



The Normative and Practical Obstacles to Effective Prosecution of Ill-Treatment by Official Persons

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TORTURE AND MISTREATMENT



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The Normative and Practical Obstacles to Effective Prosecution of Ill-Treatment by Official Persons

(Нормативни и практически предизвикателства за ефективното разследване на полицейско насилие)



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This research was carried out in 2015-2016 and is based on: a review of the Bulgarian legislation, 42 written replies by ministries and courts about police ill-treatment cases and 10 interviews with professionals conducted during the period 15 October-15 November 2015.¹

¹ Five of the interviewees are human rights lawyers, 2 of them are forensic doctors, 2 are criminal judges in Regional and District Court, and 1 is a district prosecutor. The human rights lawyers have between 6 and 25 years of experience with such cases and one of them had been a judge for 5 years before becoming a lawyer. One of the forensic doctors has been working for 20 years with human rights lawyers in researching and providing expertise in police brutality cases and the other one has 10 years of experience with such cases.

I. Overview of the criminal legal system and regulation of the police

1. Overview of the criminal system

Criminal legal matters in Bulgaria are regulated by a **Criminal Code**² (which sets the main crimes and punishments) and a **Criminal Procedure Code** (which provides the procedures for determining guilt/innocence and for imposing punishments).³ The criminal court proceeding is a three instance proceeding. **The guiding principles applied to the criminal process are:** independence of the judges, prosecutors and investigating authorities and rule of law,⁴ equality of all parties before the law and competition of opposing parties,⁵ discovering the objective truth,⁶ inner conviction in issuing a decision of the authorities based on the full and objective investigation of all circumstances of the case,⁷ right to legal aid,⁸ presumption of non-guiltiness,⁹ inviolability (physical integrity) of the detained persons,¹⁰ direct impression of the evidence by the court, prosecutors, and investigating authorities,¹¹ publicity of the court sessions,¹² and reasonable time of the proceedings.¹³

In Bulgaria the judiciary structure approximately corresponds to the administrative division of districts and regions. There are **28 administrative courts, 28 regional courts** (with civil and criminal panels in each of them) and **113 district courts** (with civil and criminal panels (or judges) in each of them). There are also **three military courts and prosecution services** (in Sliven, Plovdiv, and Sofia) which deal with crimes perpetrated by military servants (as of 2015) and police officers (until 2008).¹⁴

The criminal system and proceedings are excessively formal, conservative, complicated and very often too slow. The efforts during the last five years (2009-2015) have been focused on: **achieving a more objective, transparent and effective appointment of representatives of the Supreme Judicial Council** which manages all matters related to the judiciary, **ensuring**

² Bulgaria, Criminal Code (Наказателен кодекс) (1.05.1968), available in Bulgarian at: <http://www.lex.bg/bg/laws/ldoc/1589654529>.

³ Bulgaria, Criminal Procedure Code (Наказателно-процесуален кодекс) (29.04.2006), available in Bulgarian at: <http://www.lex.bg/bg/laws/ldoc/2135512224>.

⁴ Bulgaria, Criminal Procedure Code (Наказателно-процесуален кодекс) (29.04.2006), Art. 10.

⁵ Bulgaria, Criminal Procedure Code (29.04.2006), Art. 11, Art.12.

⁶ Bulgaria, Criminal Procedure Code (29.04.2006), Art. 13.

⁷ Bulgaria, Criminal Procedure Code (29.04.2006), Art. 14.

⁸ Bulgaria, Criminal Procedure Code (29.04.2006), Art. 15.

⁹ Bulgaria, Criminal Procedure Code (29.04.2006), Art. 16.

¹⁰ Bulgaria, Criminal Procedure Code (29.04.2006), Art. 17

¹¹ Bulgaria, Criminal Procedure Code (29.04.2006), Art. 18.

¹² Bulgaria, Criminal Procedure Code (29.04.2006), Art. 20.

¹³ Bulgaria, Criminal Procedure Code (29.04.2006), Art. 396, para.1, item 3

real independence of the judiciary, elaboration of a new Criminal Code, and restructuring of the courts due to the significant difference in their workload.

Police activities are regulated by the Ministry of Interior Act which stipulates the main responsibilities and rights of police officers, the structure of police departments and the rules of the disciplinary proceedings against police officers.¹⁵ The basic principles of police conduct are: respecting the Constitution, the laws and the international treaties; respecting the rights and freedoms of the citizens and their dignity; publicity; accountability; political neutrality; objectivity; protection of information and sources of information; protection of the officers during the implementation of their duties and cooperation with other state and municipal bodies, citizens and legal entities.¹⁶

2. Sanctions for ill-treatment

There are **two ways of imposing sanctions on law enforcement officials for abuse of their power – disciplinary and criminal**. Disciplinary sanctions are imposed when police misconduct is identified and they include: reprimand, written warning,¹⁷ denying the officer the opportunity for a promotion for a period of 1 to 3 years, warning for dismissal¹⁸ and dismissal. Disciplinary proceedings can be opened even in cases when the misconduct is prosecuted in criminal proceedings¹⁹ and in these cases the disciplinary sanction is imposed after the sentence from the criminal proceedings enters into force.²⁰

The second type of action is imposing a sanction/punishment after initiating a **criminal proceeding** by the military prosecutor before the military court (until 2008) and by the district prosecutor before the relevant district court (after 2008) under one of the following articles of the Criminal Code:

- According to **Art.142a, para.1** of the Criminal Act whoever **deprives of liberty another person unlawfully** is to be punished with imprisonment up to 6 years. If the deprivation of liberty was perpetrated by a state servant or a public person in violation of his/her services/functions the punishment is imprisonment from 2 to 8 years.²¹ If the deprivation of liberty was against a pregnant woman, minor or adolescent the imprisonment is 3 to 10 years.²² If the deprivation of liberty was perpetrated in a way that is painful or

¹⁵ Bulgaria, Ministry of Interior Act (Закон за министерството на вътрешните работи) (27.06.2014), available at: <http://www.lex.bg/bg/laws/ldoc/2136243824>.

¹⁶ Bulgaria, Ministry of Interior Act, Art. 3.

¹⁷ According to the Ministry of Interior Act, Art. 199, written warning is imposed when the police officer systematically perpetrates insignificant violations of the discipline like arrival at work late, leaving work earlier, bad or incorrect implementation of an order, gaps in studying and implementing the provisions related to his/her job.

¹⁸ According to the Ministry of Interior Act, Art. 202, warning for dismissal is imposed when the violations of the work discipline are heavy and they caused significant pecuniary damages to the Ministry of Interior.

¹⁹ Bulgaria, Ministry of Interior Act, Art. 194, para. 3.

²⁰ Bulgaria, Ministry of Interior Act, Art. 195, para. 4.

²¹ Bulgaria, Criminal Code, Art.142a, para.2.

²² Bulgaria, Criminal Code, Art.142a, para.3.

dangerous to the health of the victim or it has lasted more than 48 hours, the imprisonment is 3 to 12 years.²³

- According to **Art. 131, para.1, item 2 and item 12** of the Criminal Code if a police officer **causes corporal injury** the punishment is 3 to 15 years imprisonment for severe injuries, 2 to 10 years of imprisonment for moderate injuries and up to 3 years for mild injuries. **The excessive use of force by police officers would fall under this article. It is the only article that specifically mentions police officers as perpetrators of violence. When the injury was caused by a police officer the crime should be always prosecuted under Art. 131 (as it specifies police officers as perpetrators while they are at work).** In cases when a police officer inflicted pain or suffering, but there was no injury this is recognized as *light corporal injury* and the punishment is up to 1 year of imprisonment or probation.²⁴ In cases where the perpetrator of light corporal injury is a civilian he/she faces punishment of up to 2 years of imprisonment or probation.²⁵ In cases where no injury was caused by a civilian apart from pain and suffering the punishment is imprisonment of up to 6 months or probation, or fine EUR 50 to 150.
- According to **Art. 143** of the Criminal Code **whoever forces another person to do, to not do or to suffer something against his/her will** by using violence or threats or by misusing his/her power faces imprisonment of up to 6 years.

The Criminal Code provides that a person who perpetrates a crime **may be released** from criminal prosecution and sanctioned with administrative sanctions - fine (BGN 1,000 to 5,000, EUR 500 to 2,500) when certain conditions are met.^{26,27} This provision cannot be applied in cases of severe corporal injury or death, when the perpetrator was drunk and when the crime was perpetrated against a person who was a representative of an authority (public servant) while he/she was implementing his/her duty.²⁸

3. Preventive measures and solutions (analysis with a view to international standards)

The only special oversight institution since 2012 is the National Preventative Mechanism which is performed by the Ombudsman's Office.²⁹ According to the last report of the Committee for the Prevention of Torture (CPT), at the time of the **2015** visit, **the only independent outside monitoring body authorised to carry out visits to places of detention was the National Preventive Mechanism (NPM) which was only able to conduct a limited**

²³ Bulgaria, Criminal Code, Art.142a, para.4.

²⁴ Bulgaria, Criminal Code, Art. 131, para.1, item 12.

²⁵ Bulgaria, Criminal Code, Art.130, para.1

²⁶ Crimes prosecuted under general rules are those that are prosecuted by public prosecutor obligatory (Art.268 of the Criminal Procedure Code). In cases of corporal injuries these are severe and moderate injuries. Light corporal injuries are prosecuted only when the victim initiates the criminal proceedings.

²⁷ Bulgaria, Criminal Code, Art.78a, para.1.

²⁸ Bulgaria, Criminal Code, Art. 78a, para.7.

²⁹ Bulgaria, Ombudsman Act (1.01.2004), Art. 19, para.1, item 11, section 2, available in Bulgarian at: <http://lex.bg/bg/laws/ldoc/2135467520>.

number of visits as its budget had been reduced. The CPT delegation also noted that **the NPM-related tasks were carried out by the staff members of the Ombudsman's Office** who also performs other duties.³⁰ With amendments to the Ombudsman Act (enforced on 11 May 2012) **the Ombudsman was empowered to implement the functions of the National Preventative Mechanism** under the Facultative protocol of the UN Convention against torture and other forms of cruel, inhuman and degrading treatment or punishment (ratified in 2011 in Bulgaria).

In its 2014 report the Ombudsman (after visiting 21 police stations) once again emphasized (as in 2012 and 2013) the following problems regarding detention in police stations: “the lack of sufficient room for detention and its equipment; overcrowding; lack of space; lack of separate sanitary facilities only for the detainees; lack of sufficient access to light and ventilation; lack of cleaning/hygiene materials; different practices in keeping documentation and the way it is reported; different practices in ensuring food; problems in ensuring adequate medical care; the regime during the detention and the access to information about their rights of the detainees.”³¹ In terms of medical care the report states that **the legislation does not provide for the way in which the medical care should be provided** and that the Ministry of Interior and Ministry of Healthcare have no agreement about this which hinders the provision of medical care in practice.³²

4. Mechanisms for dealing with ill-treatment and torture

A person (including a police officer) may be detained by police officers when they have data that he/she has: perpetrated a crime (Art.72, para.1, item 1); when he/she after being warned hinders the police officers to fulfil their duties (item 2) and when it is impossible for his/her identity to be identified (item 4).³³ A detainee may file a complaint against unlawful detention before the court and the court should issue a decision immediately.³⁴

Criminal action: in case of ill-treatment the complainant may ask, while still in the police department, for a medical doctor to examine him/her and to register the traumas. Then, after being released (in practice), he/she may use this medical document to file a complaint against the police officers at the local district court under the general order according to the Criminal Code. Even in cases when he/she did not ask for a medical doctor and had not been

³⁰ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *Report to the Bulgarian Government on the visit to Bulgaria carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 20 February 2015*, p.9, available in English at: <http://www.cpt.coe.int/documents/bgr/2015-36-inf-eng.pdf>. In this connection, reference might be made to paragraph 11 of the Guidelines on national preventive mechanisms adopted by the United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) in November 2010, according to which: “The necessary resources should be provided to permit the effective operation of the NPM”.

³¹ Ombudsman, *2014 Annual Report as National Preventative Mechanism*, p.43, available in Bulgarian at: http://www.ombudsman.bg/documents/NPM_Report_2014_FINAL.pdf.

³² Ombudsman, *2014 Annual Report as National Preventative Mechanism*, p.47-48.

³³ Bulgaria, Ministry of Interior Act, Art.72, para 1.

³⁴ Bulgaria, Ministry of Interior Act, Art 72, para.4.

examined he/she has the right to file a complaint for ill-treatment but it is less likely to be successful.

The victim may also file a **complaint for compensation** in a criminal proceeding. This should be done before the first court hearing of the criminal proceeding takes place.³⁵ If no criminal court proceeding has been opened, he/she has no right to ask for compensation as civil proceedings are always dependent on criminal proceedings and their outcome.

Disciplinary action - the complainant can also file a complaint to the Director of the Police Department. During disciplinary proceedings the victim has no rights in the sense elaborated by the Ministry of Interior Act.

³⁵ Bulgaria, Criminal Procedure Code, Art. 85, para.3.

II. The practice of police ill-treatment and torture in Bulgaria

1. Number of registered cases of ill-treatment and torture since 2000

Statistical data about the number of perpetrated crimes and proceedings about them is gathered by the National Statistical Institute (NSI). However, **the NSI does not gather detailed data about each paragraph of any article of the Criminal Code.**³⁶ Crimes, perpetrated by police officers are provided for in certain paragraphs of certain articles. In this way **there is no unified statistical data at the national level about the crimes perpetrated by police officers.** Thus requests to all military courts, regional courts and the Ministry of Interior had been sent asking about the number of complaints, the number of indictment acts and the number and type of sentences issued. **According to the courts that replied (42 total out of 144 polled) to a special request, there were 212 cases of ill-treatment for the period 2000-2015** (the military court replies referred to the period 2000-2008, while the civilian court replies referred to the period 2009-2015); whereas, **according to the Ministry of Interior, there were 1,146 complaints** (for the period 2000-2015) and cases (both criminal and disciplinary) initiated, out of which **475 were for unlawful detention, 483 for corporal injury, and 188 for forced interrogation.**³⁷

2. Statistical information on the outcomes into complaints of ill-treatment and torture

According to the courts that replied, at least 172 of the 212 cases were for “light corporal injury” and the outcome was that 101 fines were imposed and 28 police officers were

³⁶ Bulgaria, National Statistical Institute,

<http://www.nsi.bg/bg/content/3760/%D0%BE%D1%81%D1%8A%D0%B4%D0%B5%D0%BD%D0%B8-%D0%BB%D0%B8%D1%86%D0%B0-%D0%BF%D0%BE-%D0%B3%D0%BB%D0%B0%D0%B2%D0%B8-%D0%BE%D1%82-%D0%BD%D0%B0%D0%BA%D0%B0%D0%B7%D0%B0%D1%82%D0%B5%D0%BB%D0%BD%D0%B8%D1%8F-%D0%BA%D0%BE%D0%B4%D0%B5%D0%BA%D1%81-%D0%B8-%D0%BD%D1%8F%D0%BA%D0%BE%D0%B8-%D0%B2%D0%B8%D0%B4%D0%BE%D0%B2%D0%B5-%D0%BF%D1%80%D0%B5%D1%81%D1%82%D1%8A%D0%BF%D0%BB%D0%B5%D0%BD%D0%B8%D1%8F-%D0%B8-%D0%BF%D0%BE-%D0%BF%D0%BE%D0%BB-%D0%B8>

³⁷ Bulgaria, Ministry of Interior, Written reply 812100-38855/26.11.2015, signed by Zlatko Todorov.

sentenced to conditional imprisonment probably for moderate or severe corporal injury and unlawful detention (the replies do not specify this).³⁸

According to the Ministry of Interior 138 criminal proceedings against police officers were initiated of which **40 were for “light corporal injury” and 4 - for ill-treatment during interrogation (Art. 143); 93 pre-trial criminal proceedings were ceased and one was stopped.** Apart from these, **1,099 disciplinary proceedings were initiated because of complaints of detainees.** Out of all 1,146 complaints, **97 complaints against unlawful detention were found unreasoned, 158 complaints against corporal injury were found unreasoned and 45 complaints against forced interrogation were found unreasoned (300 altogether).**³⁹ **Out of the other 846 internal investigations** carried out by the directors of police departments the sanctions imposed on police officers were: **3 officers were reprimanded, 18 received a written warning, 75 were sanctioned with written warnings for dismissal, 7 were prohibited from applying for a job promotion and 18 were dismissed (121 altogether).**⁴⁰ The Ministry of Interior did not provide information about the other 725 cases (presumably they are not related to the types of violations that this research is interested in).

The success rate of prosecutions could not be estimated based on the replies that the courts and the ministry provided. They claim that investigations were opened for each complaint. So this is **1,146 (Ministry of Interior) and 212 (by the courts).** As a result of the criminal proceedings, **according to the Ministry of Interior 48 officers were sanctioned with fines and 11 - with conditional deprivation of liberty.** **According to the Ministry of Interior a total of 180 police officers were sanctioned during the period 2000-2015** (the researchers received information about at least 121 police officers who had received disciplinary sanctions, and 59 officers sentenced in criminal proceedings).

Meanwhile, **information from the 42 courts that replied** (out of 144 polled) to the information request (4 of those 42 are military courts - 3 still operating and one closed - responded for the period 2000-2009 and 38 are civil courts and responded for the period 2009-2015) revealed that a total of **129 police officers were sentenced in criminal proceedings** (101 police officers were sentenced with fines and 28 with deprivation of liberty).

3. Significant cases or court decisions

In 2014, ECtHR found one violation of Article 2 of the European Convention on Human Rights (ECHR) (right to life) and **a number of violations of Article 3** (protection against torture, inhuman or degrading treatment) **in cases against Bulgaria.**^{41, 42, 43}

³⁸ See Annex 1.

³⁹ Bulgaria, Ministry of Interior, Written reply 812100-38855/26.11.2015, signed by Zlatko Todorov.

⁴⁰ Bulgaria, Ministry of Interior, Written reply 812100-38855/26.11.2015, signed by Zlatko Todorov.

⁴¹ *Dimitrov and Others v. Bulgaria* of 1 July 2014 (application no. 77938/11); source: Bulgaria, Bulgarian Helsinki Committee, Human Rights in Bulgaria, 2014, p.9-10, available in English at: http://www.bghelsinki.org/media/uploads/annual_reports/annual_bhc_report_2014_en.pdf.

The **2015 Committee of the Prevention of Torture (CPT) report on Bulgaria** states that “*the rising number of allegations of deliberate physical ill-treatment of persons detained by the police leads the CPT to conclude that men and women (including juveniles) in the custody of the police continue to run a significant risk of being ill-treated, both at the time of apprehension and during subsequent questioning. Very little progress, if any, has been made as regards guaranteeing the practical implementation of the legal safeguards against police ill-treatment. The vast majority of persons interviewed by the delegation stated that they had not received information about their rights after being detained by the police, had not been able to notify a third party of their custody and had not benefited from the presence and the services of a lawyer from the very outset of their deprivation of liberty. Furthermore, the delegation received a number of allegations that medical examination of persons in police custody was limited to a few general questions; no physical inspection took place, the injuries were usually not recorded and the examination itself was often performed in the presence of police officers, with detainees usually being handcuffed. The CPT reiterates its recommendations that the Bulgarian authorities take the necessary steps to ensure that legal provisions guaranteeing the safeguards against ill-treatment are applied in practice. Furthermore, the Committee recommends ensuring that medical examination of detained persons and recording of injuries respect the principle of medical confidentiality.*”⁴⁴

The CPT also states that “*in the report on the 2014 visit, the CPT expressed serious concern about the fact that the vast majority of the Committee’s long-standing recommendations, some of them dating back to the very first periodic visit to Bulgaria in 1995, remained unimplemented. These included recommendations on ill-treatment (both in the police and prison context), inter-prisoner violence, prison overcrowding, material conditions of detention in investigation detention facilities (IDFs) and prisons, prison health-care and staffing levels, as well as discipline, segregation and contact with the outside world. Consequently, the CPT has decided, in the course of its 84th plenary meeting in July 2014, to set in motion the procedure provided for in Article 10, paragraph 2, of the Convention.*”⁴⁵

Open Society Foundation performs regular monitoring of 80 police departments in the country and issues reports about them. In its **last report concerning the period August 2010 - May 2011** it concluded that **a solution had not been found for about six of the indicators of the project** since the last similar project had been carried out. These problems are:

⁴² *Anzhelo Georgiev and Others v. Bulgaria* of 30 September 2014 (application no. 51284/09); source: Bulgaria, Bulgarian Helsinki Committee, Human Rights in Bulgaria, 2014, p.9-10, available in English at: http://www.bghelsinki.org/media/uploads/annual_reports/annual_bhc_report_2014_en.pdf.

⁴³ *Stoev and Others v. Bulgaria* of 11 March 2014 (application no. 41717/09); source: Bulgaria, Bulgarian Helsinki Committee, Human Rights in Bulgaria, 2014, p.9-10, available in English at: http://www.bghelsinki.org/media/uploads/annual_reports/annual_bhc_report_2014_en.pdf.

⁴⁴ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *Report to the Bulgarian Government on the visit to Bulgaria carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 20 February 2015*, p.5, available in English at: <http://www.cpt.coe.int/documents/bgr/2015-36-inf-eng.pdf>.

⁴⁵ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *Report to the Bulgarian Government on the visit to Bulgaria carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 20 February 2015*, p.7.

informing the detained about their rights; keeping documentation about the detentions; ensuring medical care of the detained persons; ensuring an interpreter for the detained persons; ensuring proper equipment of the rooms for detention and creating work conditions for police officers.⁴⁶ The report states that the police officers still fail to adequately verbally inform the detained persons about their rights (p.17-18), the provision of legal aid is still problematic as it is either not ensured from the moment of the detention or the *ex officio* lawyers on duty refuse to ensure it when called (p. 19), the medical care is also problematic as it is not clear who should ensure it (p.20-21) and the documentation kept about the detainees still has significant gaps (p.24).⁴⁷

An interesting finding is that during this monitoring **only 3 reports of ill-treatment were identified after 1,035 visits had been performed during a 10-month period of monitoring** (p.15).⁴⁸ However the report also states that: *“In the period August 2010 – May 2011 custody visitors registered two times less complaints against alleged abuse of force by the police than in the previous phase of the project, which marks an improvement on this criterion. The smaller number of complaints alleging abuse of force however does not necessarily mean that police violence as a whole has declined. An analysis⁴⁹ of the cases of police violence publicized by the media in the last 7 years suggests that: In 2009 and 2010 the cases of police violence reported by the media have increased; Most acts of violence were committed outside police stations, rather than in detention premises (the ratio is almost 4 to 1); In 2009 and 2010 media reported for the first time cases of police violence that happened at people’s homes and in police vehicles.”*⁵⁰

A 2011 human rights lawyer’s study estimated that none of the police officers who perpetrated the violence in the ECtHR cases was sentenced effectively.⁵¹

⁴⁶ Bulgaria, Open Society Foundation, *Independent Custody Visiting at Police Detention Facilities 2010–2011*, 2010-2011, p.4, available in English at:

http://www.osi.bg/cyeds/downloads/Grajd_nabljudenie_policia_ENG.pdf.

⁴⁷ Bulgaria, Open Society Foundation, *Independent Custody Visiting at Police Detention Facilities 2010–2011*, 2010-2011, p.16.

⁴⁸ Bulgaria, Open Society Foundation, *Independent Custody Visiting at Police Detention Facilities 2010–2011*, 2010-2011, p.4.

⁴⁹ The analysis was presented in March 2011 and is available in Bulgarian at: http://osi.bg/?cy=10&lang=1&program=1&action=2&news_id=411.

⁵⁰ Bulgaria, Open Society Foundation, *Independent Custody Visiting at Police Detention Facilities 2010–2011*, 2010-2011, p.16.

⁵¹ Bulgaria, Margarita Ilieva, *Police brutality in Bulgaria through the ECHR’s eyes – unlawfulness and lack of punishments (Полицейското насилие в България през погледа на Европейския съд по правата на човека – безправие и безнаказаност)*, 2011, available in Bulgarian at: <http://policebrutality.bghelsinki.org/about/>. In one case they were sentenced with the shortest possible period of conditional imprisonment (Nikolova and Velichkova v. Bulgaria). In the other case in which the police officers were ever accused, the Supreme Cassation Court did not find them guilty for the physical abuse over a 14-years-old boy (as a result of which the child lost one of his kidneys) who the officers recognized wrongly as a “perpetrator” (Ivan Vasilev v. Bulgaria). In the third case accused police officers who had to be convicted by the court in fact were not as the proceedings were prolonged and the deadlines for the proceedings were over (Vasil Petrov v. Bulgaria). In the fourth case indictment acts were initiated against the police officers but the military court brought them back to the prosecution offices with arguments that the ECtHR did not find valid (Shishkovi v. Bulgaria). In the other cases no action was taken against the police officers who had perpetrated the abuse. None of the officers who participated in the abuse in 27 cases has been disciplinary sanctioned either. Some of the officers were even raised in their position (Nikolova and Velichkova v. Bulgaria).

III. Procedural status of the victim

1. Rights of the victim

Under the Criminal Procedure Code the victim is a person who suffered pecuniary and non-pecuniary damages as a result of the crime.⁵² **The rights of the victim during the pre-trial proceedings are:** to be informed about all rights during the criminal proceedings; to be protected and his/her relatives to be protected; to be informed about the developments of the criminal proceeding; to participate in the proceedings; to pose questions and objections; to complain against all acts that lead to seizure of the proceeding; to have a lawyer.⁵³ The investigating body that initiates the proceeding immediately informs the victim about the proceeding.⁵⁴ The victim's rights can be exercised from the moment he/she asks to participate in the pre-trial proceedings and points out his/her address for notification.⁵⁵

The victim who has suffered damages of a crime which is investigated under the general rules has the right to participate in the court proceeding as a **private prosecutor**.⁵⁶ If criminal proceedings are not initiated by the public prosecutor or the latter refuses to press charges the private prosecutor cannot initiate them by him/herself.

The application for participation in the proceedings as a private prosecutor may be written or oral. It should contain information about the victim and the circumstances on which the application is based and should be submitted before the start of the courtroom proceedings.⁵⁷ The private prosecutor maintains the prosecution together with the prosecutor and may continue to do so **even after the public prosecutor stops doing that**.⁵⁸ **The rights of the private prosecutor are:** to be informed about the proceeding and to have copies of the documents; to present evidence; to participate in the court proceeding; to pose questions and objections; to complain against acts of the court when they violate his/her rights and interests (including first instance court sentence).⁵⁹

The victim who has suffered damages of a crime which is investigated only when he/she applies for this is a **private complainant**. He/she may initiate proceeding and maintain prosecution before the court.⁶⁰ The complaint should be written and should contain

⁵² Bulgaria, Criminal Procedure Code, Art. 74.

⁵³ Bulgaria, Criminal Procedure Code, Art. 75.

⁵⁴ Bulgaria, Criminal Procedure Code, Art. 75, para.2 (adopted on 28.05.2010).

⁵⁵ Bulgaria, Criminal Procedure Code, Art. 75, para.3.

⁵⁶ Bulgaria, Criminal Procedure Code, Art. 76.

⁵⁷ Bulgaria, Criminal Procedure Code, Art. 77.

⁵⁸ Bulgaria, Criminal Procedure Code, Art. 78.

⁵⁹ Bulgaria, Criminal Procedure Code, Art. 79.

⁶⁰ Bulgaria, Criminal Procedure Code, Art. 80.

information about the private complainant, about the person against whom it is submitted and about the circumstances of the crime. A state fee is paid at the submission of the complaint and it can be submitted only within a 6-month period after the victim learned that the crime had been committed or after the victim was notified that the pre-trial proceeding was ceased because the crime is to be investigated only after submission of complaint of the victim (not under the general rules).⁶¹

The rights of the private complainant are: to read all documents of the proceedings and to make copies of them; to present evidence; to participate in the court proceeding; to pose questions and objections; to complain against all acts of the court that violate his/her rights and interests. He/she might also be constituted as an indicter during the court proceeding.⁶² The victim has the right to ask for cooperation of the Ministry of Interior for gathering evidence and data, which he/she cannot do by him/herself.⁶³ If the proceeding is ceased, the complainant may submit a complaint under the Liability of the State and Municipalities for Damages Act.⁶⁴

Based on the interviewees' responses, no special circumstances are provided for the hearing of victims who are members of a vulnerable group; moreover, victims are not entitled to any kind of protection measures with regards to who can access their personal data or with regards to a possible risk of retribution on the part of the perpetrators. Furthermore, it is highly unlikely that the authorities would cooperate with a private complainant/private prosecutor in the same way that they would with the investigative authority or the public prosecutor.

2. Investigation of complaints of torture and ill-treatment

A clear and direct prohibition of torture and ill-treatment is not part of the Bulgarian legislation. Criticism about the independence and effectiveness of the investigation of police ill-treatment and torture cases is indisputable.

A 2011 study carried out by human rights lawyer Margarita Ilieva, working at the Bulgarian Helsinki Committee, contains a detailed overview of the ECtHR cases about police brutality against Bulgaria for the period 1998-2010.⁶⁵ According to the study, 27 decisions were issued by the ECtHR for this period. In two cases the ECtHR could not determine that the violence was perpetrated by police officers as the evidence was not sufficient but convicted

⁶¹ Bulgaria, Criminal Procedure Code, Art. 81.

⁶² Bulgaria, Criminal Procedure Code, Art. 82.

⁶³ Bulgaria, Criminal Procedure Code, Art. 83.

⁶⁴ Bulgaria, Liability of the State and Municipalities for Damages Act (01.01.1989), Art.2, available in Bulgarian at: <http://lex.bg/bg/laws/ldoc/2131785730>.

⁶⁵ Bulgaria, Margarita Ilieva, *Police violence in Bulgaria through the ECHR's eyes – unlawfulness and lack of punishments* (Полицейското насилие в България през погледа на Европейския съд по правата на човека – безправие и безнаказаност), available in Bulgarian at: <http://policebrutality.bghelsinki.org/about/>.

Bulgaria for inadequate investigation. In one case the violence was not found significant but convicted Bulgaria for the complete refusal to investigate. **In all of the other 24 cases Bulgaria was convicted for police brutality and the lack of adequate investigation.** In 9 cases the 10 detained persons were murdered, in one case a person was shot but not murdered, in 16 cases (with a total of 20 victims) the violence amounted to torture and inhuman and degrading treatment. In 3 cases the police officers refused to provide lifesaving medical care. Three of the victims were children (14-17), 16 victims were young people (19 to 29) and 4 victims were people between the ages of 30-36. In three cases the victims were 62 to 72. Eleven of the victims were Roma. The total amount of compensation paid for these cases was BGN 906.000 (EUR 464,615).⁶⁶ **In all cases the ECtHR found that the investigation was inadequate and ineffective.**

The only human rights NGO (the Bulgarian Helsinki Committee) that annually monitors the rates of police violence by interviewing people at pre-trial detention facilities or prisons presented its findings in its 2014 annual report.⁶⁷ In January 2015, BHC researchers interviewed inmates at the Vratsa, Pazardzhik, Lovech and Stara Zagora prisons whose pre-trial proceedings were initiated after 1 January 2013 on the use of force during their detention by the police and their subsequent transfer to police precincts.⁶⁸ The table presents the percentage of detainees (all of whom were interviewed when already in prison) who were victims of the use of illegal force by police against them at the time of detention and inside the police station over the five year period.

	2010	2011	2012	2013	2014
At the time of detention	26.2 %	27.1 %	24.6 %	22.0 %	23.0 %
Inside the police station	17.4 %	25.5 %	18.0 %	23.3 %	22.4 %

Compared to 2013, the latest data does not reveal any positive change in the complaints regarding the use of force by police officers during detention and inside the police station where it is completely unacceptable. As a whole, the number of complaints in both cases are very high. According to the data presented in the table, **well over 1/3 of detainees who were subsequently sentenced to effective imprisonment were ill-treated either at the time of detention or afterwards, or in both cases.** Some cases involve inflicting severe pain with the purpose of coercing information or for punishment, i.e. torture.⁶⁹

⁶⁶ Bulgaria, Margarita Ilieva, *Police violence in Bulgaria through the ECHR's eyes – unlawfulness and lack of punishments* (Полицейското насилие в България през погледа на Европейския съд по правата на човека – безправие и безнаказаност), available in Bulgarian at: <http://policebrutality.bghelsinki.org/about/>.

⁶⁷ Bulgaria, Bulgarian Helsinki Committee, *Human Rights in Bulgaria, 2014*, available in English at: http://www.bghelsinki.org/media/uploads/annual_reports/annual_bhc_report_2014_en.pdf.

⁶⁸ They replied to the questions whether they were victims of illegal use of violence by the police. The data from the four studies are presented in the table in the last column. The other columns refer to previous studies in the same prisons with prison inmates who were detained around 2 years before the interviews – so the data for 2013 refers to police detention that happened in 2011, the data for 2012 refers to detention that happened in 2010, etc.

⁶⁹ Bulgaria, Bulgarian Helsinki Committee, *Human Rights in Bulgaria, 2014*, p.6, available in English at: http://www.bghelsinki.org/media/uploads/annual_reports/annual_bhc_report_2014_en.pdf.

Unfortunately, if the investigative body fails to carry out a thorough investigation, the victims are not left with any effective avenues to have the perpetrators brought to justice due to the: lack of a sufficient number of witnesses (apart from police officers) and the lack of provisions to protect them; lack of sufficient safeguards that the rights of the detainee will be implemented; lack of access to quality legal and medical aid for the detainee; lack of real and clear investigation of the claimed allegations of the detainees. Furthermore, the fact that the legal procedures reviewed under the research lasted excessively long (from 4 to 20 years) also does not help the victims' chances.

3. Right to a lawyer

The Constitution provides that everyone has the right to a lawyer **from the moment of his/her detention or the moment when he/she is accused.**⁷⁰ And it further provides that the meetings between the detained/accused and the lawyer and their communication should be private.

The interviewees are of the general opinion that the detainee would have access to a lawyer if and when he/she is accused. Specifically, the detained person is likely to have a lawyer if he/she asks for a lawyer, it is duly documented and it is daytime. **The problem in practice is that the detainees are not always informed about the right to a lawyer and their request is not documented properly** (sometimes, the police officers just dictate to the detainee to check "No" in the fields related to asking for a lawyer, doctor, or third person to be informed in order to avoid larger workload). **The other problem is that the detained person cannot be detained for several hours without any accusation** but because there is "data that he/she had committed a crime" that is not presented to him/her. **This type of detention may not be documented at all by the police officers** and the detained person would be released without having the opportunity to prove that he/she had been detained. **If the detention happens during night time it is likely that even when the detainee asked for a lawyer and efforts were made for a lawyer to be ensured this would not happen especially in small towns because of a lack of lawyers on duty or a low motivation of lawyers to reply to such requests, as well as a lack of punishments for such refusals.** Furthermore, the interviewees are of the opinion that the detainee may be interrogated as a witness without a lawyer even though (under the Criminal Procedure Code) the investigative authority cannot perform any investigating actions with the participation of the accused before they have met that obligation.⁷¹

There is no specific requirement in the law requiring lawyers to take any action in relation to the complainant's claim of ill-treatment, therefore the lawyers' action or lack thereof very much depends on the lawyer-detainee subjective relationship. However, **it is more likely that a lawyer chosen and paid to by the complainant would take action and submit a**

⁷⁰ Bulgaria, Constitution of the Republic of Bulgaria, Art. 30, para.4, available in Bulgarian at: <http://www.government.bg/cgi-bin/e-cms/vis/vis.pl?g=&n=4&p=0034&s=001>.

⁷¹ Bulgaria, Criminal Procedure Code, Art. 97, para.2.

complaint. Whereas if the lawyer is appointed *ex officio* it is not that likely. Standards for quality, assessment and control over the *ex officio* legal aid were adopted only in 2014.⁷² According to them the *ex officio* lawyers should consult the clients about their rights, should discuss with them their strategy for legal protection, should get acquainted with the case file, are not allowed to receive any remuneration from the client and should provide the best possible quality of services. The quality of their work is assessed by the National Bureau for Legal Aid, which has yet to publish any report about the quality of the legal aid on its website.

A 2004 NGO study of the quality of legal aid underscores that **the quality of work of the *ex officio* legal aid is consistently and significantly lower than that of paid legal aid** and that the State should ensure appropriate conditions for *ex officio* lawyers to raise the quality of their work.⁷³ A 2011 article reflecting a discussion of leading human rights lawyers about legal aid highlights the **significant problem with funding**. According to it the average remuneration of an *ex officio* lawyer per case is BGN 183 (EUR 91).⁷⁴

4. Right to inform a third party

Under the Ministry of Interior Act the detained person has the right to inform a third party and declares in writing whether he/she would like to do so.⁷⁵ Under the MOI Instruction the police officer on duty is obliged to immediately inform this person.⁷⁶

The interviewees stated that **the third party would not be informed in the majority of the cases**. The researcher did not find any information about challenging the violation of this right. Presumably this is not done because it is difficult to prove whether or not the officer has made any actual attempts to reach the third person and/or whether or not this person was available at that time.

5. Recording of police action

According to **Art. 32 of the Constitution of the Republic of Bulgaria, police officers are public figures and thus they may be recorded without any consequence**. In practice, though, it is likely that the phone of the victim would be taken and the pictures erased.

⁷² National Bureau for Legal Aid, *Standards for quality, assessment and control over the ex officio legal aid*, instruction letter 14-03-26, dated 29.04.2014 of the chairperson of the National Bureau for Legal Aid, Elena Cherneva- Markova, available in Bulgarian at: <http://www.nbpp.government.bg/images/20150224134212.pdf>.

⁷³ Martin Gramatikov, Open Society Institute, *Quality of the legal aid and standards for ex officio legal aid*, 2004, p.28, available in Bulgarian at: http://www.gramatikov.com/research/kachestvo_pravna.pdf.

⁷⁴ Legal world (specialized on-line magazine), *The main problem of the ex officio legal aid is the remuneration of the lawyers*, 24.06.2011, available in Bulgarian at: <http://www.legalworld.bg/23702.osnovniat-problem-na-pravnata-pomosht-e-v-lipsata-na-pari.html&orderby=2>.

⁷⁵ Bulgaria, Ministry of Interior, Art.74, para.2, item 6 (g), para.2.

⁷⁶ Bulgaria, Ministry of Interior, Instruction 81213-78 of 24 January 2015 about the order for detention, equipment of the detention rooms and the order in them, Art. 15, para.9.

Even though body and dash cameras are used in Bulgaria no information is made available to the public about the number and locations of such devices. The responses of the interviewees point to the fact that the actions of the police on the street, as well as the events that occur inside the police car, would most likely not be recorded.

Furthermore, the law stipulates that the persons placed inside the interrogation rooms, as well as in the detention cells, should be monitored constantly – directly or via a system of video-monitoring and that they should be informed about this in advance⁷⁷. However, **the interviewees stated that they had not heard or seen any video and audio recording of interrogations of detainees being carried out in practice.** It is also possible, based on responses of the interviewees, that the **police officers turn off the cameras when it suits their interests.**

Most likely nothing would be recorded inside the cells in the police stations as **the violence always happens where there are no cameras.** Moreover, **in cases when there was some recording it would be “lost” immediately.** The 2014 report of the Ombudsman (in his capacity as the National Preventative Mechanism), which was based on monitoring carried out in 21 police stations, highlighted the need to install monitoring systems in places of detention as this would ensure the safety of the detainees. The report states that there are still places of detention where no video monitoring system is installed.⁷⁸

6. Right to a doctor, medical examination and medical documentation

Formally the right to access to medical care by detained persons in police departments is provided for in Art. 74, para.2, item.3 (v) of the Ministry of Interior Act and Art. 21 of the Instruction 81213-78 of 24 January 2015 of the Ministry of Interior about the order for detention, equipment of the detention rooms and the order in them.⁷⁹ A medical examination is to be carried out **only upon request or when the detained person’s health status requires so.** Request for medical examination may also be submitted by a parent, guardian, lawyer, or diplomat (in case the detained person is a foreigner).

For each medical examination a document is to be issued by the doctor who performed it. The detained person or his/her lawyer should receive a copy of this document. The results of the medical examination, as well as the doctor’s recommendations, should be entered by the police officer on duty into the book for medical examinations and doctor’s recommendations and be signed by the doctor. If the detained person declares his/her wish to be examined by **a doctor of his/her choice** he/she should be given this opportunity and

⁷⁷ Bulgaria, Ministry of Interior, Instruction 81213-78 of 24 January 2015 about the order for detention, equipment of the detention rooms and the order in them , Art. 37, para.2.

⁷⁸ Bulgaria, Ombudsman, 2014 Annual Report as National Preventative Mechanism, p.44.

⁷⁹ Bulgaria, Ministry of Interior, Instruction 81213-78 of 24 January 2015 about the order for detention, equipment of the detention rooms and the order in them (*ИНСТРУКЦИЯ № 81213-78 ОТ 24 ЯНУАРИ 2015 Г. ЗА РЕДА ЗА ОСЪЩЕСТВЯВАНЕ НА ЗАДЪРЖАНЕ, ОБОРУДВАНЕТО НА ПОМЕЩЕНИЯТА ЗА НАСТАНЯВАНЕ НА ЗАДЪРЖАНИ ЛИЦА И РЕДА В ТЯХ В МИНИСТЕРСТВОТО НА ВЪТРЕШНИТЕ РАБОТИ*), available in Bulgarian at: <http://www.lex.bg/bg/laws/ldoc/2136426770>.

he/she is **responsible for the payment himself/herself.**⁸⁰ **A police officer may be present at the examination only upon request by the doctor and this should be registered in the medical document and the book; however, based on the responses of the interviewees someone from the police would be most likely present.** This officer should be the same gender as the detained person.

In cases when the health status of the detained person requires a medical examination or when he/she requested it but later refused it, the detained person declares this in writing in the presence of the doctor in the medical document. If the detained person refuses to declare this, a witness signs the document to declare the detainee's refusal to be examined.⁸¹

A 2011 Open Society Foundation report underlines that the medical care of the detainees is problematic especially when they are drug/alcohol addicts.⁸² According to this report when the detained person has no health insurance or permanently resides elsewhere medical assistance is usually provided by the emergency medical centres or the emergency units at the local hospitals as **there are no legal provisions about who should be summoned as a doctor and who should be responsible for payment for doctor's visits in those cases which are not emergency situations.**⁸³

The 2014 report of the Ombudsman (in his capacity as the National Preventative Mechanism) stated that **medical examinations are performed by emergency units or doctors from the local hospitals but the examinations are superficial and formal.**⁸⁴ Very rarely are these doctors the personal doctors of the detainee (the detainee's GPs). There are also police doctors but no reliable information about their number/share/activities is available. According to the Ombudsman the detainees are well informed about all their rights.⁸⁵

Based on the interviewees' responses, doctors would more than likely ask the complainant about the reason for their injuries, but, in practice, **the doctor is very unlikely to record this information accurately.** The record depends on the competence of the doctor and the level of his/her relationship to the police officers. The most probable situation is that **the record would more accurately reflect the explanations of the police officers.**

According to the interviewed doctors **the detainee should strongly insist to be objectively examined.** However, it is more likely that the detainee will not ask for an examination judging by the number of declarations filled out. There is not any public information about

⁸⁰ Bulgaria, Ministry of Interior, Instruction 81213-78 of 24 January 2015 about the order for detention, equipment of the detention rooms and the order in them, Art. 21, para.4.

⁸¹ Bulgaria, Ministry of Interior, Instruction 81213-78 of 24 January 2015 about the order for detention, equipment of the detention rooms and the order in them, Art. 21, para.9.

⁸² Bulgaria, Open Society Foundation, *Independent Custody Visiting at Police Detention Facilities 2010–2011*, 2010-2011, p.4, available in English at: http://www.osi.bg/cyeds/downloads/Grajd_nabljudenie_policia_ENG.pdf.

⁸³ Bulgaria, Open Society Foundation, *Independent Custody Visiting at Police Detention Facilities 2010–2011*, 2010-2011, p.20.

⁸⁴ Bulgaria, Ombudsman, 2014 Annual report as National Preventative Mechanism, p. 47.

⁸⁵ Bulgaria, Ombudsman, 2014 Annual report as National Preventative Mechanism, p. 48.

the number of these examinations. Presumably, it is very low as these must be paid by the detainee and they are also time-consuming as the doctors need to travel to the place of detention. An exception to this rule is when there is a possible “institutional conflict” – when the detainee would be transferred or was transferred from another police department, prison or pre-trial detention facility. Then the examination is done almost in all cases.

The quality of the exams carried out by doctors of the victim’s choosing rather than by those employed by the police department is usually not any better as the doctors usually only record what the detainee states and what the police officers state.

The only special training that doctors receive on how to document injuries of this type is in medical school where they take a mandatory course (during the 6th or the 5th year) in forensic medicine and deontology (45 hours lectures and 30 hours practice).⁸⁶ The course includes both a theoretical and practical component on how to perform examinations, estimate the possible reasons and means of causing trauma or death and the legal aspects of the forensic assessment.

In general, doctors do not forward the medical documentation to the prosecutor. On the other hand, the detainee might receive a free copy of the medical file if the doctor who examined him/her is close to the police officers (as the file would contain information that is “convenient” to the police). However, the content of this file would be disputable according to the interviewed forensic doctors. In the rest of the cases, according to the interviewed lawyers, the detainee could receive his/her medical file if he/she especially requests this. **In most cases he/she would not receive the file** (this applies to files produced both by police and civilian doctors). **In this regard there is a discrepancy between the law and the actual practice.**

It is likely that the doctors who examined the detained person would be heard as witnesses. In addition, the forensic opinion of the doctors is considered a stronger piece of evidence (compared to some testimonies of witnesses pointed out by the complainant for example), especially when there is no other opposing forensic opinion. It is enough if the forensic expert opinion provides that it is possible that the victims’ story is true. However, it is also likely that the complainant would be prosecuted (e.g. for “false accusation”) for telling the doctor that he/she has been ill-treated if the accused officers are acquitted or the criminal investigation is terminated for want of evidence and this is regulated in Art. 286 of the Criminal Code.

7. Practice on prosecution by the complainant

⁸⁶ For example, Schedule at the Medical University, Plovdiv, available in Bulgarian at: http://meduniversity-plovdiv.bg/images/MU_PLOVDIV_TEXT/03MEDICINE_FAC/Programi/2014/medici_-_II.pdf, p.278-286. Also Schedule at the Medical University in Sofia, available in Bulgarian at: http://medfac.mu-sofia.com/sites/default/files/programmes_of_study/plan_credits_practice/2015_16_medicina_ucheben_plan.pdf.

In reality, **very often the cases that were initiated were initiated because the victim decided to do so and he/she stayed on in the role of a private complainant**; the majority of the cases identified in the research is of light corporal injury and these cases are only possible to be prosecuted upon a complaint made by a private complainant.

Data gathered by the courts in Bulgaria showed a difference in the success rate of those cases that were prosecuted by public prosecutors as opposed to those prosecuted by private prosecutors: namely, the majority of the cases initiated against policemen for ill-treatment were for light injury (around 170). This is a crime that can only be brought to prosecution following a personal request of the victim, i.e. by private complainants. However, there is no data about whether the victims were constituted as such in the proceedings. Data about the share of victims who were constituted as private complainants in cases that are not against police officers is not gathered nor made publicly available.

The success of the cases for light injuries is disputable as the majority of them resulted in a fine of BGN 500 up to 1200 (EUR 250 to 600) (**data was received for 101 fines out of 212 cases**, of which at least 172 were for corporal injury). Fine is an administrative sanction applied when the crime is too light to be criminally prosecuted.

On the other hand, the other sentences that were probably applied for a moderate/severe injury amount to conditional imprisonment for 1.5 to 3 years which is **actually a lighter sentence in practice**. There were 28 such sentences according to the data provided by courts (out of 144 asked 42 replied as of 18 of December 2015) and 11 according to the data provided by the Ministry of Interior.

This is why it is recommended that a private prosecutor should also be granted the power (beyond his/her existing power) to prosecute any crime (not only the light corporal injury) perpetrated by police officers instead of the prosecutor and to be entitled to the rights to effectively gather evidence and to participate in all proceedings.

The reports on ill-treatment by police officers would most probably be used in the criminal prosecution and most probably the “evidentiary force” of the reports would be stronger than the testimonies of the complainant.

Furthermore, **it is much less likely that any criminal proceedings would be initiated in a case in which police officers assault the complainant.**

IV. Conclusions

- Reliable and disaggregated data about cases of police ill-treatment is not collected and analysed by any state authority.
- Rights to a lawyer, medical examination and informing a third party, although provided for in the legislation, are not sufficiently guaranteed and are rarely implemented in practice. The main reasons for this is that no official detailed regulations exist about how the detainee should be put in contact with a lawyer, doctor or third party and there is no special oversight body to regularly and systematically monitor how these rights are implemented.
- The number of criminal proceedings initiated for ill-treatment by the police is very low and in cases when they are opened it is mainly as a result of a complaint made by the victim.
- There are no effective procedural safeguards of the rights of the complainant during the criminal proceedings.
- The majority of the initiated criminal proceedings are for “light corporal injury” and the sanctions for the perpetrators are administrative fines (mainly around EUR 250-500). There is no publicly available information about whether or not these sanctions were enforced and the fines were actually paid.
- Even when police officers were sentenced to deprivation of liberty it was conditional (meaning that the imprisonment is suspended for a certain period of time unless the person is sentenced again usually within 3 years after the original sentence). This absurd situation means that most probably these sentences were issued in cases of moderate or severe corporal injury but that the perpetrators were not punished in reality and their sanctions appear to be even lighter than paying a fine.
- All of the cases before the ECtHR about lack of effective investigation of ill-treatment committed by police officers were won by the victims, but there were no sanctions imposed on the police officers who perpetrated ill-treatment and sometimes death.



BULGARIAN
HELSINKI
COMMITTEE

Sofia, 2016