. After recommendations were addressed to the institutions the SAA performed further monitoring and it found that the material conditions had improved and the quality of the services reached the standards provided for in legislation.

111 Numerous findings of bad hygiene, lack of personal belongings, lack of proper access to toilet, lack of access to the outside world, lack of protection against ill-treatment from the staff and abuse from other residents, lack of an effective complaint mechanism and lack of a true guardian (as most of the residents had the director or a member of staff as a guardian) are also described in the CPT reports from social care homes in 2003.


114 Ibid.


116 Ibid., p.32.
A parallel NGO monitoring exercise in some institutions showed that material conditions had improved for a small number of residents and did not influence the quality of the services provided in the institutions. In the institution for people with mental health problems in Rovino only 42 residents out of 99 were provided with better accommodation – in seven bedrooms in each of which live six women. In the institution for people with mental health problems in Petkovo the new building was constructed 10 years ago, but the residents still live in materially poor conditions. In the institution for people with intellectual disabilities in Butan no reconstruction activities had been carried out and the residents live in materially poor conditions. The same problems were identified in the institutions for people with intellectual disabilities in Prisovo and Prekolnica, and in the institutions for people with mental health problems in Pastra and Goren Chiflik. The majority of the residents had no personal belongings, were not able to take care of their personal hygiene and were not involved in any meaningful activities.

• Concerns Identified in Other Sources

The monitors also discovered that in some institutions certain rooms and parts of the corridors had been reconstructed by adding in walls and reducing the number of people who lived in one room. These spaces were labelled as protected homes (the institutions for people with intellectual disabilities in Pchelishte and Goren Chiflik) or as protected spaces (the institution for people with intellectual disabilities in Prekolnica). This undermines the deinstitutionalisation process. It is never clear from the reports of the Social Assistance Agency whether the protected homes that are meant to be community-based services are located in the the community or not. Thus, even the small numbers of people who, it is claimed, have been “deinstitutionalised” have in fact just been placed in another room or corridor in the same institution.

• Examples of good practice (if any)

No examples of good practice were identified by the research.

118 Ibid.
3.4. Personal Autonomy, Privacy and Relationships

3.4.1. Choice and Control over Daily Living Activities in Institutions

- **Extent**

Residents with intellectual disabilities and mental health problems have no choice whatsoever in terms of food, clothing, activities and relationships. The food is provided by the canteen of the institutions, the clothing is not personalised (the staff gives randomly selected clothes to the residents and they do not have their own clothes). The activities on offer, according to the last human rights monitoring exercise, are limited to sitting in a room with a TV set or sitting on a bench rocking back and forth for stimulation in the yard. On 1 September 2009 BHC sent a message to the SAA regarding the lack of choice of food for residents in the institution for people with mental health problems in Radovec and the spending of funding for internet provision from which the residents cannot benefit as they need training. On 18 September 2009 the BHC received a letter from SAA stating that all residents who are not under guardianship have the opportunity to choose their menu, that computer equipment was provided for them and that whoever wants to start training can do so.

- **Concerns and, if appropriate, examples of good practice**

The residents of the institutions have no choice or control over daily living activities.

3.4.2. Privacy in Institutions

- **Extent**

Residents with intellectual disabilities and those with mental health problems live in groups with other residents in the social care institutions. Their daily routine and the material conditions in the institutions do not allow any privacy.

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They use dormitories together with two to seven others, and they have no place for privacy if they need it. They are not allowed to go out of the institutions whenever they want, and they often need to be accompanied by a staff member. Most of the sanitary facilities have doors that cannot be locked from the inside, and the one or two bathrooms are supposed to be used by all residents on certain days of the week. Residents cannot choose their food or clothing and cannot choose their everyday activities, as resources such as TV sets, books, music players and staff on duty are scarce and this means that all residents must use them together in one day room. A human rights annual report in 2006 stated that the right to personal life and correspondence is denied to the people with intellectual disabilities and mental health problems who are placed in these institutions, and that they have no chance of starting a job or even requesting a review of their contract as regards the provision of a “placement in a home outside the community”. Such social service contracts themselves contain a lot of breaches of legislation, and they are by nature discriminatory, thus placing the users in a considerably disadvantaged situation.  

This is so because most of the residents are placed under guardianship and are not considered as ‘persons’ before the law after they have signed the contracts. The residents concerned often had not seen their contracts and were not aware of their content. Even if they are aware of them and try to withdraw from them, they are not provided with alternative places to live.

• Concerns and, if appropriate, examples of good practice

Bulgarian institutions do not ensure privacy for people with intellectual disabilities and mental health problems. Although attempts have been made to renovate and reconstruct the buildings, the residents still suffer from a lack of personal space, personal belongings and choice of activities.

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3.4.3. Relationships in Institutions

• Extent

The separation of the sexes in most institutions for people with intellectual disabilities and mental health problems, the social isolation of residents from the outside world and the limited freedom in most of institutions to go out in the local towns or villages all limit the possibilities for the residents to have mixed-sex contact.\textsuperscript{121} Out of a total of 58 institutions, only in 13 of the institutions for people with dementia and in six of the institutions for people with intellectual disabilities do men and women reside together. There is not even one mixed-sex home for adults with mental health problems. During a monitoring exercise in 2005 an NGO found dissatisfaction among the residents with regard to their inability to have contact with members of the opposite sex. This had not been changed by the time of the visits by the same researchers in 2008-2009.\textsuperscript{122} Intimate relationships between same-sex residents are not specifically monitored or discussed in any reports. They seem not to be banned or restricted in institutions for people with intellectual disabilities and institutions for people with mental health problems.

• Concerns and, if appropriate, examples of good practice

An absence of relationships with people of the opposite sex or with people in the community deepens the social isolation and segregation of residents in institutions.


3.5. General Health in Institutions

- **Extent**

Residents in social care institutions have no access to general medical services. In practice, they cannot change their personal medical doctor if they are not satisfied with the service and they cannot influence the services they provide. They cannot access hospitals for examinations/treatment as the institutions are located in isolated areas and hospitalisation is not paid for by the Health Insurance Fund. They are also unable to benefit from quality psychiatric care. The majority of residents do not have access to dental or specialised care (such as gynaecological treatment) either. The same applies to mental health patients placed in psychiatric wards. All these findings show that if Bulgaria ratifies the UN Convention on the Rights of Persons with Disabilities, it would not be in conformity with Article 25.

The mortality rate in institutions is a clear indicator of the level and quality of the healthcare services that are provided there. This rate is not public as far as social care homes for adults are concerned, although data are collected by the Social Assistance Agency. The BHC’s research in 2002-2004 concluded that the mortality statistics for people with intellectual disabilities and mental health problems in social care institutions show a disturbingly high number of deaths in proportion to the total number of residents. Depending upon the profile of the home, annual mortality rates vary from 0-20% in institutions for people with mental health problems and institutions for people with intellectual disabilities, and from 10-120% in institutions for people with dementia. The general overview of the number and proportion of deaths in 2002 and 2003 is as follows:

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124 Quality psychiatric care here is meant to consist of: regular visits to a psychiatrist chosen by the patient, opportunity to seek a second medical opinion about diagnoses and medication, medical examination before prescription of a certain medicine, selection of the medicines with no or the least possible side effects, opportunity to benefit from psychotherapy, etc.


126 Ibid., p. 24.
A 2010 joint inspection by the Bulgarian Helsinki Committee and Regional Prosecutors Offices of childcare institutions for children with intellectual disabilities proved that healthcare services in children’s institutions are extremely insufficient and lead to numerous cases of death and injury. The main conclusions of the inspection are that, out of all 238 fatal cases that occurred during the period 2000-2010, at least two thirds were avoidable: 31 were caused by systematic malnourishment; 84 were caused by general physical deterioration, resulting from neglect; 13 were caused by infections, i.e. poor hygiene; six were caused by accidents such as freezing to death, drowning and suffocation; 36 were caused by pneumonia, i.e. by exposure to cold or long-term immobility; two were caused by violence; and 15 of the deaths have unexplained causes.127

127 http://forsakenchildren.bghelsinki.org/en/ (accessed 24 October 2010). The report further states that 149 of all 238 children died in the institutions and the majority were not hospitalised; 11 children were hospitalised too late. The deaths tended to occur during the cold months of the year. An autopsy was not performed in more than 90 of the death cases. The death cases were never investigated. During the inspections, a total of 622 cases of grave inflammatory diseases and contagion were established. Some of the children’s homes (such as Medven, Gomotartsi, and Sladak Kladenets) have very bad levels of hygiene, and a history of multiple and repeated epidemic outbursts – most typical being faecal-oral infections, dysentery, and hepatitis. The public health control authorities (the Regional Inspectorates for the Protection and Control of Public Health) are ineffective in dealing with the problem – they fail to penalise any violations of the law or the disregarding of formal recommendations. Seven cases of sexual abuse were found to have occurred during the period 2000-2010; in addition, there have been at least eight cases of physical violence, including a head injury.
These findings clearly show that Bulgaria is not ready to protect the lives and best interests of children with disabilities, and this would not be in conformity with Articles 7, 10, 15 and 16 of the UN Convention on the Rights of Persons with Disabilities if Bulgaria ratifies it.

- **Concerns and, if appropriate, examples of good practice**

Residents with intellectual disabilities and mental health problems in institutions are deprived of access to health care services of an acceptable quality (i.e. not the highest quality attainable by the general population). This, together with the poor living conditions, is the reason for the much increased probability of these people losing their lives compared with people with intellectual disabilities and mental health problems who live in the home environment.

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with lethal outcome, and a case of strangulation. The Child Protection Department was contacted in all of these cases, and the State Agency for Child Protection was informed of at least half of them. None of the children who suffered violence has received any help or justice. Existing documentation reveals more than 86 serious accidents. More than eight homes maintain a practice of unlawful physical immobilisation of children as a means to control their behaviour – tying up by the limbs or fastening to beds, wheelchairs and other objects, and the use of restraining jackets. There have been at least 17 cases of physical immobilisation. More than 90 children have been “chemically restrained” by heavy and damaging neuroleptic drugs. Dangerous drugs, often harmful and unnecessary, have been administered to 167 residents. Some of the children have been subjected to long-term excessive drug treatments.
4. LEGAL CAPACITY

(a) Entry into legal commitments

Adults under plenary or partial guardianship are legally prohibited from independently signing employment, marriage, property, social services, healthcare, education services and bank contracts. Guardians, however, may consent to their employment, with the exception of certain types of jobs that are prohibited for people under guardianship.128

There have been no developments in this field since the FRALEX report129 was written. A case about lifting the guardianship of a resident with mental health problems – Stanev v. Bulgaria (no. 36760/06), is still pending before the European Court of Human Rights in Strasbourg, Grand Chamber, and the hearing was to take place on 9 February 2011.130 This case is illustrative of the lack of access that people with mental health problems experience even under partial guardianship if they challenge that guardianship before the domestic courts in an attempt to exhaust the available remedies under national legislation. Mr Stanev is still not able to enter into any legal commitments or to be recognised as a ‘person’ by the Bulgarian authorities and entities. The legal regulations and practices of the guardianship system in Bulgaria would constitute a systematic failure to conform with Article 12 of the UN Convention on the Rights of Persons with Disabilities if Bulgaria ratifies it. Since 2005 the Bulgarian Helsinki Committee initiated six cases on behalf of persons under guardianship living in institutions. In only one case, which passed all court instances, has the individual concerned had his guardianship entirely lifted by the Supreme Cassation Court. Three of the other cases exhausted domestic remedies, and protection was sought before the European Court of Human Rights in Strasbourg. One of the applicants died in the intervening time.


129 Thematic Legal Study on Mental Health and Fundamental Rights, Bulgaria, FRA, November 2009, p.18, ‘Competence, Capacity and Guardianship’ chapter.

The other two cases are still pending before Bulgarian courts, in one of which the guardian is no longer allowing the applicant’s lawyer to have access to the case.131

(b) Support with Decision-Making about Major Life Decisions

The research identified two centres in Pazardzhik132 and Sofia133 that provide support in the field of employment to people with mental health problems, but not for any other sorts of major life decisions.

The research found some material devoted to the role of experts with experience in overcoming the social isolation of people with mental disabilities. It mentions the services that have been developed by Chovekolyubie Association (in Pazardjik) in its Centre for mental health, comprising psycho-social rehabilitation programmes, a crisis intervention service and a social enterprise. This enterprise includes: a studio for the manufacture of souvenirs, a shop for honey and natural bee products, a refreshment booth, a scrap collection point and a vegetable garden. The material states that the association has always had users of mental health services among the regular staff of the Centre for mental health. Usually, the users are hired under the employment schemes of the Employment Bureau Directorates (structures functioning under the direction of the National Employment Agency at the Ministry of Labour and Social Policy). Five to 11 people with severe mental illness will be hired at Chovekolyubie at any one time. Most of them are not experts in their position. The posts are regular jobs such as gardening and maintenance, cleaning, etc. The jobs that do involve expertise are those of a vocational therapist and a social affairs assistant, and a user or a relative of a mentally ill person can occupy these positions. As of June 2010 there were five users appointed to cover these two positions working under labour contracts arranged through national employment programmes. As far as training is concerned, it is conducted ad hoc – whenever an opportunity springs up.134

131 Interview with attorney-at-law Aneta Genova, Bulgarian Helsinki Committee, 18 November 2010.
Support with Decision-Making about Daily Living Activities

Support with decision-making about daily living activities is supposed to be provided by personal and social assistants and day-care centres for people with intellectual disabilities and mental health problems.

The Social Assistance Act provides that social services should be based on social work aimed at supporting the assisted persons to carry out their everyday activities and their social inclusion.\textsuperscript{135} Social services should also be provided in accordance with the individual’s desires and personal choice.\textsuperscript{136}

According to the Rules for Implementation of the Social Assistance Act, there are several community-based social services. The \textit{personal assistant} is a person providing permanent care services to a child or adult with permanent disability, or to a seriously ill person, for the purposes of satisfying their normal daily needs. The \textit{social assistant} is a person providing a set of services, including social work and consultation for users; and satisfying their needs by, for example, organising their leisure time or establishing social contacts. The same Rules regulate the \textit{day care centre} as comprising a set of social services, which offer possibilities for close-circle services for users during the day, related to the delivery of meals and the meeting of their daily, health, educational and rehabilitation needs, as well as their needs for leisure time organisation and the establishment of social contacts. The \textit{centre for social rehabilitation and integration} is a set of social services involving rehabilitation procedures, social and legal consultations, educational and professional training and orientation, and the development and implementation of individual programmes for social adaptation. All these services are supposed to assist individuals with intellectual disabilities and mental health problems to make everyday decisions. However, no studies on the provision of such services to people with intellectual disabilities and mental health problems have been identified apart from the above-mentioned study by the Bulgarian Helsinki Committee and the sociological study that was carried out in Sofia – but for people with mental health problems only. These studies do not focus on a real assessment of the services that have already been provided to people with mental health problems and intellectual disabilities, and they do not discuss their effectiveness.

\textsuperscript{135} Bulgaria/Закон за социалното подпомагане (Social Assistance Act), Article 16, paragraph 1.
\textsuperscript{136} \textit{Ibid.}, Article 16, paragraph 2.
(d) Research, Evaluation and Concerns

It is a matter of great concern that the Ministry of Justice and the National Assembly should take any initiative to amend the substantial and procedural legislation regarding guardianship in compliance with Article 12 of the UN Convention on the Rights of Persons with Disabilities – although the situation has been addressed several times by local NGOs. At present, people with intellectual disabilities and mental health problems under guardianship are not recognised as persons before the law, which hinders the protection of all their fundamental rights.
5. ACCESS TO JUSTICE

People with intellectual disabilities and people with mental health problems do not have access to justice in the same way as everyone else. Those of them who live in institutions are more often placed under guardianship than those who live in the community. Regardless of this, both target groups are deprived of their access to justice as they lack the accessible information, support, assistance and communication skills that they would need to be able to benefit from the available complaint and monitoring mechanisms.

5.1. Routes to Remedies Within Institutions

(a) Statistics

The research did not find any routes to remedies within institutions, nor any statistics on the number of complaints by psychiatric patients or residents in social care institutions. The only complaints by residents in institutions were heard and written by monitors of one human rights NGO in the country (the Bulgarian Helsinki Committee) while it performed its project-based monitoring visits. Thus, some residents were informed about their rights and decided to complain about the violation of those rights that they had suffered.\(^\text{137}\) Other residents escaped from their institution and asked the same NGO for help, which is how their complaints were brought to the relevant authorities.\(^\text{138}\)


\(^{138}\) *Ibid.*, p.110
A piece of research carried out in 2010 found one complaint about the physical abuse of a 17-year-old boy (M.M.P.) with intellectual disabilities filed to the director of the institution, a complaint by a woman with mental health problems who had been placed in the institution because the social services she needed in her community were not available, and the case of another woman (Z.T.), who had been placed in an institution for people with mental health problems (IPMHP – village of Rovino), was found during monitoring visits in 2009. Z.T. did not have any symptoms of a mental health problem but was placed under guardianship. The legal monitors sent a message to the prosecution office to ask for her guardianship to be lifted.

On 15 February 2010 the monitors received a notification that the prosecutor had initiated proceedings before the court, but the court refused to admit the case. There are two cases of people with mental health problems whose guardianship was not lifted in Bulgaria. The cases – Rusi Stanov v. Bulgaria and Dimitur Mitev v. Bulgaria were heard by the ECHR in Strasbourg in November 2009. In the meantime one of the residents has died (Dimitur Mitev) and the other’s case was brought to the Grand Chamber of the ECHR to be heard on 9 February 2011. As of 13 May 2011 the ECHR still had not decided on the case.

Neither the ombudsman nor the Protection Against Discrimination Commission reported during 2005-2010 about any activities they had initiated regarding the protection of the rights of clients with intellectual disabilities or mental health problems in institutions. The PADC established 10 regional representatives offices in 10 districts and although it reported in 2009 that complaints had been received from people with disabilities they again concerned access to employment or physical access to public buildings, and access to social assistance and social services for people who were able to come to the offices and complain. This obviously does not refer to clients in institutions.

140 R.T.H.V. v Ministry of Labour and Social Policy and Sofia municipality, Administrative court, Sofia.
141 Z.T. and Plovdiv Regional Prosecution Office, Plovdiv Regional Court, Interview with Aneta Genova, attorney-at-law, Bulgarian Helsinki Committee, 20 October 2010.
(b) **Self-Advocacy, Awareness-raising about rights, complaint mechanisms and support mechanisms**

- **Steps being taken**

No steps were being taken in terms of self-advocacy, awareness-raising or complaint mechanisms by the ombudsman, equality body or institutions themselves. The Bulgarian Helsinki Committee has been providing information about the rights, complaint mechanisms and support mechanisms for residents in social care institutions during its monitoring visits since 2002. It is the only NGO that accepts cases following its monitoring activities on behalf of residents in institutions, as there is no organisation of ex-users of psychiatric care in Bulgaria. However, the BHC has never performed a separate self-advocacy or awareness-raising project for residents in institutions. The BHC has noted that residents in institutions and psychiatric patients in acute wards do not even have free access to paper, pen or envelopes, or to a post office, a telephone or the internet so that they can send complaints to the authorities. The BHC usually informs its clients about their rights verbally during meetings with them in the institutions. It also provides the clients with addresses and telephone numbers of lawyers, human rights institutions, ministries and agencies providing support.

In 2010 the Bulgarian Helsinki Committee carried out a joint inspection of all childcare institutions for children with intellectual disabilities, together with the Regional Prosecutors’ Offices in Bulgaria, as a result of the refusal to allow these offices to open criminal proceedings about death and injury cases involving residents in institutions in 2008 and 2009. This process was widely publicised in the national media, as were the results of the inspections. In this way the BHC again raised awareness about the dangerous and humiliating conditions in which children with intellectual disabilities live in state care institutions.

- **Appropriateness for both target groups**

No materials to help residents and patients understand their rights, such as brochures, stickers or lists of contact details for the authorities in charge, were found by the research.
• **Levels of understanding and awareness**

According to the only human rights lawyer visiting institutions for people with mental health problems and intellectual disabilities the level of understanding of the residents and patients is highly disputable. Neither the staff nor the residents and patients have the background, the culture or the conditions while living in the institutional setting to be aware of their rights or their clients’ rights.143

• **Concerns**

For residents in institutions and psychiatric patients, there are no systematic and effective mechanisms for raising awareness of their rights and sending complaints about violations of their rights, and staff in the institutions are not trained on raising awareness of residents’ rights. The State had not undertaken any measures to raise awareness about rights, or about the contributions and capabilities of people with any disabilities.144 Even the ombudsman and the equality body had not made any efforts in this direction – even for the most vulnerable people with intellectual disabilities and mental health problems living in institutions. This would not be in conformity with Article 8 of the UN Convention on the Rights of the Persons with Disabilities if Bulgaria ratifies it.

• **Examples of good practice**

No examples of good practice were identified by the research.

(c)**Support Mechanisms**

• **Nature**

The research did not identify support mechanisms for residents in social institutions and psychiatric patients. The few legal cases and complaints made by such people were initiated by human rights monitors and lawyers of the Bulgarian Helsinki Committee most often without the help of staff in the psychiatric hospitals and social care institutions concerned. The majority of the BHC’s cases on behalf of people with intellectual disabilities or mental health problems were initiated after monitoring visits in institutions. The BHC receives complaints by post, some clients come to the office and others are referred by service-providing NGOs.

143 Interview with Aneta Genova, attorney-at-law, Bulgarian Helsinki Committee, 20 October 2010.
144 Ibid.
Its legal programme provides legal consultation and services free of charge for the clients but it cannot provide legal aid to anyone who is searching for it as it does not have sufficient resources. Once it takes up a case, depending on the individual needs of the client, it provides help through referring the client on to service providers, medical doctors, Social Assistance Departments and very often accompanying them to apply for assistance and services.\(^{145}\)

- **Effectiveness**

- **User experience**

No user experience was identified by the research.

- **Concerns**

No systematic support mechanisms exist to help people with intellectual disabilities and mental health problems living in institutions or detained in hospitals.

- **Examples of good practice**

No examples of good practice were identified by the research.

**(d) Protection from victimisation**

- **Steps**

Given that only a few people with intellectual disabilities and mental health problems have complained about violations of their rights and have been provided with free legal aid by human rights lawyers, it is difficult to estimate what safeguards against victimisation are available in practice.

Even people’s contact with their lawyers depends on having access to a telephone or correspondence, which needs to be ensured by the staff in the facilities where the complainants live or stay - and this access is not ensured to them as a matter of principle.

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\(^{145}\) Interview with Aneta Genova, attorney-at-law, Bulgarian Helsinki Committee, 12 May 2011.
There is evidence that the residents who complain have suffered damages – their clothes have been burnt, their guardians have banned them from having correspondence with their lawyer, or they were given increased doses of medication.\textsuperscript{146}

- \textit{Effectiveness}

- \textit{Experience of complainants}

No written evidence of the experience of complainants was identified by the research.

- \textit{Concerns}

Residents in institutions and psychiatric patients are extremely vulnerable if they complain about violations of their human rights, as they cannot rely on any protection from support services, lawyers, local authorities, relatives or guardians.

- \textit{Examples of good practice}

No examples of good practice were identified by the research.

\textit{(e) Other Research, Concerns and/or Good Practice}

None

5.2. Routes to Remedies Within the Community

\textit{(a) Extent of Relevant Bullying/Harassment/Crime and Consequent Complaints}

No study on bullying/harrassment/crime against people with intellectual disabilities and mental health problems in the community was identified by the current research.

\textsuperscript{146} Interview with Aneta Genova, 20 October 2010.
In the sociological research that was conducted in Sofia from 2009 it is mentioned that people with mental health problems in the city often become victims of fraud by their relatives who are also their legal guardians.

In 2008, following messages sent by the BHC, the Sofia District Prosecutor’s Office investigated over 20 cases of real estate fraud perpetrated against people with mental disabilities, many of whom were placed under guardianship. The BHC undertook the defence of a victim of real estate fraud who had been placed under guardianship and who was forced to live in an institution outside the community as a result of this fraud. There are many similar cases.

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147 A criminal case was opened under number 10498/2008 at the Sofia Prosecution Office and a further case – number 5242/2010 – at the Sofia Regional Police Department. The second case concerns a woman, R.S., with a mental health problem. Fraud was committed in 2006. On 1 October 2010 the criminal proceedings were ceased because “the perpetrator is unknown”. The BHC appealed against the prosecutor’s ground for this cessation of proceedings but has not so far received any reply from the prosecution office. According to Aneta Genova, the attorney-at-law at BHC, she will not receive any further decisions from the prosecutor as, under the Criminal Code, she cannot be constituted as a party in this case. Furthermore, she lost contact with the victim.

148 Case № 14277/ 2007 before Sofia District Court. The victim G.K. died in the IPMHP-village of Pastra on 11 May 2009. Since becoming his guardian, his sister living in Germany did not allow the BHC lawyers to participate in the case on behalf of G.K.. The main facts about the case are as follows. Mr K was diagnosed with schizophrenia in 1977. He had a sister, living in Germany. Mr K was living in an apartment, which was half his own property and half his sister’s. During one of his placements in a psychiatric clinic he met another patient with whom he became close. Later, this patient, along with another person (allegedly a priest), started living with Mr K in his apartment. They were giving him large amounts of alcohol and took advantage of his helpless condition. In an unstable mental condition Mr K authorised the priest to sell the half of the apartment that he owned, along with his sister’s half. Using fraud the whole apartment has been sold and re-sold several times to date. The deal finished at the time of the court procedure for the placement of Mr K under guardianship. After the fraud Mr K's sister became his guardian and placed him in a social care institution, as he had lost his property. G. K. passed away and only after that did the first hearing of the fraud case take place – on 4 February 2010. Then Aneta Genova, the BHC lawyer, attorney-at-law on this case, asked the court to continue the case because G.K.’s sister had replaced him in the lawsuit before the Sofia District Court. Following an order of the court for handwriting expertise, the expert asked for more material evidence (handwritten documents) in order to establish whether K's signature was authentic. The BHC lawyers asked his sister several times for more documents, explaining to her that the lack of evidence would be an impediment for the lawsuit. She refused to provide the necessary documents and finally forbade the lawyers from participating in the case. The case has not finished but the BHC lawyers are not participating in it anymore. This information was provided in an interview with Aneta Genova, attorney-at-law, Bulgarian Helsinki Committee on 12 May 2011.
The inaction and the indifference to the problems of these people on the part of municipal mayors, prosecution services and the courts play a major role in making the people in this vulnerable group easy prey to various forms of fraud and violence.149

The sociological research on education that was carried out from 2009 estimated that 26% of the interviewed parents and 30% of the interviewed teachers were willing to exclude children with disabilities in general from the mainstream schooling system, by placing them either in special schools or in separate rooms in mainstream schools.150

(b) Self-advocacy, Awareness-raising about rights, complaint mechanisms and support mechanisms

- Steps being taken

The research did not find any systematic approach to have been taken by any human rights institution, social service, NGO or other relevant authorities to make people with intellectual disabilities and mental health problems living in the community aware of their rights.

- Appropriateness for both target groups

- Levels of understanding and awareness

- Concerns and/or examples of good practice

The scarce evidence that is available shows that people with mental health problems have more potential to stand up for their rights while those with intellectual disabilities are more dependent on direct carers and are less supported or willing to engage in complaints.151


151 Interview with Aneta Genova, attorney-at-law, Bulgarian Helsinki Committee, 12 May 2011.
(c) **Support Mechanisms**

- **Nature and Effectiveness**

In 2007 a newly set-up facility for social services for people with intellectual disabilities and mental health problems in Sofia developed a hotline and information centre for people with intellectual disabilities and mental health problems, but it provides only information about available public services and procedures for accessing these public services.\(^{152}\) This facility advises some of its clients to seek legal aid from the BHC. Then, if the BHC finds that the case matches its priorities and if it has the resources to deal with it, it will take it.\(^{153}\)

- **User experience**

No written evidence of the experience of complainants was identified by the research.

- **Concerns and/or good practice**

Persons with intellectual disabilities and mental health problems cannot rely on any stable mechanisms for self-advocacy, for submitting complaints or for support in submitting complaints. The lack of such mechanisms would not be in conformity with Article 13 of the UN Convention on the Rights of Persons with Disabilities if Bulgaria ratifies it.

(d) **Other Research, Concerns and/or Good Practice**

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\(^{153}\) Interview with Aneta Genova, attorney-at-law, Bulgarian Helsinki Committe, 20 October 2010.
5.3. **Support and Awareness-Raising by Equality Bodies and/or Other National Human Rights Institutions/Structures (including ombudsman offices)**

(a) **Support with Individual Complaints/Cases**

Neither the ombudsman nor the Protection Against Discrimination Commission has explicitly and comprehensively dealt with the rights of people with intellectual disability and mental health problems. In 2008 the Bulgarian ombudsman mentioned in his annual report that the European Ombudsman informed him about a complaint from a resident of the notorious institution for children with intellectual disabilities in Mogilino. The ombudsman reported that the third biggest group of complaints he receives concern social services and assistance but he did not provide data about the type of disability of the complainants. The complaints concern a shortage of vacant places in social care institutions.

He mentions that the problems concerning persons with disabilities are: legislative and financial problems for the parents of children with disabilities; ineffective work by the resource centres which were meant to facilitate education of the children with special needs because of the centre’s lack of an individual approach to the children; lack of appropriate social services for parents and children with disabilities; insufficient efforts by the state to integrate children with disabilities in mainstream schools; placement of children in social care institutions after their parents have left to work abroad; lack of enough people applying for work as personal and social assistants, especially in small towns and villages, lack of timely assessment of disabilities (the legally stipulated term is three months but the assessment commissions have appointed assessments to be done in 2012 – more than three months away at time of writing); and the reduction in the allowance for day-care centres for people with disabilities (the relevant complaint came from the regional association for people with intellectual disabilities in Vidin). The ombudsman proposed a 50% increase to the Ministry of Finance but it was not clear whether this proposal was taken into account.

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The ombudsman assisted relatives in providing a man with dementia-related social care.\textsuperscript{156}

It was only in his 2009 annual report that the ombudsman reported explicitly about human rights violations of people with mental disabilities living in institutions.\textsuperscript{157} The ombudsman checked the relevant communications and estimated that mechanisms for checking for signs of physical abuse performed by staff in psychiatric hospitals are lacking, that all conditions in the hospitals and in the social care institutions for persons with mental disabilities are far below the general standards and that care and rehabilitation are not provided in these facilities to enable integration and overcome the social isolation of their clients/patients. He also mentioned that the legislation does not provide for civil society control over the activities and management of these facilities. The ombudsman is of the opinion that the ratification of the Optional Protocol of the Convention against Torture, Inhuman and Degrading Treatment would improve the current situation.

According to Aneta Genova, attorney-at-law at the Bulgarian Helsinki Committee dealing with cases of people with intellectual disabilities and people with mental health problems, the ombudsman as an institution lacks the expertise and resources to pay attention to these people’s problems and the violations of their rights. She was consulted by the ombudsman’s officers many times and is still in contact with them. She instructed two of her clients with intellectual disabilities to file complaints at the ombudsman’s office.

There was no reply. According to her, the ombudsman’s officers are not trained to communicate with such people and sometimes literally cannot understand their statements.\textsuperscript{158} Mrs Genova also stated that in 2007 she provided the ombudsman with the main human rights reports and the Bulgarian Helsinki Committee’s findings from its monitoring missions in institutions. She did not see any actions taken by the ombudsman as a result.

\textsuperscript{156} Ibid., p. 102
\textsuperscript{158} Interview with Aneta Genova, attorney-at-law, Bulgarian Helsinki Committee, 12 May 2011.
The PADC reports in its 2008 annual report\textsuperscript{159} that only 28 cases were initiated with it on the ground of disability, although it did find it to be a ground in 53 cases. It concluded that the State and local authorities should take more measures to ensure the accessibility of public buildings and especially schools. In its 2009 annual report the equality body reported that there were 49 cases on grounds of disability, and it highlighted problems with discrimination through the placement of intellectually disabled children in special schools, where the teaching programmes are outdated and the assessment procedure needs to be much more precise.\textsuperscript{160} The PADC does not report about any specific cases initiated by or on behalf of people with intellectual disabilities and mental health problems.

(b) Awareness-raising, Research, Investigations

The research did not find any activities by human rights institutions, equality bodies or NGOs in terms of awareness raising. Research and investigations are only done by one human rights NGO in Bulgaria (Bulgarian Helsinki Committee), and its findings, although presented to the ombudsman and the equality body, are not reflected in any of their activities or own initiatives. In September 2010 the BHC raised awareness of the reasons for death and injury cases in institutions for intellectually disabled children that had been found during joint inspection visits with the regional prosecution offices. As at 25 October 2010 neither the Chief Prosecution Office nor any other institution with responsibility in this area had announced whether it would take measures and, if so, what measures it would take to prevent further cases of death or injury in these institutions.\textsuperscript{161} As at 13 May 2011, the Chief Prosecution Office is remaining silent on its findings about the cases of death and injury in institutions for children with intellectual disabilities. The BHC lawyers were not notified about any criminal proceeding having been opened concerning them.


\textsuperscript{161}\url{http://forsakenchildren.bghelsinki.org/en/}. 
The State Agency for Child Protection organised groups of experts who assessed the children in the worst condition (children with multiple disabilities, bedridden children) in October 2001, and in February 2011 the agency trained the staff who feed these children in how to do so in such a way as to avoid malnutrition in the future.162

(c) Evaluation of Current Efforts

Since 2005, following their establishment, the ombudsman and the equality body have not made any systematic efforts to support or raise awareness about the rights of people with intellectual disabilities and mental health problems. It seems that these rights are not and might not be a priority for either institution in the future.

6. RECOMMENDATIONS

Nothing to report
7. REFERENCES


10. Assessment of Assistant Services for People with Disabilities in Bulgaria, Centre for Independent Living (NGO protecting the rights of physically disabled people), Sofia, 2009, available in Bulgarian at: http://www.cil.bg/%D0%9D%D0%B0%D0%B1%D0%BB%D1%8E%D0%B4%D0%B0%D1%82%D0%B5%D0%BB%D0%BD%D0%B8%D1%86%D0%B0.html


18. Health Act

19. Regulations for Implementation of the Social Assistance Act

20. Social Assistance Act