

# Independent Custody Visiting at Police Detention Facilities

2010–2011

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National Report

2012

HUMAN RIGHTS



INDEPENDENT CUSTODY  
VISITING AT POLICE  
DETENTION FACILITIES  
PROJECT

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The present report has been elaborated under the Independent Custody Visiting at Police Detention Facilities Project, an initiative of the Open Society Institute – Sofia and the Chief Security Police Directorate at the Ministry of Interior (Mol). The project was carried out between August 2010 and May 2011 in the city of Sofia and the territories covered by the District Mol Directorates in Pernik, Bourgas, Varna, Dobrich, Plovdiv, Pazardjik, Stara Zagora, Sliven and Haskovo. The project has been developed under the Mol Community Policing Strategy.

# INDEPENDENT CUSTODY VISITING AT POLICE DETENTION FACILITIES 2010–2011

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National Report



Sofia • 2012

The views and opinions expressed in the present research paper are solely the responsibility of the author and do not necessarily reflect the standpoint or the policies of the Open Society Institute – Sofia.

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# INTRODUCTION

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“Independent Custody Visiting in Police Detention Facilities” is one of the most important projects of the Law Programme of the Open Society Institute – Sofia. It combines a mechanism of civic participation and transparency of public governance with protection of fundamental human rights. These are core principles of the Institute’s philosophy. Their practical implementation by a community of volunteers, non-governmental organisations, structures of the Ministry of Interior and local government authorities is a real challenge, but also a first-hand experience of the difficulties with which the road to achievement of rule of law in Bulgaria is paved.

The present report includes the main findings and conclusions from the custody visiting conducted in 2010 – 2011, an assessment of the degree of compliance with international and national standards for protection of the rights of detainees held in police custody, and main recommendations for improving the police work in this respect. The recommendations and findings have resulted from a sustained effort of the volunteers and co-ordinators under the project. They were discussed with police personnel at various levels and give a clear idea of the key organisational and management problems of the system.

All reports on the previous stages of the project have been published online, on the Internet site of the Institute at [www.osi.bg](http://www.osi.bg). Their comparison over the years shows that the main problems of the police persist and that progress in addressing them is slow and confined to limited areas. We make public and disseminate the results of this custody visiting in the hope that they will serve as a basis for discussion and adoption of legislative and administrative changes needed to improve the standard of protection of fundamental human rights during police detention, and will contribute to an amelioration of the facilities for police work.

The implementation of this project would not have been possible without the voluntary work of more than 200 people who spared their time and devoted systematic and determined efforts to master the practice of independent custody visiting at police detention facilities. For ten months they made a total of 1035 visits in 80 Regional Police Departments (RPDs) in Sofia and the territories covered by the District Mol Directorates in Pernik, Bourgas, Varna, Dobrich, Plovdiv, Pazardjik, Stara Zagora, Sliven and Haskovo, and took part in regular monthly meetings to receive training and exchange experience. Cordial gratitude to all of them for their contribution and volunteer enthusiasm!

The Open Society Institute – Sofia would like to extend its sincere thanks to the World without Borders Association (Stara Zagora), the Demetra Association (Bourgas), the SOS – Families at Risk Foundation (Varna) and the Municipality of Plovdiv, and especially to the Chief Security Police Directorate of the Ministry of Interior.

*The Law Program of the Open Society Institute – Sofia*

# EXECUTIVE SUMMARY

The Independent Custody Visiting at Police Detention Facilities Project is being carried out by the Open Society Institute – Sofia under a methodology approved by the Chief Security Police Directorate. It seeks to build up trust between the police and the local community and to ensure transparency of the police. The practice of custody visiting provides an opportunity for specially trained volunteers to visit police detention facilities without prior notice and ensure that the fundamental rights of detained persons are being protected.

In 2010–2011 the project was implemented at 80 RPDs in the districts of Plovdiv, Pazardjik, Stara Zagora, Sliven, Haskovo, Varna, Dobrich, Bourgas and Pernik, as well as in the city of Sofia. Custody visits were carried out with the involvement of 200 volunteers, organized by 4 NGOs: the Open Society Institute – Sofia, the World without Borders Association (Stara Zagora), the Demetra Association (Bourgas), the SOS–Families at Risk Foundation (Varna), and the Municipality of Plovdiv.

The present report documents custody visitors' findings for the period August 2010 – May 2011. An interim five-month report covering project results for the period August–December 2010, was issued in March 2011.

Custody visitors' findings are classified according to 14 criteria<sup>1</sup>, which reflect the level of protection of detainees' fundamental rights as stipulated in international and national legislation.

**Improvement compared to the previous phase of the project (2007–2008) was registered on two of the criteria monitored.** Namely, complaints alleging abuse of force have reduced, while the attitude of police officers towards detained persons is more often described as “professional” and “kind”. It should be noted however that the smaller number of complaints alleging abuse of force does not necessarily mean that police violence as a whole has declined. It may be due to the fact that custody visitors have access only to a limited number of premises at RPDs and quite often there are objective obstacles to conducting confidential interviews with detained persons: RPD facilities offer no such opportunity, police officers are too close to the interviewed persons or detainees are under stress of emotion and do not wish to lodge a complaint.

<sup>1</sup> See Annex 1 for a detailed description of criteria.



**Partial improvement** was registered on four criteria:

- Condition of RPDs' facilities;
- Availability of separate service premises;
- Availability of separate premises for men, women, minors, etc.;
- Hygiene at RPDs.

**Despite some progress achieved, only 19 of a total of 80 RPDs monitored under the project, meet legislative requirements to one extent or another.** The majority of RPDs still do not have specially appointed interrogation rooms, while detained persons are still being interrogated in offices or other premises, which are not designed for this purpose. **It has been repeatedly noted that this practice violates legislative provisions and creates conditions for abuse of force by police officers.**

In 2009 some of the monitored RPDs have been renovated with funds allocated by the national budget or under European programs. However, in most cases minor renovations have been made, which have not led to meaningful improvement of detention facilities or police officers' working conditions. It is quite alarming that in many cases further renovations, where undertaken, are being financed with personal contributions by police officers.

**No improvement has been registered on six of the criteria monitored under the project.** These include "Awareness of detainees of their rights", "Keeping proper detention documentation", "Police officers' working conditions", "Provision of medical assistance to detainees", "Access to interpreters", and "Equipment of detention premises" (for example, providing blankets to detainees). The problems documented in the previous phase of the project are yet to be resolved.

With regard to the criteria "Awareness of detainees of their rights" and "Keeping proper detention documentation" serious oversights on behalf of police officers were registered in the first phase of the project. These have been eliminated in all monitored RPDs with the exception of those in Sofia.

At RPDs under the jurisdiction of the Sofia Police Directorate, custody visitors still document **unjustified corrections in detention registers, which create quite a high risk of violating detainees' rights, including exceeding the statutory 24-hour limit for police detention.**

Until the final days of the project custody visitors kept registering cases of detained persons who had not been adequately informed of their rights. The situation in Sofia on these two criteria was worse in 2010–2011 than it had been at the end of the previous phase of the project in 2007–2008. This suggests that progress made is not sustainable. If not monitored constantly by volunteers, police officers tend to return to their old practices.

**Partial deterioration** compared to the previous phase of the project, 2007–2008, was registered on the criteria “Access to legal aid” and “Provision of food to detainees”. There are still cases in which police officers discourage detained persons from seeking legal aid or attorneys are not being called in because of the continuing practice of limiting outgoing phone calls at RPDs. Police officers still complain about poor coordination with local bar associations when it comes to assigning attorneys under the Legal Aid Act.

Since the start of the project (2006) **a total of 53 recommendations have been issued to the Mol leadership<sup>2</sup>. So far only 6 of them have been addressed, one of which has been entirely implemented by the Open Society Institute – Sofia. Nevertheless, custody visiting has an important impact as a preventive measure and when discontinued, the situation on all criteria tends to change for the worse.**

**In 2010–2011 the project was extended to monitoring the reception of citizens at RPDs.** Most of the citizens interviewed described the attitude of police officers towards them as kind and professional. However, many of them pointed out the poor work organization, the lack of enough premises and space at RPDs, and the poor condition of the non-renovated buildings.

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<sup>2</sup> Recommendations are listed in the interim report for 2007–2008, which is available at: [http://osi.bg/downloads/File/2012/1/Doklad\\_GB\\_reduce-2.pdf](http://osi.bg/downloads/File/2012/1/Doklad_GB_reduce-2.pdf)

# I. OVERVIEW OF THE PROJECT

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The Independent Custody Visiting at Police Detention Facilities Project is being carried out by the Open Society Institute – Sofia under a methodology approved by the Chief Security Police Directorate. It seeks to build up trust between the police and the local community and to ensure transparency of the police. The practice of custody visiting provides an opportunity for specially trained volunteers to visit police detention facilities without prior notice and ensure that the fundamental rights of detained persons are being protected.

Custody visitors are volunteers who have gone through a special selection and training process. A background check in the police was performed for all applicants willing to work under the project. Custody visitor teams paid visits at monitored RPDs according to a pre-agreed schedule that was known only to the persons involved in the project. During these visits volunteers monitored police detention facilities and observed the application of relevant legal provisions, regulating 24-hour police detention. As of 2010–2011 the project also involved monitoring administrative service provision and the reception of citizens at police stations.

After each visit, custody visitors produced team reports, which documented facts established during the visits. Consolidated reports were compiled each month and a copy of them was submitted to the Director of the respective District Mol Directorate, as well as to the custody visitors.

Independent Custody Visiting at Police Detention Facilities was pioneered in Bulgaria in 2004, in the town of Pleven by the Pleven Community Fund “Chitalishta” under a project financed by the Open Society Institute. In 2005–2006, OSI–Sofia adjusted the methodology and conducted independent custody visits at the nine Regional Police Departments on the territory of Sofia, cooperating with the General Police Directorate, the Sofia Police Directorate and the Municipality of Sofia. Between June 2007 and August 2008, with the assistance of local NGOs, the project was extended to include police stations under the jurisdictions of the District Mol Directorates in Plovdiv, Pleven, Bourgas and Varna.

The present report documents the results of custody visits conducted between August 2010 and May 2011 in the city of Sofia and the territory covered by the District Mol Directorates in Pernik, Bourgas, Varna, Dobrich, Plovdiv, Pazardjik, Stara Zagora, Sliven and Haskovo. The locations were selected as having the greatest number of persons detained at RPDs per year, according to police statistics.

Apart from coordinating the project at the national level, the Open Society Institute – Sofia also undertook project implementation at RPDs under the jurisdiction of the Sofia Police Directorate and the District Mol Directorate in Pernik. On behalf of the police, the project was implemented in partnership with the Sofia Police Directorate, with coordinators Senior Inspector Petyo Nikolov, Head of Territorial Police at the Sofia Police Directorate, Chief Inspector Radoslav Stoynev, Head of Sector 02

“Territorial Police Organization and Control” at the Sofia Police Directorate, and Inspector Emil Vankov of Sector 02 “Territorial Police Organization and Control” at the Sofia Police Directorate, as well as the District Mol Directorate in Pernik, with coordinator Chief Inspector Yordan Borisov of the Public Order Police Department.

In Stara Zagora, Haskovo and Sliven the project was implemented by the World without Borders Association in cooperation with the District Mol Directorates in each district, with coordinators Chief Inspector Radostin Kadiev (Stara Zagora), Inspector Zhivko Ivanov (Haskovo) and Commissioner Angel Daskalov (Sliven).

In Plovdiv and Pazardjik the project was implemented by the Municipality of Plovdiv in cooperation with the District Mol Directorate in Plovdiv, with coordinator Senior Inspector Georgi Dimov, and the District Mol Directorate in Pazardjik, with coordinator Commissioner Sasho Naydenov.

In Bourgas the project was implemented by the Demetra Association in cooperation with the District Mol Directorate in Bourgas, with coordinators Chief Inspector Zhelyo Tanev in the initial stage of the project and Chief Inspector Angel Simeonov, subsequently.

The SOS–Families at Risk Foundation implemented the project in the districts of Varna and Dobrich, cooperating with the respective District Mol Directorates, with coordinators Inspector Irena Petricheva (Varna) and Inspector Venko Velikov (Dobrich).

## II. LEGAL FRAMEWORK OF POLICE DETENTION

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The so-called “police detention” is a prerogative of the police under Art. 63, Par. 1 of the Mol Act. The grounds for detention are specified in 8 sections of the same article:

1. If there are indications that the person has committed a crime;
2. If the person consciously deters the police from performing their duty obligations;
3. If the person exhibits serious mental deviations and by his or her behavior violates public order or puts in obvious danger his or her life or the life of other persons;
4. If the person is a juvenile delinquent who has left his or her home, guardian, trustee or specialized institution to which he or she has been assigned;
5. If the police cannot establish the person’s identity;
6. If the person has escaped from serving his or her sentence of imprisonment or from the places, where he or she has been detained as an accused;
7. If a Red Notice has been issued against the person at the request of another state with a view to his or her extradition or he/she is wanted pursuant to a European arrest warrant;
8. In other cases as provided by law.

The detention period under Art. 63, Par. 1 of the Mol Act cannot exceed 24 hours. Persons are detained at Regional Police Departments under an arrest warrant, which constitutes an administrative act and can be appealed following administrative procedure. No data exist on the number of appealed arrest warrants but testimonials by custody visitors suggest that arrest warrants are seldom appealed.

According to police sources, approximately 60,000 persons are being detained under Art. 63, Par. 1 of the Mol Act in Bulgaria each year. Police detention is not necessarily related to a criminal procedure against the detained person; with some grounds for detention such procedure may never be initiated.

The main legislative acts regulating police detention include the Convention for the Protection of Human Rights and Fundamental Freedoms (commonly known as the European Convention on Human Rights), the Constitution of the Republic of Bulgaria, the Mol Act, the Implementing Regulations to the Mol Act, and Instruction No I3-1711 of September 5, 2009 on the equipment of detention facilities at Mol structural units and the order to be observed in them.

The fundamental rights of citizens during police detention include:

- Right to life and freedom from torture;
- Right to defense – access to an attorney;
- Right to an interpreter (if the detained person does not speak Bulgarian);
- Right to medical assistance;
- Right to be informed about the grounds for his or her detention;
- Right to have his or her relatives notified about the detention.

In the beginning of 2011, the General Prosecutor of the Republic of Bulgaria issued a special *Instruction on the actions that may be undertaken by pre-trial authorities with regard to attorneys*. Art. 7 and Art. 8 of this document refer specifically to police detention.

**Art. 7 states:** The access of detained persons to legal aid, by a retained attorney or by one assigned under the Legal Aid Act, shall be provided in separate premises immediately after detention. Immediately shall mean no later than 2 hours after detention. Access to attorney shall be ensured as early as the first interrogation of the detained person.

**Art. 8 states:** The attorney shall be granted immediate access to the detained person within 30 minutes after the attorney's arrival at the place where the detainee is held.

### III. CUSTODY VISITING RESULTS

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#### 1. Statistical Data on Custody Visits Conducted in the Period August 2010 – May 2011

The present consolidated report documents the main findings of custody visits at police detention facilities conducted in the period August 2010 – May 2011.

In the ten months covered by the present report, **nearly 200 independent custody visitors working under the project conducted 1035<sup>1</sup> visits at RPDs** under the jurisdiction of the Sofia Police Directorate and the District Mol Directorates in Pernik, Plovdiv, Pazardjik, Bourgas, Stara Zagora, Sliven, Haskovo, Varna, and Dobrich. Custody visitors paid **760 visits during regular working hours** and **275 visits outside regular working hours**. They conducted a total of **408 interviews with detained persons and 238 interviews with citizens** who had come to the RPDs to receive administrative services or report a crime.

#### 2. Fundamental Rights of Detained Persons

In the ten months covered by the present report, custody visitor teams that monitored RPDs under the jurisdiction of District Mol Directorates in Pernik, Plovdiv, Pazardjik, Bourgas, Stara Zagora, Sliven, Haskovo, Varna, and Dobrich **registered no complaints alleging abuse of force by police officers in the treatment of detainees**.

In most cases detained persons described police officers' attitude towards them as "professional" and "kind".

At RPDs under the jurisdiction of Sofia Police Directorate, **custody visitors registered three complaints against abuse of force** for the ten months covered by the present report. For the sake of comparison, in the period June 2007 – August 2008 a total of 6 complaints against abuse of force by police officers were filed at RPDs under the jurisdiction of the District Mol Directorate in Bourgas and the Sofia Police Directorate (5 of them in Sofia and 1 in Bourgas District).

**6th RPD – Sofia:** *On August 20, 2010, a 31-year-old male held in custody at the RPD, complained in a conversation with custody visitors that he had been the victim of police violence. The acts of violence were allegedly committed at the Sofia Police Directorate and at the time of his arrest by patrol officers. The detainee pointed to a blister on his hand and claimed that he had been burnt with a cigarette by a police officer. He also shared that his nose had been broken by a police officer hitting him with his head.*

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<sup>1</sup> For more details, see Annex 2.

*Some swelling was indeed visible around his nose. The detainee also pointed to lacerations on his legs and claimed having lumps on his head. He reported that he had been taken to the Mol Hospital where he had been allegedly mistreated and told that he was fine. He generally claimed that he had been threatened and treated in a humiliating manner. When he was transferred to the 6th RPD, he felt sick and police officers called an ambulance.*

**8th RPD – Sofia:** *On September 28, 2010, in a conversation with custody visitors, a man held in custody at the RPD complained that he had been hit on the face twice by the police.*

**3rd RPD – Sofia:** *On February 17, 2011 custody visitors interviewed two persons of Romani background held in custody at the RPD. Both had no detention papers with them, as all documentation was kept in a security cabinet. Both detainees had been informed of their rights and refused legal aid or medical assistance. They claimed that the police officer had filled in the forms on their behalf, while they had only signed. The female detainee complained that during her arrest she had been hit by a female police officer after a mutual exchange of insults.*

The project team registered all three cases in its monthly reports and informed the leadership of the Sofia Police Directorate. An internal investigation was conducted by the Sofia Police Directorate. Its conclusion on the first two cases of August and September 2010 was that **“no sufficient evidence was found to confirm beyond doubt that violence had indeed been committed”** against the detained persons.

**In the third case of February 2011, the police concluded that the use of physical force and special equipment had been justified, as the detained person had attempted to escape, had been violent and had offered resistance. Later on she had been sanctioned for her actions by the Sofia Regional Court under the Decree on countering petty hooliganism.**

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 analysis<sup>2</sup> 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.

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<sup>2</sup>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](http://osi.bg/?cy=10&lang=1&program=1&action=2&news_id=411)



It should be also noted that custody visitors have access only to a limited number of premises at RPDs and quite often there are objective obstacles to conducting confidential interviews with detained persons: RPD facilities offer no such opportunity, police officers are too close to the interviewed persons or detainees are under stress of emotion.

As in previous phases of the project, feedback from District Mol Directorates **did not provide information on the actions taken during the internal investigation of complaints alleging abuse of force** and this is once again noted as a negative tendency. The lack of adequate information continues to raise doubts about the full and objective investigation of reported cases of police violence. The project team issued **specific recommendations on this matter at the very start of the project in 2005, but so far the Mol leadership has taken no measures to eliminate this negative practice.**

In RPDs under the jurisdiction of the Sofia Police Directorate, custody visitors have documented several cases in which detainees had been led away from detention premises for an "I.I." or "investigative interview", as recorded in the Register of Detained Persons Convoyed away from Detention Facilities. This type of investigative practice is not specified in the existing legislative provisions regulating 24-hour police detention, and it is unclear how does it differ from interrogation. Such police methods create yet another possibility for violating detainees' rights during police detention and should either be clearly regulated in a publicly accessible legislative act or entirely eliminated as a practice during 24-hour police detention.

Abuse of force during detention violates Art. 3 of the European Convention on Human Rights, which prohibits torture: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment", as well as Art. 29, Par. 1 of the Constitution of the Republic of Bulgaria: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment...". The unjustified use of force during detention also violates Art. 9 of Instruction No 13-1711 of September 5, 2009 on the equipment of detention facilities at Mol structural units and the order to be observed in them, which states: "The actions of police authorities shall exclude committing, provoking or tolerating any act of torture, inhuman or degrading treatment or punishment, as well as acts of discrimination against detained persons."

## 2.1. Awareness of Detained Persons of Their Rights

In their interviews with custody visitors, the majority of detained persons at monitored RPDs stated that they **had been informed of their rights during 24-hour detention** – right to an attorney, right to medical assistance, etc.

Although signed declarations confirming the awareness of detainees of their rights exist in all cases, **a persistent problem registered throughout the duration of the project is that detainees' rights were not being explained in a clear and**

**comprehensible manner by the police.** This constitutes a matter of particular concern when it comes to detainees who are illiterate, poorly educated or incapacitated (due to substance abuse, for instance). Moreover, given the stress of emotion at the time of detention, in many cases detained persons are not fully capable of grasping the information that is provided to them although they do sign the declaration.

Detainees interviewed at RPDs under the jurisdiction of the Sofia Police Directorate often state that they have not been informed about their right to free legal aid and how they can benefit from it, as well as about their right to challenge the legality of detention in court and to have visitors. In the jurisdiction of the District Mol Directorate in Bourgas custody visitors registered problems with the notification of family members or other relatives. At the end of the project, as a result of the recommendations issued by the project team, there has been a slight improvement on this criterion in all District Directorates mentioned above, as well as in the District Mol Directorate in Plovdiv, where custody visitors had also registered problems at the beginning of the project. However, according to the project team **no sustainable improvement has been achieved compared to the previous phase of the project.**

## 2.2. Access to Legal Aid

No problems were registered in the provision of legal aid to detained persons in RPDs in Stara Zagora, Haskovo and Sliven, while some improvement compared to the previous phase of the project (2007–2008) was documented in RPDs in Varna and Bourgas.

Custody visitors have been registering problems with legal aid provision in RPDs under the jurisdiction of the Sofia Police Directorate and the District Mol Directorates in Pernik, Plovdiv, Pazardjik and Dobrich throughout the duration of the project. Quite often these problems affected not only the access to an attorney assigned under the Legal Aid Act but also to retained attorneys. With regard to the Sofia Police Directorate and the District Mol Directorate in Plovdiv this finding suggests **a partial deterioration on the “Access to legal aid” criterion** compared to previous phases of the project.

**Main findings regarding the access to legal aid during 24-hour police detention:**

- Detained persons at monitored RPDs seldom requested to benefit from their right to an attorney. The reasons for this can be sought in the fact that detainees are not adequately informed of their right to seek legal aid or in the attempt of police officers to discourage the use of an attorney or otherwise curb the access to legal aid. Such cases were registered in the first months of the project in 2010 at RPDs under the jurisdiction of the Sofia Police Directorate. Although specific measures were taken by the Directorate’s leadership, in March 2011 custody visitors once again reported a case of a police officer claiming that attorneys were being assigned under the Legal Aid Act only

after charges had been brought against the detained person, although the Constitution of the Republic of Bulgaria specifically states that detainees are entitled to an attorney from the moment of detention.

- Throughout the reporting period, custody visitors have been alerting to the fact that in some cases attorneys assigned under the Legal Aid Act failed to present themselves at the police station. This problem was registered in the previous phase of the project as well, at RPDs under the jurisdiction of the District Mol Directorates in Plovdiv and Dobrich, and the Sofia Police Directorate. Police officers often have to make several phone calls to get in touch with an available attorney, while under the provisions of the Legal Aid Act this should be the responsibility of the local bar and the involvement of police officers should be limited to one phone call only. A good practice in this respect was documented at RPDs under the jurisdiction of the District Mol Directorate in Varna where the coordination with the local bar has improved compared to the previous phases of the project – **when an attorney is needed, police officers call the local bar, which assigns an appropriate attorney depending on the case at hand.**
- A typical problem registered throughout the reporting period involves violations of Art. 14, Par. 8 of Instruction No I3-1711 of September 5, 2009, which requires that police officers record the time of request to the local bar and the time of arrival of the attorney assigned under the Legal Aid Act. Custody visitors at RPDs under the jurisdiction of the Sofia Police Directorate and the District Mol Directorates in Plovdiv and Pazardjik, noted that the refusal of attorneys to present themselves at the police station or the inability of police officers to contact them was not always registered.
- Throughout the reporting period several cases of missing actual lists with attorneys assigned under the Legal Aid Act were registered at RPDs under the jurisdiction of Sofia Police Directorate. According to police officers, local bar councils often delay sending the names of the attorneys for the specific period. However, the very practice of bar councils sending a list of all attorneys available to RPDs, violates Art. 28 of the Legal Aid Act which requires that the attorney be appointed by the bar's secretary. Providing RPDs with a list of all attorneys available gives police officers the discretion to select attorneys, breeds corruption practices, and infringes detainees' right to defense.
- The practice of limiting outgoing calls at police stations remained a problem for RPDs under the jurisdiction of Sofia Police Directorate throughout the duration of the project. Limiting outgoing calls not only restricts access to legal aid and violates other detainees' rights but also frustrates police officers' normal operations. Custody visitors found that **outgoing call limits had been abolished at RPDs under the jurisdiction of District Mol Directorates in Plovdiv, Varna and Bourgas and this should be noted as a positive development.**

**All these problem areas lead to the conclusion that the access to legal aid during police detention is still limited and on the whole no adequate progress was made on this criterion.**

Registered problems in the provision of legal aid to detained persons constitute a violation of Art. 6, Par. 3 of the European Convention on Human Rights, which states that: Everyone charged with a criminal offence has the following minimum rights: [...] to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require". Art. 30, Par. 4 of the Constitution of the Republic of Bulgaria is also violated as it stipulates that: "Everyone shall be entitled to legal counsel from the moment of detention or from the moment of being charged". The same provision is included in Art. 63, Par. 5 of the MoI Act, which states that: "Since the moment of detention the person shall be entitled to attorney". Moreover according to Art. 14. of Instruction No I3-1711 of September 5, 2009: "Immediately after detention, the person shall be informed about the grounds of his or her detention and the responsibilities he or she has under law, and their rights shall be explained to them", while Par. 2 of the same provision stipulates that the detained person shall have the right to "an attorney and the right to request that an attorney be appointed to them under the Legal Aid Act".

In response to custody visitors' findings, the leadership of the Sofia Police Directorate took measures to ensure more effective control over the appointment of attorneys under the Legal Aid Act. These include imposing disciplinary measures for violation of legal aid provisions; issuing daily reports on the number of detained persons who had requested legal aid, the number of requests satisfied and the reasons for not providing legal aid (if applicable); and submitting a monthly consolidated report on the access to legal aid to the Regional Human Rights and Police Ethics Commission at the Sofia Police Directorate.

### 2.3. Access to Medical Assistance

**A**ll detained persons at monitored RPDs have been informed of their right to medical assistance, while requests for such assistance have been adequately addressed by police officers. **Nevertheless, monitored RPDs do not seem to follow a standard procedure with regard to the provision of medical assistance during 24-hour police detention.** When the detained person has no health insurance or resides permanently elsewhere, medical assistance is usually provided by the emergency medical service centers or the emergency departments at multi-profile hospitals, as there are no regulations specifying which doctor should be summoned in such cases and who should pay for the visit if it is not a matter of emergency.

At RPDs in the District of Dobrich, for instance, detained persons need to be conveyed to the nearest hospital, which is often in another town and transportation involves costs and police officers' time. At RPDs under the jurisdiction of the MoI

Directorates in Stara Zagora, Haskovo and Sliven all detained persons, regardless of their health status, go through a medical examination, which is usually performed by the emergency medical teams or in some cases by general practitioners on duty.

There are also other problems in the provision of medical assistance to detained, which have been repeatedly emphasized by custody visitors:

- Cases of mentally disturbed detainees with violent behavior have been registered, while police officers generally have no special training on working with such people, which jeopardizes both their own, as well as the detainees' health and security.
- In some cases detained persons depending on drugs or suffering from contagious diseases are being placed in common areas within the RPDs for lack of sufficient detention facilities. This violates Art. 24, Par. 4 of Instruction No 13-1711 of September 5, 2009, which specifically states that: "persons who are under the stress of emotion, or are mentally ill, or suffer from contagious diseases, or exhibit violent behavior, or are repeated offenders, or are known to have committed a serious crime, shall be placed separately from other detained persons".
- Although previous custody visiting reports have contained specific written recommendations on these matters, police officers at RPDs still have no personal protective equipment such as medical masks and/or gloves to put on when working with detainees suffering from contagious diseases. This places police officers' health and life at an unjustifiable risk.

**All these findings suggest that no improvement has been made on the "Access to medical assistance" criterion. The provision of medical assistance remains a problem, especially when it comes to people with no health insurance or to detainees who suffer from contagious diseases, or experience withdrawal symptoms, or are mentally disturbed.**

## 2.4. Access to an Interpreter

In contrast to the previous phase of the project, 2007–2008, custody visitors registered no problems with the provision of an interpreter to detained persons at monitored RPDs. Some difficulties were documented only at RPDs under the jurisdiction of the District Mol Directorate in Dobrich.

Nevertheless, it should be noted that there are still no clear mechanisms or secondary legislation, regulating the appointment of an interpreter for detained persons who do not speak Bulgarian. Each RPD deals with this issue on a piecemeal basis, using volunteers or hiring interpreters from specialized translation and interpreting agencies. **This problem was identified as soon as the custody visiting project went national in 2007. Since then the project team has recommended that the provision of an interpreter be regulated by secondary legislation but**

**the leadership of MoI has not yet acted on this recommendation. This suggests that no positive development has been made on the “Access to an interpreter” criterion.**

**In an effort to support the initial provision of information to foreign nationals until an interpreter is secured, the Open Society Institute – Sofia published a brochure on “Detainees’ rights” in nine languages including among others English, German, Romanian, Greek and Turkish. The brochure seeks to provide detained persons with clear and easily understandable information on their fundamental rights and the expectations they could have of attorneys and police officers during 24-hour police detention. The brochure was distributed to all RPDs in the country.**

The lack of clear mechanisms and secondary legislation regulating the appointment of an interpreter for detained persons who do not speak Bulgarian, calls into question the effectiveness and quality of interpretation and results in violations of Art. 5, Par. 2 of the European Convention on Human Rights, which stipulates that: “Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.” In addition, the lack of prompt provision of interpretation contradicts Art. 63, Par. 3 of the MoI Act, which states: “Where a detainee has no command of the Bulgarian language, he/she shall be directly informed about the reasons of his/her detention in a language understandable to such detainee.” Art. 15 of Instruction No I3-1711 of September 5, 2009 is also violated, as it stipulates that detainees shall be informed of the reasons for their detention, as well as of their rights and responsibilities under law “in a language which he or she understands with the assistance of an interpreter or a sign-language expert.”

In its analytical paper “Trends in Cross-border Workforce Migration and the Free Movement of People – Effects for Bulgaria”<sup>3</sup>, the Open Society Institute – Sofia has emphasized that as a result of the growing inward migration to Bulgaria, certain public services and the access to them should be elucidated to foreign nationals in a language that they can understand. It is imperative that the MoI makes an effort in this direction by developing a clear mechanism for the access to an interpreter during 24-hour police detention, by translating detention forms into several main languages, and by allocating funds from its budget for qualified translators and interpreters. Failure to plan timely measures in this direction may result in greater costs, logistical problems and violations of Bulgaria’s obligations according to international law.

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<sup>3</sup> The paper is available online at: [http://www.osf.bg/cyeds/downloads/Migracia\\_english.final.pdf](http://www.osf.bg/cyeds/downloads/Migracia_english.final.pdf)

## 2.5. Provision of Food and Blankets to Detainees

Custody visitors have registered complaints about the provision of food to detainees at RPDs under the jurisdictions of the Sofia Police Directorate and the District Mol Directorate in Pazardjik. At RPDs under the District Mol Directorate in Pazardjik food was provided to detained persons only if it had been brought by their relatives or they themselves had money to pay for it. Complaints documented at RPDs under the Sofia Police Directorate had to do mainly with police officers refusing to provide food to detainees outside the regular meal hours (8:00; 14:00 and 20:00). At the beginning of the project, in August 2010, custody visitors registered problems with the provision of food at several RPDs under the jurisdiction of the District Mol Directorate in Pernik (volunteers reported that police officers “are spreading tomato-and-pepper paste on bread for detainees to eat”). However, specific measures were taken to resolve these problems and by the end of the project food was provided in regulated food rations.

On the whole, during the reporting period (August 2010 – May 2011) no positive developments were registered with regard to the provision of food to detainees. On the contrary, **partial deterioration was registered on this criterion**. In the previous phase of the custody visiting project, the Minister of Interior issued a specific order to RPD chiefs, instructing them to create the necessary organization and ensure that food would be provided to detainees in line with Art. 43 of Instruction No I3-1711 of September 5, 2009. Currently, however there is neither a standard food provision procedure, nor financial resources to cover the cost of food for persons in 24-hour police detention. **Several common practices are currently in place:**

- Food is brought to the police station by the detainee’s relatives;
- Food is purchased with detainee’s personal money, in which case it is documented in a special register and the cash receipt is attached;
- Regulated food rations covered by the Mol budget are provided to detainees but provision practices vary at different RPDs.

No progress was made with the provision of blankets to detainees at RPDs under the jurisdictions of the Sofia Police Directorate and the District Mol Directorates in Plovdiv and Pazardjik. This is a serious problem not only during the winter, as in many poorly equipped RPDs detainees have to sleep on metal beds without mattresses. At one of the RPDs under the jurisdictions of the Sofia Police Directorate, custody visitors were told that they were no blankets but when different premises were inspected, blankets were in fact found in the room where detainees’ personal effects were kept. This suggests that police officers are simply too negligent or just unwilling to provide them to detainees.

In another RPD under the jurisdiction of the Sofia Police Directorate, the police officer on duty explained to custody visitors that according to the regulations blankets were provided to detainees only during the night, from 22:00 until 6:00, and only to those of them who met the subjective requirement of “good behavior”. This kind

of treatment by police officers raises particular concerns as it is humiliating, inhuman and violates international human rights protection standards.

Throughout the reporting period, interviewed police officers have been alerting that the main problem with the provision of blankets to detainees is the lack of regulations or procedures regarding their disinfection after each use. Cases have been documented in which police officers would take some blankets to wash them in their own homes.

In other RPDs, apart from those in Sofia, Plovdiv and Pazardjik, no complaints have been registered regarding the provision of blankets to detainees. However, due to the low temperature in some detention facilities during the winter, quite often one blanket per detainee is not enough and in fact the need is not being adequately met.

## 2.6. Keeping Detention-Related Registers and Documentation

**D**uring the reporting period, August 2010 – May 2011, **no substantial omissions in detention-related documentation were registered** at RPDs under the jurisdiction of the District Mol Directorates in Varna, Dobrich, Stara Zagora, Sliven, Haskovo, Bourgas, Plovdiv and Pazardjik. **However, problems do exist with regard to keeping the registers required under Instruction No I3-1711 of September 5, 2009.** At the Nessebar RPD, for instance, the Register of Visits and Received Food and Non-food Items, and the Medical Examination Register have not been kept regularly; at RPDs in Ivailovgrad, Svilengrad, Harmanli and Tvarditsa there is no Inspections Register, while at the Stara Zagora RPD there is no Register of Confiscated, Received and Spent Amounts from/for Detained Persons. Most commonly, omissions were found to exist in the Medical Examination and Prescriptions Registers: sometimes the date and time of examination were not registered, other times the number of the detention order was not entered. In some cases, information regarding visits by relatives or attorneys was not recorded in the Register of Visits and Received Food and Non-food Items, although Instruction No I3-1711 contains specific provisions to this effect.

Custody visitors' recommendations have been taken into consideration at all District Mol Directorates and at the end of the project all required registers were present and were being properly kept. **A good practice was introduced at RPDs under the jurisdiction of the District Mol Directorate in Plovdiv, where police officers have been provided electronic access to samples of all relevant documents on detention, custody and release of detained persons.**

In the first five months of the project, the existence of **additions or deletions in detention-related registers and documentation, which have not been verified with the signature of the officer who had made the correction**, emerged as



a common problem in keeping detention documentation at RPDs under the jurisdiction of the District Mol Directorate in Pernik. At the end of the reporting period no such instances were documented, which marks a positive development. However, problems still exist with the proper management of the Register of Confiscated, Received and Spent Amounts from/for Detained Persons at one of the RPDs under the jurisdiction of the Pernik District Mol Directorate, where the amounts received from or spent on behalf of detainees are often miscalculated, which according to police officers results from technical errors.

In contrast to the abovementioned RPDs, in which the management of detention records has improved during the reporting period, RPDs under the jurisdiction of the Sofia Police Directorate continued to experience problems in keeping detention-related registers and documentation until the very end of the project:

- **Additions or deletions in detention records, which have not been verified with the signature of the officer who had made the correction.** Such cases were documented in four RPDs in Sofia, where custody visitors found corrections in the Register of Detained Persons and in some detention orders, which had to do with the time of detention, reception or release of the detained persons, or his or her health status. Corrections of detainees' data were also found in the Register of Detained Persons Convoyed away from Detention Facilities and the Register of Visits;
- Custody visitors keep registering cases in which **documents presented to detained persons were practically illegible**, having been written through worn-out carbon paper. This practice amounts to failure to provide detention papers to detainees.
- **Old versions of the declaration confirming the awareness of detainees of their rights** are still being used, which given the lack of comprehensive oral information, results in violations of detainees' fundamental rights.
- Until the very end of the reporting period, custody visitors kept documenting various omissions in the management of different detention registers including the *Medical Examination and Prescriptions Register*, the *Register of Detained Persons Convoyed away from Detention Facilities*, the *Register of Confiscated, Received and Spent Amounts from/for Detained Persons*, and the *Register of Visits and Received Food and Non-food Items*.

**These findings suggest that no improvement has been made on the “Keeping proper detention documentation” criterion. District Mol Directorates outside Sofia made a visible progress in the course of the project, which should be noted as a positive development; however, no improvement was registered at RPDs under the jurisdiction of the Sofia Police Directorate. On the contrary, since the beginning of the reporting period custody visitors have registered more corrections in detention-related registers and documentation kept at RPDs under the jurisdiction of the Sofia Police Directorate than were documented at the end of**

**the previous phase of the project (2008), which suggests that progress made in the previous phase has had a transitory and limited impact on the implementation of police detention regulations. It is obvious that this criterion should be monitored permanently as a preventive measure. In the absence of organized custody visiting, such control should be exercised internally by the MoI, as it is clear that the two years in which custody visiting was discontinued, have had a pronounced negative impact on this criterion.**

## 2.7. Reception of Citizens at RPDs

**A** new element in this phase of the project was monitoring of administrative service provision and reception of citizens at RPDs. In the ten months covered by the present report, custody visitors conducted 238 interviews with citizens who had come to the RPDs to receive administrative services or report a crime. Most of the citizens interviewed described the attitude of police officers towards them as kind and professional.

The main findings of custody visitors with regard to the RPDs' facilities can be summarized as follows:

- In most locations, RPD buildings are easily accessible to the citizens;
- Apart from affecting police officers' working environment and the quality of detention facilities, poor conditions at RPDs' facilities are also an obstacle to proper service provision to citizens:
  - ✓ the vast majority of RPDs lack dedicated premises for conducting confidential interviews with victims of crime;
  - ✓ there are no waiting rooms, which emerged as a particular problem during the recent ID renewal campaign;
  - ✓ in the absence of specially designed premises for police lineups, police officers use makeshift facilities such as repurposed doors, curtains or other partitions, which could place victims of crime at a risk of being recognized.
- Some RPDs lack ramps or special elevators to ensure equal access to people with disabilities.

The main findings of custody visitors with regard to **service provision to citizens** can be summarized as follows:

- generally no provisions are made (through a dedicated phone line) to collect feedback from citizens who had been provided administrative services at RPDs;
- police officers do not wear badges with their name and rank, and quite often fail to identify themselves;

- at most RPDs, the working hours of administrative service provision offices are not flexible and are inconvenient for citizens as they coincide with the standard working hours;
- at some RPDs there are no signs or information boards indicating the different administrative service desks and the services they provide.

In the end of the project very few recommendations issued by custody visitors with regard to administrative service provision have been taken into consideration. Some RPDs, for instance, had information signs installed and improved to some extent the process of collecting feedback from citizens.

Although many findings in this area have to do with the poor conditions at RPDs' facilities, the improvement of which requires considerable financial resources, the problems that exist in the service provision process itself are a matter of management and require just better internal organization, rather than funding.

### 3. RPDs' Facilities

Only 19 RPDs (less than one fourth) out of a total of 80, included in the monitoring project as having the largest number of detained persons, meet the requirements of Instruction No I3-1711 of September 5, 2009 with regard to the number and type of detention and service premises, as well as the necessary equipment in them.

Similarly to the previous phase of the project (2007–2008), only partial improvement was achieved with regard to the facilities for detention at RPDs. As of August 2008 **only 6 RPDs** under the jurisdiction of the Sofia Police Directorate and the District Mol Directorates Plovdiv, Varna and Bourgas **met to a satisfactory extent the statutory requirements for the number of detention premises and equipment**. These included 4th, 6th and 9th RPD in Sofia, the Kameno RPD in Bourgas, and 1st and 3rd RPD under the jurisdiction of the District Mol Directorate in Plovdiv. **Since August 2008, this number has increased by eight RPDs (1st RPD in Varna, 5 RPD in Plovdiv, the RPDs in Trud and Karnobat, as well as 2nd, 3rd, 7th and 8th RPDs under the jurisdiction of the Sofia Police Directorate).**

In Dobrich, Pazardjik, Stara Zagora, Haskovo, Sliven and Pernik, which had not been monitored before under the custody visiting project, only 5 RPDs met the statutory requirements to a satisfactory extent<sup>4</sup>.

**On the whole, the RPDs' facilities are substandard. Total renovations, which have improved working and detention conditions at RPDs, have been carried out in only eight of the RPDs monitored under the project. In most cases, 16 RPDs, only partial refurbishments have been made, which on the whole have not lead to meaningful improvement of neither detention facilities, nor police officers' working conditions.** These refurbishments have been rather "cosmetic" and involved paint-

<sup>4</sup> For more information, see Annex 3.

ing, installing PVC window frames, replacing flooring etc. Seven RPDs have approved plans for renovation works, which have not yet begun, while six RPDs have been allocated to other buildings<sup>5</sup>.

Despite renovations that have taken place, the premises at most RPDs still do not meet statutory requirements. There are not enough detention facilities, while the equipment is outdated and in poor condition. Efforts have been made to organize service premises, while at some RPDs signs were also placed. Nevertheless, the practice of using the same premises for different purposes – visits by relatives, meetings with attorneys, interrogations – still persists. So does the particularly negative practice of conducting interrogations at police officers' offices, which are not equipped for this purpose, have no video or audio recording equipment, and quite often contain material evidence, which can be used for coercion and abuse of force (baseball bats, cable, firearms). Wherever interrogation rooms exist, it is imperative that interrogations be held there, rather than at police officers' offices.

**A positive development that should be noted is that renovation works were being planned at many RPDs included in the project.** The RPD in Provadia, for instance, has planned to reorganize the premises on the ground floor of the building; at 2nd RPD in Varna planned renovation works include refurbishing interrogation rooms, premises for relative and attorney visits, as well as the reception area; at 4th RPD in Varna there are plans to reorganize one of the floors and renovate part of the roof; 5th RPDs in Varna has planned to renovate detention facilities in view to bringing them in line with statutory requirements. Measures have been taken to relocate the 5th RPD in Bourgas to another building and organize detention premises on the ground floor in line with statutory requirements. The idea is to use these premises for detainees from four Bourgas RPDs. The project is currently in the planning stage. It should be noted, however, that quite often planned renovations cannot be completed due to budget restrictions. Such is the case, for instance, with RPDs in Karlovo, Asenovgrad and Stamboliyski.

A matter of particular concern is that throughout the reporting period, many minor renovations at RPDs have been **financed with contributions by police officers, individual citizens or sponsors**. For instance, at 6th RPD in Plovdiv, a new restroom for detained persons was constructed with funds, which police officers had raised from sponsors. In the same way, a ramp for people with disabilities was installed in front of the passport service unit at 4th RPD in Plovdiv. Police officers at 9th RPD in Sofia have paid for replacing the restroom sink in one of the detention premises. Officers at 4th RPD have collected money among themselves to add to the funds donated by a company and purchase an air conditioner. Two offices at the Hissarya RPD have been renovated with personal funds by police officers.

A serious problem, which has been mentioned by many police officers, is the lack of office equipment, office supplies, fuel and consumables. This problem is also

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<sup>5</sup> For more information, see Annex 3.

addressed mainly with personal funds and donations. For example, a bank has donated 50 PCs to the 1st RPD in Sofia.

Human resources at RPDs are also limited. Due to insufficient staff at RPDs under the jurisdiction of the Sofia Police Directorate and the District Mol Directorates in Pernik, Varna and Dobrich, existing officers have to take additional shifts and have accrued time-off, which they had not been able to use for years. Police officers at RPDs in Radomir, Breznik and Trun have alerted that retiring officers are not being replaced by new appointments and the staff is gradually shrinking, which creates problems in the normal police work. It should be noted, that the Mol cannot solve the problem with inadequate budget allocation and overstaffing by mechanically eliminating police officer positions whenever someone resigns or retires, because this exacerbates rather than address the problem with the disproportionate workload of police officers. Staff cuts should be based on professional workload evaluation and should be made only at RPDs where police work standards could be met with less staff.

In the beginning of the project in August 2010, hygiene at most RPDs was not satisfactory but following the systematic and persistent recommendations by custody visitors, **partial improvement has been registered.**

All these problems affect normal police work and have a negative effect on police officers' motivation, leading to professional burnout and impacting their performance.

## IV. CONCLUSIONS AND RECOMMENDATIONS

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The leadership of the District MoI Directorates and the RPD chiefs consider the recommendations included in the consolidated custody visiting reports and make efforts to address problems related to securing detention facilities and service premises, improving hygiene, streamlining detention-related documentation.

There is a need for increasing the number of staff at some RPDs, reducing the number of detention-related registers, and undertaking renovation works that would improve detention conditions and the provision of quality services to citizens.

Based on the problems identified in the course of the project, the following main recommendations can be made:

### Police Violence Prevention:

1. Amend the MoI Act to eliminate provisions that allow police officers to use force and weapons in circumstances, which contradict the European Human Rights Convention.
2. Strengthen the capacity of the Chief Security Police Directorate to conduct regular preventive inspections and ad hoc inspections following complaints against abuse of force by police officers (the recommendation was first made in 2006).
3. Ensure permanent internal control on behalf of the Prosecution over detention conditions and the implementation of legislative standards with regard to 24-hour police detention.
4. Modernize the system for considering citizens' complaints (the recommendation was first made in 2006 and reiterated in 2007–2008).
5. Publish, in the MoI bulletin and website, consolidated data on complaints against abuse of force by police officers, investigative activities undertaken and conclusions made (the recommendation was first made in 2006 and reiterated in 2007–2008).
6. Include, in MoI annual reports, statistical data on the use of force and weapons by police officers on and off duty. Keep video surveillance tapes at RPDs for at least 3 months (rather than just 20 days, as is currently the case).
7. Install alarm buttons in all detention premises.

8. Ensure that police officers are systematically instructed at the beginning of their shifts to abide strictly by the law and the code of ethics, and avoid excessive use of force.
9. Review previous actions and instances during RPD briefings and discuss thoroughly mistakes and omissions made.
10. Follow newly published research papers on police violence and inform police officers about their findings and results in order to improve staff qualification.

**Based on custody visitor findings for the period 2007–2008, a total of six recommendations related to abuse of force by the police have been made, only one of which has been implemented in full: the Optional Protocol to the UN Convention against Torture has been adopted and ratified. A second recommendation has been partially implemented, involving the introduction of video and audio recording during interrogations at RPDs with newly established or renovated interrogation rooms<sup>1</sup>.**

### Legal Aid:

1. Ensure 24-hour access by phone of RPDs to local bars in order to streamline the appointment of attorneys for each case of detention. Eliminate the practice of sending a list of attorneys assigned under the Legal Aid Act at RPDs.
2. Register each communication with an attorneys assigned under the Legal Aid Act or the local bars in the Declaration and the Register of Visits, as required by Instruction No I3-1711 of September 5, 2009.
3. Report cases of attorney “no-show” to the local bars.
4. Organize additional training for police officers on the provisions of the Legal Aid Act.
5. Ensure that RPD chiefs monitor the performance of police officers in explaining in detail the rights of detained persons to free legal aid, food, visits by relatives etc. (the recommendation was first made in 2007–2008).

**Based on custody visitor findings for the period 2007–2008, a total of three recommendations related to legal aid were made, none of which has been implemented so far.**

<sup>1</sup> A detailed list of recommendations is available in the interim custody visiting report for the period 2007-2008 - [http://osi.bg/downloads/File/2012/1/Doklad\\_GB\\_reduce-2.pdf](http://osi.bg/downloads/File/2012/1/Doklad_GB_reduce-2.pdf)

## Medical Assistance:

1. Amend the Public Health Act to include provisions specifying which doctor should be summoned to provide medical assistance to detainees and who should pay for the visit if the detained person has no health insurance and the case is not a matter of emergency (the recommendation was first made in 2007–2008).
2. Regulate the interaction between RPDs and emergency care units; preserve the existing practice of providing medical assistance through the emergency medical service centers or assign duty physicians to each District Mol Directorate, who would be available on a 24-hour basis.
3. Organize specialized training for Operative Duty Unit supervisors on how to handle in safety the detention of people who are mentally ill or dependent on addictive substances and create possibilities for providing ad hoc instructions to police officers (the recommendation was first made in 2007–2008).
4. Improve the coordination between mental health services and RPDs in cases involving detention of people who are mentally ill or dependent on addictive substances.
5. Supply RPDs with straitjackets and other restraints (the recommendation was first made in 2007–2008).

**Based on custody visitor findings for the period 2007–2008, a total of thirteen recommendations related to the provision of medical assistance were made, none of which has been implemented by the Mol leadership.**

## Awareness of Detainees of Their Rights:

1. Produce a video clip explaining the rights of detained persons to be shown to detainees or played in detention premises or during document processing. Produce multi-language versions of the video clip.
2. Elaborate unified regulations on the internal order and procedures to be observed at RPDs.
3. Organize an information campaign among students to raise awareness of the rights and obligations of minors in case of detention.
4. Amend Instruction No I3-1711 of September 5, 2009 to include a provision regulating the procedure for documenting changes in detainees' statements made in the declaration of rights.



## Budget, Facilities and Human Resources at RPDs:

1. Conduct annual external assessment/audit of funds appropriation, police officers' allocation on a regional basis, and police work efficiency.
2. Adopt the special security "remote detention facility" model and convoy detained persons there to address the lack of detention facilities in the existing building stock (the recommendation was first made in 2007–2008).
3. Adopt a joint instruction between Mol and the Prosecution, introducing common standards for keeping evidence at RPDs.
4. Eliminate existing limits on fuel, consumables, office supplies, toilet paper and phone calls at RPDs (the recommendation was first made in 2007–2008).
5. Reinstate the position of "detention officer" responsible exclusively for persons held in custody at RPDs (the recommendation was first made in 2007–2008).
6. Introduce fines for police officers, citizens and detained persons who do not abide by the internal regulations at RPDs and do not keep premises clean.
7. Establish a procedure for sanitizing blankets used by detained persons. Use local public laundries to speed up the procedure and avoid excessive costs.

**Based on custody visitor findings for the period 2007–2008, a total of fifteen recommendations related to RPDs' facilities and human resources have been made, only three of which have been implemented so far: detention premises at RPDs with adequate space have been renovated, video cameras have been installed at RPDs, and the practice of registering the provision/refusal of food to/by detainees has been introduced.**

## Access to an Interpreter:

1. Introduce secondary legislation to regulate the provision of interpreters at the level of District Mol Directorates and allocate fund to cover related costs. This could be done in cooperation with the Union of Translators or the different diplomatic missions. Compile a list of interpreters

who can be accessed on a 24-hour basis (the recommendation was first made in 2007–2008).

2. Ensure sign-language interpreters for hearing-impaired persons by cooperating with teachers at schools for hearing-impaired children or with organizations working in this field.
3. Improve police officers' language skills by organizing foreign language training (for instance by encouraging police officers to apply to EU human resource development programs in this area).

**Based on custody visitor findings for the period 2007–2008, a total of four recommendations related to the provision of interpretation have been made, only one of which has been implemented so far: a brochure in several languages on detainees' rights during 24-hour detention has been published.**

## Keeping Registers and Detention Related Documentation:

1. Introduce an information system (a software product) to input data on detained persons. The system should allow for printing out the entire file on a given detainee and retrieving specific data as required. Create better opportunities for remote access to the system by patrol officers, for instance, who currently have to communicate with the RPD officer on duty for each police check (the recommendation was first made in 2006 and reiterated in 2007–2008).
2. Reduce the number of registers and streamline detention-related documentation<sup>2</sup> (the recommendation was first made in 2006 and reiterated in 2007–2008).
3. Translate detention-related documentation into foreign languages. Thus, even if no interpreter is available at the time of detention, the detained foreign national could be informed of his or her rights from these documents.
4. Introduce carbonless forms for the required detention documents, capable of producing the required number of duplicates without the use of carbon paper.

<sup>2</sup> See for instance Annex 4, which was elaborated by custody visitor Elena Nikolova and gives an example of how can the documentation be optimized.

**Based on custody visitor findings for the period 2007–2008, a total of seven recommendations related to detention registers and documentation were made, none of which has been implemented.**

## Improving Administrative Service Provision:

1. Review and evaluate the range of administrative services provided by the Mol and eliminate those of them that are irrelevant to its activities.
2. Develop a concept for reforming administrative service provision at RPDs – front offices, one-stop shop, electronic services, virtual reception rooms, technical support. Services related to issuing and renewing identity cards and passports, for instance, can be improved by publishing online the forms, so that users may print them out and fill them in beforehand.
3. Facilitate the access of people with disabilities to RPDs by installing ramps and other facilities guaranteeing equal access for people with disabilities.
4. Designate separate entrances for citizens and for detained persons at all RPDs; create appropriate conditions for ensuring confidentiality, especially when it comes to dealing with victims of crimes.
5. Ensure that officers providing administrative services wear badges at all times.
6. Provide opportunities for online submission of complaints against violations and online feedback.
7. Issue receipts with reference numbers for all complaints or administrative service applications right after their submission to RPDs.
8. Provide detailed information to citizens (through information boards, websites, brochures) on the procedure for lodging complaints and receiving administrative services.
9. Publicize the activity of the local Public Order and Security Commissions.

**A total 53 recommendations were issued under the custody visiting project for the period 2007–2008. Only 6 of them have been implemented so far.**

# V. ANNEXES

## Annex 1

Criteria/ Change Registered	No Change	Partial Improvement	Improvement	Partial deterioration
Separate premises for minors /women/men/ people suffering from contagious diseases		X		
Separate service premises		X		
Equipment of detention premises	X			
Condition of RPDs' facilities		X		
Police officers' working facilities	X			
Hygiene		X		
Awareness of detainees of their rights	X			
Access to legal aid				X
Provision of medical assistance	X			
Provision of an interpreter	X			
Provision of food to detainees				X
Keeping detention related documentation	X			
Attitude of police officers towards detained persons			X	
Complaints against use of force			X	

## Annex 2

RPDs	Total RPDs	Total number of custody visitors	Total number of visits	Visits on week days	Visits on weekends	Number of detained persons interviewed	Number of citizens interviewed
Varna	8	30	139	100	39	40	39
Dobrich	8		97	77	20	15	19
Plovdiv	13	36	127	68	39	43	32
Pazardjik	5		67	58	29	29	27
Bourgas	16	25	164	135	29	15	43
Stara Zagora	6	52	60	54	6	4	14
Haskovo	6		42	34	8	8	6
Sliven	4		31	18	13	11	4
Sofia	9	53	260	192	68	225	46
Pernik	5		48	24	24	18	8
<b>Total:</b>	<b>80</b>	<b>196</b>	<b>1035</b>	<b>760</b>	<b>275</b>	<b>408</b>	<b>238</b>

## Annex 3

RPD	Total RPD	New building	Total renovation in line with statutory requirements	Partial renovations	Renovation in progress	Total number of RPD that meet statutory requirements at the moment	RPD that had met statutory requirements in the previous phase	Change
Varna	8	1st RPD	0	2nd RPD, 5th RPD, RPD–Aksakovo	RPD–Provadia, Aksakovo	1st RPD	0	1 more
Dobrich	8	0	0	RPD–Shabla, 1st RPD, 2nd RPD	RPD–Albena	0	Not applicable	
Plovdiv	13	5th RPD, RPD–Trud	0	1st RPD, 4th RPD, 6th RPD, RPD–Hissarya	6th RPD	1st RPD, 3rd RPD, 5th RPD, RPD–Trud	1st RPD, 3rd RPD	2 more
Pazardjik	5	0	RPD–Pazardjik	RPD–Peshtera, RPD–Septemvri	0	0	Not applicable	
Bourgas	16	0	0	2nd RPD	4th RPD, RPD–Nessebar, RPD–Aytyos	RPD–Kameno, RPD–Karnobat	RPD–Kameno	1 more
Stara Zagora	6	2nd RPD	0	RPD–Kazanluk	RPD–Radnevo	2nd RPD	Not applicable	
Haskovo	6	0	RPD–Haskovo	0	0	RPD–Haskovo	Not applicable	
Sliven	4	0	RPD–Sliven	RPD–Sliven	0	RPD–Sliven	Not applicable	
Sofia	9	7th RPD	2nd RPD, 3rd RPD, 4th RPD, 8th RPD	1st RPD, 6th RPD	0	2nd RPD, 3rd RPD, 4th RPD, 6th RPD, 7th RPD, 8th RPD, 9th RPD	4th RPD, 6th RPD, 9th RPD	4 more
Pernik	5	1st RPD	2nd RPD	0	0	1st RPD, 2nd RPD	Not applicable	

# ANNEX 4

## Draft Form Consolidating Annexes No 3, 7 and 8 of Instruction No I3-1711 of September 5, 2009

### 1. Receipt for personal belongings and money returned to detained persons

The undersigned: .....

.....  
*(full name and surname)*

herewith verify that I have been returned the following personal belongings and money:

a) Personal belongings:

.....  
.....  
.....  
.....  
.....

b) Money: .....

in written: .....

.....

from police officer: .....

.....  
*(position, full name and surname)*

Date: .....

Returned by: .....  
*(signature)*

Received by: .....  
*(signature)*

**2. Money confiscated, received and spent from /for detained persons.**  
**3. Visits held and food and non-food items received.**

Date Time	Full name, surname and Unified Citizen's Number (EGN): a) of detainee b) of visitor	Amounts received (leva)	Amounts spent (leva)	Type of spending and balance (leva)	Signature a) of police officer b) of detainee	Name of officer who has approved the visit  Signature of officer who has approved the visit	Food and non-food items delivered to the detainee: a) through official procedure b) by third parties	Signature of detainee verifying the receipt of food and non-food items delivered by third parties and food provided through official procedure
1	2	3	4	5	6	7	8	9

Detention-related documentation kept at RPDs can be optimized by consolidating: Annex No 3 "Receipt for personal belongings and money returned to detained persons", Annex No 7 "Register of Confiscated, Received and Spent Amounts from/for Detained Persons", and Annex No 8 "Register of Visits and Received Food and Non-food Items" into a single form that can be filled in electronically at RPDs, printed out when necessary, and attached to the detention order.

The Medical Examination Register – Annex No 4 – could also be consolidated with the Register of Detained Persons, by extending the "medical assistance" column and extending the register by 2 cm.



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**HUMAN RIGHTS**

Since 1999, the Law Programme of the Open Society Institute – Sofia has been committed to upholding the principles of the rule of law and human rights protection in Bulgaria. The Programme supports the implementation of the judicial reform in areas that are directly relevant to modernisation of criminal procedure, facilitation of Bulgarian citizens' access to justice, and adoption of the *acquis communautaire*.

Now that Bulgaria is already an EU member state, the Law Programme aims to guarantee the continuation and irreversibility of reforms in the judicial system and emphasizes on improving transparency and accountability in the work of the judicial and law-enforcement institutions. The Programme is conducting surveys, civil-society monitoring of the operation of institutions, evaluation of the effectiveness of the application of newly adopted legislative amendments, and promotion and adaptation of successful foreign practices for effective management in the judiciary and law enforcement.

The Law Programme has established successful partnerships with a wide network of national non-governmental organisations specialised in providing legal aid to vulnerable social groups and in protecting fundamental human rights, as well as with a number of institutions, such as Bulgaria's Ministry of Interior, Ministry of Justice and Supreme Judicial Council.