

# **Assessment Report**

## **On the Conditions and Perspectives of the Institutions for Children in Bulgaria and of the Progress Made in Implementing the Government's Obligations Under the UN Convention on the Rights of the Child**



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## List of Abbreviations

SACP	State Agency for Child Protection
DCMRCJ	Day-care Center for Mentally Retarded Children and Juveniles
HMRCJ	Home for Mentally Retarded Children and Juveniles
HMRJ	Home for Mentally Retarded Juveniles
HMRC	Home for Mentally Retarded Children
HCJPDII	Home for Children and Juveniles with Physical Disabilities and Intact Intellect
HMSCC	Home for Medical and Social Cares for Children
HCDPC	Home for Children Deprived of Parental Care
CBS	Correctional Boarding Schools
SBS	Social Educational Boarding Schools
RBS	Rehabilitation Boarding Schools
SEVI	Social Education Vocational Institutions
SAD	Social Assistance Directorate
CSSCF	Complex for Social Services for Children and Families
MLSP	Ministry of Labor and Social Policy
MES	Ministry of Education and Science
MH	Ministry of Health
SARD	Social Assistance Regional Directorate
RIE	Regional Inspectorate of Education
RHC	Regional Healthcare Center
LCCJD	Local Commission for Combating Juvenile Delinquency
MiMR	Mild Mental Retardation
MoMR	Moderate Mental Retardation
SMR	Severe Mental Retardation
CPA	Child Protection Act
PEA	National Education Act
JDA	Juvenile Delinquency Act

# I. Introduction

This Bulgarian Helsinki Committee (BHC) report presents the dynamics of the development of the institutional child care system in Bulgaria since 2003. On the grounds of its observations and after having acquainted itself with the 2006 Bulgarian government draft report on the UN Convention on the Rights of the Child BHC conducted an assessment of what has been achieved in implementing the obligations undertaken.

The UN Convention on the Rights of the Child (CRC) has been part of the domestic law of the country since 13 July 1991. In conjunction with the provisions of article 44, paragraph 1, letter b of CRC the government of the Republic of Bulgaria shall submit a report on the measures adopted which give effect to the rights recognized by the Convention and on the progress made on the enjoyment of those rights<sup>1</sup>. The initial report was submitted in 1995 Bulgaria was supposed to report on the whole period inbetween. The official report of the Bulgarian government on the progress of the country on the implementation of the obligations undertaken with regard to the rights of the children recognized by the UN Convention on the Rights of the Child had to be prepared as early as in 1998. Although there was a working group of experts from the governmental institutions and the non-governmental sector which in 2004, be it six years late, had to submit the next governmental report on the condition of the protection of the rights of the child in the country, this did not happen. Neither did it happen in 2005. The expectation was to finalize the report in 2006. By November the final report was not finalized. In the summer of 2006 only a draft report was written which was submitted by the SACP and analyzed by BHC<sup>2</sup>.

**Monitoring on specialized institutions and evaluation of the governmental measures adopted under the implementation of the obligations for respecting the rights of the child recognized by the UN Convention on the Rights of the Child** Project, reflected in a report of the Bulgarian government was a one-year project implemented by the Bulgarian Helsinki Committee with the financial support of the MATRA KAP Program of the Royal Netherlands Embassy in Bulgaria.

The Project focused primarily on updating the data about the conditions in 89 children's specialized institutions, special schools and alternative forms of social services for children and juveniles in the country and on the evaluation of the processes of transformation of the institutional care system. In addition, the measures under the provisions reported by the Bulgarian government in the area are also a subject matter of the assessment in this analysis. The project started at the end of 2005. Memoranda of understanding were signed between BHC and MLSP, MES and MH.

In the framework of the monitoring in 2006 the BHC researchers visited: 18 HMRCJ/HMRJ – Sofia, Vidrare, Gorski Senovets, Mihaltsi, Ilakov Rat, Iskra, Gorna Koznitsa, Mezdra, Tarnava, Medven, Kosharitsa, Petrovo, Blagoevgrad district, Petrovo, Stara Zagora District, Sladak Kladenets, Vasil Drumev, Rudnik, Stazha, Gomotartsi; 2 HMRJ at the age of 18 to 35 – Tri Kladentsi and Berkovitsa, 7 HMSCC – Varna, Vetren, Zlatitsa, Kyustendil, Pernik, Shiroka Laka and Shumen; 14 HCDPC – Plovdiv, Orehovo, Chepelare, Stoikite, Shiroka Laka, Barzitsa, Veliko Preslav, Provadia, Shumen, Velingrad, Kyustendil, Dupnitsa, Varna, Ruse, Ruse, Varna; 2 EBS – Rakitovo and Podem, and 22 rehabilitation

<sup>1</sup> Pursuant to the provisions of article 44 of the Convention on the Rights of the Child the States Parties undertake to submit to the Committee on the Rights of the Child reports on the measures they have adopted in the area of protection of the rights of the child within two years of the entry into force of the Convention for the State Party concerned, and thereafter – every five years. In Bulgaria the Convention was ratified by virtue of a decision made by the Grand National Assembly of 11 April 1991 in effect as of 3 July 1991. So far Bulgaria has prepared and submitted only the initial report on the UN Convention on the Rights of the Child.

<sup>2</sup> Prior to the development of this analysis of BHC (November 2006) no official report of the Ministry of the Exterior was submitted despite the efforts made by BHC in agreement with the due procedures. Therefore the analysis of BHC was made on the basis of the draft report submitted by the SACP under the title "Report on the UN Convention of the Rights of the Child". In a letter of the Ministry of the Exterior of 27 Jan 2006, signed by A. Tehov, the director of the Human Rights and International Humanitarian Organizations Directorate, an answer to BHC was given that: "Currently, the Ministry of the Exterior expects a draft report revised accordingly." According to SACP data the deadline for finalizing the governmental revised report on the UN Convention on the Rights of the Child is 31 Dec 2006.

schools, 16 of which are boarding schools – in Harmanli, Vetren, Vratsa, Lovech, Pazardzhik, Rakitovo, Samokov, Dolni Dabnik, Novo Selo, Lom, Berkovitsa, Davidovo, Shumen, Kavarna, Stob and Gabrovo, and 6 of them are not boarding schools – Veliko Tarnovo, Pleven, Velingrad, Varna, Dobrich and Ruse. The BHC researchers visited 1 reformatory boys' home in Boichinovtsi, all 5 Homes for Temporary Placement of Juveniles (HTPJ) – Sofia, Plovdiv, Stara Zagora, Blagoevgrad and Kyustendil. They were also acquainted with the situation with the alternative community-based services system – 7 day-care centers for mentally retarded children were visited – Pernik, Blagoevgrad, Bansko, Stara Zagora, Pazardzhik, Vratsa, Kuistendil and 7 CSSCF – Plovdiv, Stara Zagora, Shumen, Targovishte, Varna, Sliven, Burgas. Within the framework of the project 1 HCJPDII – the one in Lukovit, 2 protected homes – in Razlog and Bansko, and 1 SEVI – the one in Bata, were visited.

## Background of the project

On the one hand, the 2006 draft report on the UN Convention on the Rights of the Child stresses that:

*In practice, the majority of the obligations under the Convention undertaken by the States Parties in relation to the implementation of its provisions have been implemented by Bulgaria even at the point of ratifying the Convention in 1991. Before the changes in the Child Protection Act (CPA) and the adoption of the subordinate legislation regarding the implementation of the Act an overall review of the CRC was conducted so that the legislation is in conjunction with it. A detailed analysis of the measures appropriate for its practical implementation was carried out. The debates accompanying the adoption of the Child protection Act gradually made the child's policy a priority for the Bulgarian governments after 1999.*

***From the report on the UN Convention on the Rights of the Child***

On the other hand, the criticism expressed in the EC monitoring reports continues. The last comprehensive monitoring report on the state of preparedness for EU membership of Bulgaria and Romania of 26 September 2006 identified problematic issues that require additional efforts in the area of child protection in Bulgaria. The document emphasizes that there has been a considerable progress in the sphere of child protection, but additional efforts are still needed.

*In May 2006, a specialized unit at the Inspectorate at the Social Assistance Agency was set up to supervise and monitor the institutions the institutions for elderly people and children. In June 2006 monitoring of the program "Assistants of people with disabilities" started. In this framework, training for parents with children with disabilities is also taking place. The rules for implementation of the Law on Social Assistance were amended to enhance the development of alternative services for children. Monitoring of homes for children with disabilities continued. However, certain concerns persist. In many institutions, living and sanitary conditions remain at a very low level. The established specialized unit in the Inspectorate at the Social Assistance Agency needs to be further developed in order to carry out a satisfactory level of monitoring. Provisions have to be taken to address the results of that monitoring appropriately.*

***From the EC Comprehensive Monitoring Report, 26 September 2006***

The BHC project was based on preliminary observations and data, according to which despite the important changes that were adopted in the legislative framework and in the governmental policy in the area of protection of the institutionalized children, there is no sufficiently efficient process of deinstitutionalization, reintegration and of educational integration of the children with developmental difficulties. The criticism in the area of protection of children is mainly due to a lack of a systematic change that would lead in practice to a considerable decrease in the number of children institutionalized and to an efficient development of a system of alternative community-based services. Just like with previous researches, with this one again BHC found that there are discrepancies between the statistical data of the responsible governmental institutions, while their interpretation does not reflect the overall

situation.

The project's thinking was that under the appropriate conditions and with focused socialization, training and corrective and compensatory activities, with adequate early diagnostics and systematized updates in the therapy of mentally retarded children with accompanying neurological problems and mental disabilities, most of the children in the institutions would be fully capable of demonstrating social, and some of them academic achievements. Within the framework of the project a consultant was hired – a child's psychiatrist, an expert's report was used drafted by the BHC Legal Program experts, who conducted their own researches and gave their recommendations for the directions of the reform in the institutionalized child care system for children at risk in Bulgaria.

### **Goals of the project**

Through its analytical assessment of the condition and the perspectives for the children's institutions in Bulgaria, and of the progress in the implementation of the governmental measures undertaken under the UN Convention on the Rights of the Child BHC, which has been observing consistently the status of the child protection activities in the institutions since 2000, would like to assist for:

- ◆ Reformatting the process of institutionalization and gradual transformation from the governmental institutions-based to community-based services for the vulnerable children.
- ◆ Support for the development of a system to monitor how the children's rights are respected at the institutions, and for enhancing the quality of services provided to children.
- ◆ Promotion of models for alternative care for children and juveniles, and building partnership between the governmental and non-governmental structures.
- ◆ Systematic exchange of information and advocacy in the sphere of protection of children's rights.

### **Approach of the project**

The BHC project on monitoring the condition of the children's institutions and evaluation of the implementation of the governmental measures in the area of the reform of the children's institutions in Bulgaria is implemented throughout the country. Based on questionnaires that were developed in advance a survey was conducted in the system of the institutions for children and juveniles through the methods of evaluation, interviews with members of the staff of governmental and municipal institutions, with parents and children from children's homes, research of documents profiling the organization of work, the activities in the specialized institutions and the alternative forms of social services. The BHC evaluation covered a wide range of issues, such as: procedures and practices for placement at the institutions; facilities; medical services; training; correctional and resocializing activities; human resources, documents and control. The monitoring structure was developed at the beginning of the project.

There were four thematic focuses for the BHC researchers in the specialized all-year institutions for children:

- ◆ Activities on restructuring the specialized institutions for children (plans developed and pre-project researches conducted for the necessary refurbishment works and training needs assessment for the staff, capacity building, alternative services).
- ◆ Improvement of the quality of the child care for the institutionalized children (change of the models for the services – individualized care, providing for environment similar to the family environment, preparation of the children for their social integration – independent life, multidisciplinary teams).
- ◆ Deinstitutionalization (decrease in the number of children in the institutions – forms of reintegration).



- ◆ Educational integration of children with disabilities (development, deficiencies, impeding factors for the inclusive education of children with special education needs, the role of the resource teacher, interaction with the teachers from the mainstream and the rehabilitation schools).

The specific focus of the project was the respect of human rights in the system of the specialized children's institutions, as envisaged by the UN Convention on the Rights of the Child, and the fulfillment of the obligations on behalf of state party. The BHC research puts a stress on the evaluation of the specific results achieved in each and every one of the specialized institutions as far as the application of the requirements of the UN Convention on the Rights of the Child is concerned:

- ◆ Right to life. Conditions for the mentally retarded children to grow up adequately diagnosed and provided with the necessary health care, educated, informed, socially integrated, in an environment of safety, security and support from the family and the community.
- ◆ Recognition of the right of each physically or mentally retarded child to enjoy a full and decent life, in conditions which facilitate the child's active participation in the community. Integration in the mainstream education system and access to quality education strengthening the development of their potential.
- ◆ Regular control over the procedures for placement and upbringing.
- ◆ Access to different forms of recreation, sport and cultural activities.
- ◆ Decrease in the death rate among disabled children.
- ◆ Respect of the right of the child to have personal connections and direct contact with their parents.
- ◆ Protection from any arbitrary and illegal interference with the child's private life.
- ◆ Protection from any form of physical or psychological violence, injury or abuse, lack of care or negligence, maltreatment or exploitation, including sexual abuse.
- ◆ Ensuring of alternative cares for children deprived of family environment (foster placement, adoption or placement in suitable institutions).
- ◆ Ensuring that the adoption is authorized only by the competent authorities, measures against any abuse of inter-country adoption.
- ◆ Right to use of the highest attainable standard of health services and of treatment of illness and rehabilitation of health.
- ◆ Ensuring the right to preparation for employment and recreation opportunities in a manner conducive of the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.
- ◆ Protection from torture or other cruel and degrading treatment.
- ◆ Ensuring that arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort. Every child deprived of liberty shall be treated with humanity and separated from adults, as well as ensured the right to prompt access to legal and other appropriate assistance. Measures for the physical and psychological recovery and social reintegration of children victims of any forms of neglect, exploitation or abuse, injuries or any other form of cruel treatment.

The steps in implementing the project from January to October 2006 were as follows:

- ◆ Identification of the problematic areas in the sphere of the protection of the children's rights and their social integration. On the basis of the monitoring conducted at 89 specialized institutions, special schools and alternative forms, reports were developed on the conditions in each of the children's institutions evaluated.
- ◆ Finding what the measures taken by the government with regard to reform in the institutionalized child's care system are.
- ◆ Summary of the data and analysis of the information about the degree of implementation and

the quality of the measures taken.

## Monitoring team

The research activities and the evaluation were carried out by a team composed of: Antoaneta Nenkova – project coordinator, Slavka Kukova - researcher, Aneta Mircheva – BHC attorney, Dr. Desislava Ivanova-Genova – children’s psychiatrist, BHC consultant, Milena Panayotova – BHC researcher, Stanimir Petrov – BHC researcher, Krasimir Kanev – BHC chairperson. Representatives of the MLSP, MES and MH regional structures were included in the BHC monitoring, along with the municipal and district administrations.

## General conclusions

The situational analysis of the current conditions in the children’s institutions and the evaluation of the measures taken by the government answered some fundamental questions:

**What is the status of the process of deinstitutionalization and decentralization in the children’s specialized institutions under the provisions of the Child Protection Act?**

**Why the inclusive education is not yet an alternative to the rehabilitation schools? What should be done with the rehabilitation schools and what changes are necessary to the legislation governing the education of children with special education needs?**

**The juvenile delinquents – what is the meaning of placing them at SBS and CBS?**

In search of the answers to all those questions BHC found:

- ◆ **The homes for children and especially the institutions for mentally retarded children have not been turned into a major engine of the reform of the institutional care.** For now the functional development of two-thirds of HMRCJ remains unchanged to a considerable degree. The staff is interested in preserving, and even increasing the number of the inmates, because the salaries of the HMRCJ staff still depend on the number of the institutionalized children.
- ◆ **The children from HMRCJ remain an isolated group of outsiders without any perspectives for social and educational inclusion.** The mechanism of social exclusion for the children from institutions is still in effect. The absence of a developed alternative care system, to which children from risk families have access, and, naturally, the economic and social transition of the country, are the basic factors for the ongoing placement of children in institutions. No systematic change has been established which would lead in practice to a considerable sustainable decrease in the number of the inmates in the institutions and to the effective development of the alternative system of community-based services.
- ◆ **The major problem of the institutionalization of children in Bulgaria is the duration of their stay.** The data about 19 of the 20 HMRCJ/HMRJ visited shows that 81.1% of the inmates placed there have been staying at the institutions for more than 3 years. Despite the legislative changes and the identified measures for deinstitutionalization the doors of HMRCJ remain open. While the way out of there usually leads to the next institution, rather than to the community.
- ◆ **Institutionalization away from the public’s eye remains the basic form of care for severely disabled children neglected by their parents.** 17 out of 20 HMRCJ and HMRJ visited are still located in small villages in economically depressed regions. The practice of institutionalization in HMRCJ based on social indicators has not been interrupted. The data about the family status shows that the majority of the children are neglected, children to

single parents, children to large families, children of unemployed. In 7 HMRCJ/HMRJ BHC established that children with intact intellect were institutionalized – Gorski Senovets, Mihaltsi, Vidrare, Kosharitsa, Medven, Berkovitsa, Strazha. After a report filed by BHC and prompt reaction on the part of Burgas SARD and Burgas RIE two of the inmates in HMRCJ – Kosharitsa were relocated to HCDPC and included in the inclusive education curriculum at the mainstream school. The opportunities for social and educational inclusion, however, remain limited despite the trend of “opening up” the children’s home in the last years.

- ◆ **For a real, though limited, deinstitutionalization, a result of the efforts of the government, could be considered mainly HCDPC.** In 2006 MES closed down 15 homes of that type. The percentage of the reintegrated children from HCDPC is the highest – mainly in their biological families. In its research in 2006 BHC registered maintenance of the status quo in HMSCC. Although the rate of adoption of children from HMSCC is the highest, the doors of this type of institution remain widely open, the number of the inmates there remains unchanged. There have been no HMSCC closed down so far – there are 32 of them. For the period 2003 to 2006 MLSP in practice closed down 3 social all-year homes for mentally retarded children – the ones in Fakia, Dzhurkovo and Dobromiritsi. The homes reported as closed down – HMRCJ – Pazardzhik, HMRJ – Tri Kladentsi and HMRCJ – Berkovitsa, have only changed their “labels” – from homes for children, they have been transformed to one day-care home and two homes for juveniles. In practice, this is simulation of deinstitutionalization. The home in Pazardzhik has been announced as day-care center – and it has been functioning as such since its establishment. The homes in Tri Kladentsi and in Berkovitsa renamed from homes for children into homes for juveniles, where transformational changes have been registered (*functional restructuring, overall refurbishment and new furniture of the rooms in HMRJ – Tri Kladentsi; building of a protected home with a capacity of accommodating 8 people and of a center of a family type with a capacity of 15 children in HMRC – Berkovitsa*), remain institutions – the majority of the children that grew up in those homes are still living there. Adoption, reintegration in the biological families and in the families of relatives and friends, and the foster families in particular are not yet practical alternative to the HMRCJ. Closing down of any of those homes for mentally retarded children would not bring about these forms of deinstitutionalization. The children from those specialized institutions of detention do not leave the institutionalized system – they are just moved to other homes.
- ◆ **There is not any good coordination between the three responsible ministries and the two agencies for the deinstitutionalization and decentralization of the children’s institutions under the provisions of the Child Protection Act – MLSP, MES, MH, SACP and SAA.** The issue of the future status of the children’s institutions has not yet been resolved. So far only HMRCJ have been decentralized, for all HCDPC only principle consent has been reached with MES, while according to MH only 6 out of 32 currently existing HMSCC should be decentralized.
- ◆ **The transformation in the children’s institutions does not progress at the necessary fast pace.** Two-thirds of the 20 HMRCJ/HMRC visited by BHC, for example, are in a “dormant” state. The activities regarding restructuring of these specialized institutions are usually limited to carrying out superficial renovation works and refurnishing the homes with the assistance of donors. No current preliminary prospecting has been conducted for the necessary reconstructions. The existing training needs assessment for the staff and the needs for new appointments remain on paper only. The necessity of individualization of the child care model in the institutions has not been fully digested.
- ◆ **The educational segregation because of disabilities is a very poignant problem for Bulgaria.** According to MES data only 1,538 children with special education needs are included in the process of education in the mainstream schools in the school year 2005/2006. The comparison with the total number of the disabled children of up to 18 years of age included in the statistics, which is 18,512, brings us to the conclusion that the prevailing number of the disabled children has been excluded from the process of education in the

mainstream schools. The mentally retarded children brought up in HMRCJ in practice remain “uneducable” despite the legislative guarantees for their inclusion in the system of general education.

- ◆ **As of 2007/2008 only half of the rehabilitation schools is supposed to function – the ones that are located in the district towns.** They have to draw up plans for their own development. According to MES data out of the 62 existing rehabilitation schools 36 are also boarding schools, i.e. the social services they are offering are of benefit to the children at least 9 months throughout the year. Despite MES efforts to reconsider the format of the boarding schools and in assistance with the Child Protection Departments under SAD to bring the children from the rehabilitation schools back to their families for the weekends, for now most of the children from the rehabilitation schools remain separated from their family environment. This makes this type of special schools specialized institutions. The absence of adequate education, which is the BHC conclusion about the quality of the process of education in the rehabilitation schools, causes institutionalization of the students that went through the specialized schools. The RIE resource centers have not yet become the real alternative to the rehabilitation schools because of shortages of the legislative framework and of the administrative capacity.
- ◆ **“Correctional institutions” – social educational boarding schools and the educational boarding schools turn the stigma of socially inadaptible and dangerous to the society individuals to destiny for the children taught in them.** Despite the progress made with regard to the guarantees against arbitrary placement in the institutions achieved by virtue of the amendments to the JDA adopted in July 2004, a number of the serious problems in the system continue to occur as persistently as before. In SBS and CBS a number of violations have been established with regard to the placement, as well as shortages of the delivery of adequate education and cares. A particularly poignant problem is the violation, which is a common practice in many of the boarding schools. The social segregation, which is a result of the current model of work of the correctional schools, generates criminality and growing exclusion. The children brought up in segregation do not acquire social skills for development in a normal environment; very often the syndrome of the institutionalization brands them for good. The overall impression of the legislative changes adopted in the past years is that they aim rather at justifying and providing for the future of the existing educational schools, rather than looking for more adequate mechanisms for prevention and correction of the juvenile delinquency. The new regulation does not impede the vicious practice to mix two categories of children at SBS and CBS – juvenile delinquents and children victims of violation and crimes. The illiteracy rate of the children from SBS is higher than the illiteracy rate of children from the mainstream schools. The monitoring through 2005 and 2006 has shown that the majority of the children from SBS have been placed only due to social reasons and they do not need educational measures, but rather protection measures.
- ◆ **Reformatory boarding schools which are part of the penitentiary system for juveniles** who have been imposed detention measure and for minors with sentences that have been entered into effect remain far from meeting the international standards.

## II. Situational analysis of the processes of restructuring the institutional child care system

According to BHC, the institutional child care system in Bulgaria includes the following institutions:

- ◆ **HMRCJ/HMRC, HCJPDII, HCDPC and HMSCC** (homes for mentally retarded children and juveniles, homes for children with physical disabilities and intact intellect, homes for children deprived of parental care, homes for medical and social cares for children) – these are the specialized institutions where the placement of children is carried out by virtue of a court decision under the provisions of the Child Protection Act (CPA).
- ◆ **SBS and CBS** (social educational boarding school and correctional boarding schools) – rehabilitation and educational schools where institutionalization is carried out by virtue of a court decision issued under the JDA.
- ◆ **REHABILITATION boarding schools** – special schools for mildly retarded children, which provide primarily social services to poor children of Roma origin.
- ◆ **REFORMATORY SCHOOLS** – places of detention, part of the penitentiary system for juveniles who have been imposed detention measure and for minors with sentences that have been entered into effect.

### 1. General data

#### **Institutions subordinated to the municipality: HMRCJ/HMRC**

BHC received controversial data about the number of children and juveniles placed in HMRCJ in 2005 and 2006

**According to the SACP report, *Evaluation of the specialized institutions for children*, October 2006**, the number of the children placed in HMRCJ in 2005 is 1,310. (NB This number does not include the number of the institutionalized juveniles over 18 years of age, who, however, in practice live in HMRCJ and their number should be factored in the statistics.)

**The data provided by MLSP about the same institutions for the same 2005 in the report “*Policy for deinstitutionalization in the process of joining the EU - status, progress and challenges*”, June 2006**, shows that there are 1,499 children institutionalized in HMRCJ (NB This statistics does not include the number of juveniles in HMRCJ either, but still the data is different from that of SACP.)

**The information provided by MLSP, *Child Protection Activities*, June 2006**, registers that as of 31 May 2006 there have been 27 homes for disabled children and juveniles functioning on the territory of the country *with* 1,691 children, of which:

- ◆ 73 children placed in HCJPDII (home for children and juveniles with physical disabilities and intact intellect);
- ◆ 1,618 children and juveniles – 1,190 children and 428 juveniles placed in HMRCJ.

The discrepancy in the statistics is indicative of the degree of coordination between the state institutions in charge of ensuring the child protection policy. BHC takes the average values to lay the foundation of the analysis made hereinafter. The general conclusion of BHC about the structural and functional development in the prevailing number of the 18 HMRCJ and 2 HMRJ visited is that no considerable progress has been made with these processes. In 2006 BHC established a tendency for a sustainable

change in 7 HMRCJ. There is no real deinstitutionalization. The children from the closed HMRCJ are transferred to other institutions.

### **Institutions of the Ministry of Health: HMSCC**

There are 32 HMSCC functioning throughout the country, most of them located in district towns. According to the MLSP data the number of the children institutionalized in this type of institutions in 2005 is 2,904. According to the SACP data the number is 2,960. In the course of the BHC research 7 HMSCC were visited. The research has shown that the children from 0 to 3 years of age are least affected by the reform for enhancing the well-being of the children in Bulgaria. Institutionalization in this type of homes has the same pace as it had in 2000 when there were no deinstitutionalization measures. Moreover, there was even a trend for an increase in the number of children in HMSCC for the period between 2004 and 2006. HMSCC remain too conservative about the reform from institutionalization to community-based services, as well as about the change in the working approach from entirely medical to psychosocial. By August 2006 there were no plans for restructuring most of the HMSCC visited by BHC. BHC found one-time decrease in the admittance to HMSCC in 2002 – 2003. The BHC theory is that this decrease coincides with the beginning of the process of deinstitutionalization and the regulatory provisions necessary to implement the reform in the area of child protection (amendments to the CPA, expansion of the authorities of the chairperson of the SACP; in September 2003 the Council of Ministers adopted a Plan on decreasing the number of children brought up in the specialized institutions. Deinstitutionalization has been identified as a major priority of the national child protection policy in Bulgaria). As a result, supposedly, there will be steps taken to take out the children over the age of 3 kept in HMSCC and their relocation to other institutions. The legislative framework regarding the adoption has also been amended – tips on adoption under the SARD and the new legislative procedures encourage additionally the process.

### **Institutions of the Ministry of Education and Science where the placement is carried out under the provisions of the CPA: HCDPC**

According to the MLSP data in 2005 the total number of HCDPC was 101. The total number of children placed in HCDPC was 5,255. According to the SACP statistics the number of the children in that same period was 5,506. Currently, there are 86 HCDPC (2 municipal and 84 state homes). According to the MES data as of November 2006 in this type of children's institutions 4,745 children live. In 2006 MES closed 15 homes for children deprived of parental care – the ones in Pobeda, Slatino, Gabril Genova, Orehovo, Chepelare, Gotsal, Skobeleva, Slavyanovo, Leshnitsa, Ugarchin, Georgi Damyanovo, Stoikite, Kalotina, Rila, Zheravna. This decision was made after monitoring conducted by SACP and MES in the past three years on the basis of a mechanism developed by an inter-agency for evaluation of children's institutions. Apart from recently renovated facilities HCDPC do not have any other resources which could help them for a more effective process of restructure. It is still unclear how MES plans to carry out the reconstruction of this type of institutions after 1 January 2007.

### **Institutions of the Ministry of Education and Science where the placement is carried out under the provisions of JDA: SBS and CBS**

The system of correctional and educational boarding schools where institutionalization is carried out by virtue of a court decision under the provisions of JDA underwent considerable changes which to a certain extent made more humane the reformatory measures for the juvenile delinquents, but, on the other hand, failed to refine the juvenile delinquency prevention strategy. As a result of the legislative measures and the consequent decrease in the number of the inmates, the number of SBS and CBS was reduced considerably. Thus out of 8 CBS and 24 SBS in 2000 after the end of the 2005/2006 school year only 5 CBS and 9 SBS were left to work. The decrease in the number of these institutions should be an immediate result from a unified strategy for the improvement of the general conditions there. The BHC monitoring in that area has shown that one of the major reasons for that is the refinement of the procedures for placement of juveniles delinquents and the introduction of judicial control over the acts of local committees. Thus the decrease in

the number of SBS and CBS was not so much the result from the deinstitutionalization strategy, but rather the decrease in the number of educational measures imposed.

### **Institutions of the Ministry of Education and Science where placement is carried out under the provisions of the NEA: Rehabilitation Schools**

According to the MES data as of November 2006 there are 62 rehabilitation schools with 5,939 pupils. There are 36 rehabilitation boarding schools with 2,856 pupils. The remaining 26 rehabilitation schools with 3,083 pupils, are of semi-boarding type (there are afternoon classes).

The official position of SACP, which is the specialized governmental body for the management, coordination and control in the area of child protection, excludes the rehabilitation schools from the system of the institutions in the country. The BHC position is that the trend for the rehabilitation schools of the boarding type to be used as institutions for placement and upbringing of children remains. Despite the official classification, which defines as institutions only the homes and the social educational and the educational boarding schools, where admission is conducted only by virtue of court decisions, the rehabilitation boarding schools which provide almost all-year boarding should also be considered "institutions". The majority of the pupils that stay at the rehabilitation boarding schools live there for 9 months a year due to different reasons – lack of funds, remoteness of the institutions from their hometowns, negligence on the part of the parents. In its monitoring of 2006 in 22 auxiliary boarding schools BHC found that in 16 rehabilitation boarding schools the service is used all year round, including the weekends and holidays. As it was pointed out, not all rehabilitation schools have a boarding house to accommodate all the pupils. Some have a boarding house for part of the pupils only who come from the neighboring villages and they provide primarily week-cares. However, the existence of rehabilitation boarding schools raises an important question about what exactly a rehabilitation school is. Currently, according to the BHC assessment, this is an institution which offers primarily social services – food, shelter, clothes, bath. The rehabilitation schools continue to teach primarily poor Roma children, although there are regions where this trend has gone down or disappeared altogether (Lovech, Gabrovo, Veliki Tarnovo, Vratsa). The children that were placed in rehabilitation boarding schools, away from their families and using almost all year long the boarding house of the schools are in practice institutionalized. In the summer of 2006 MES closed 10 rehabilitation schools. These are the schools in the villages of Ahmatovo, Slavyanovo, Mindya, Lozno, Radostina, Vetren, Chokmanovo (boarding schools) and in the towns of Ruse, Chirpan, Dimitrovgrad (only the last had a boarding school for part of the children). The majority of the children were neglected by their families of Roma origin and they stayed at the schools at least 9 months a year together with their brothers and sisters. MES envisages reconsidering the status of the rehabilitation boarding schools.

### **Institutions of the Ministry of Justice: Reformatory Boarding Schools**

There are two reformatory boarding schools in the country: in Sliven – for girls, and in Boichinovtsi – for boys. These places of detention are part of the penitentiary system in Bulgaria. They accommodate both juveniles with detention measures imposed, and minors with a sentence that was entered into effect.

<b>How far did the reform of the children's institutions progress?</b>
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## **2. HMRCJ: Specific data**

### **2.1. National policy. Administration and legislation**

It is an established fact that since 1998 Bulgaria has started a focused reform in the area of child protection and well-being, the integration of disabled people and people from the risk groups. In compliance with fundamental European directives an entirely new legislation has been adopted harmonized with the European regulatory provisions: 4 fundamental acts, 8 regulations, 13 ordinances, a number of action plans, programs and other acts of the Council of Ministers. By virtue of the fundamental acts the State Agency for Child Protection was established, the Social Assistance Agency, the Agency for Disabled People<sup>3</sup>. The major goals set in the Strategy and the Child's Rights Protection Action Plan for the period between 2000 – 2003 adopted in 2000, as well as the Child's Protection National Strategy for the period 2004 – 2006 are related to:

- ◆ the necessity for improvement of the living conditions for the children in Bulgaria regardless of their ethnic origin and ensuring the protection of their rights; and
- ◆ harmonizing the legal framework on child's rights protection with the EU requirements and development of a unified governmental policy in the sphere of child care and services.

In the period between 2005 and 2006 the Bulgarian government adopted the following documents that lay the stress on the policy for the disabled children and people:

On 15 Dec 2005 by virtue of a decision of the Council of Ministers *2006-2007 Action Plan for Equal Opportunities of Disabled People* was adopted (This plan aims at ensuring conditions for adapting the living conditions and the environment and increasing the mobility of disabled people, refining the child care model for disabled children and ensuring the access to quality education.)

On 15 Dec 2005 by virtue of a decision of the Council of Ministers *a National Child Protection Program for 2006* was adopted. It meets the basic priorities in the area of child protection, identified in the *2004-2006 National Child Strategy* (In the basic priority area of the national program – “Decrease in the number of children brought up in the specialized institutions and improvement of the living conditions there”, different activities are included which are related to development of alternative care and community-based social services for children; improvement of the quality of life for the children placed in the specialized institutions; decentralization of the homes for children deprived of parental care and the homes for medical and social cares for children; reforming the institutions and providing alternative care for children.)

In March 2006 under the *Assistants to the Disabled People National Program* a new priority immediate goal was set: taking out people with permanent disabilities from the specialized institutions through providing them with personal and social assistants in a family environment. With the assistance provided by the directors of the specialized institutions the Social Assistance Directorates have established contacts with the families or relatives of disabled children to acquaint them with the new aspects of the program.

In January 2006 a *Framework Agreement on Ensuring the Coordination between the Institutions Involved in the Improvement of the Living Conditions for Mentally Retarded People Placed in the Specialized Institutions* between the Ministry of Health and the Ministry of Labor and Social Policy was signed. (It identifies the areas of cooperation and the specific obligations. In addition, it introduces in the practice a system of evaluation of the condition of mentally retarded people with the purpose of ensuring conditions for social integration.)

By virtue of a decision of the Council of Ministers of 13 April 2006 *the Concept on the Deinstitutionalization of the Specialized Institutions for Children and Social Institutions for Elderly*

<sup>3</sup>

By virtue of an ordinance of the Council of Ministers No 226 of 30 October 2000 and in conjunction with the CPA the State Agency for Child Protection was established. Its activities started on 1 Jan 2001. Pursuant to the provisions of the CPA the chairperson of the State Agency for Child Protection (SACP) is a specialized body under the Council of Ministers for administration, coordination and supervision in the area of child protection (art. 17 of CPA). By virtue of the amendments to the CPA of 2003 the authorities of the chairperson were expanded to include national programming for children through adoption of a National Child Protection Program; licensing of the providers of child services; organizing inspections into how the child's rights are respected; monitoring and control of the specialized institutions for child's upbringing in terms of whether the child's rights are respected.



*Disabled People* was adopted (The stress lies on the development of alternative cares and community-based social services, on enlarging the sources of revenue and improvement of the coordination between the state, the municipalities and the nongovernmental organizations.)

In May 2006 a *Mechanism for Closing, Reforming or Restructuring the Specialized Institutions for Children* was signed between the MLSP, the Ministry of Education and Science, the Ministry of Health, the State Agency for Child Protection and the Social Assistance Agency. This document identifies the criteria which will be used for the evaluation of the specialized institutions. (The criteria are related to the location and the accessibility of the respective specialized institution for children, the facilities and the quality of the cares. The evaluation is conducted by interagency regional committees. For the institutions, which have not collected an identified minimum of scores, the interagency committee shall develop a proposal for closing in a short-term period (within the next one to two years) and a close-out plan shall be developed. For the institutions, which have a score that is above the minimum required, a development plan is drawn up together with the staff; the estimated number of children for which in a long-term period (5-7 years) the institution is the most viable means of being taken care of; the qualification, structure and staff number; the necessity of the institutionalized care for the local community; an option for alternative services on the part of the institution itself.)

On 26 April 2006 the National Assembly adopted *modifications and amendments to the Child Protection Act*. (The adoption was determined as a child protection measure in the family environment. The status of the “professional foster family” was settled.)

*Decision No 21 of the Council of Ministers of 19 Jan 2006 on the Differentiation of the Activities Funded by the Municipal Budgets into Local and Government-Delegated, and Determining Staff Number Standards and Standards for Support of the Activities Delegated by the State in 2006* was modified and amended by virtue of a decision of the Council of Ministers No 426 of 5 June 2006. (Pursuant to these changes financial standards for support of community support centers are introduced, *Mother and Baby Unit* and *Day-care center for children in the streets* (built under the Reform for Enhancing the Well-being of Children in Bulgaria Project in 10 pilot municipalities). BGN 5,512 per client is provided for support, thus allowing for the municipalities to negotiate the offering of social services with external suppliers. As of 1 July the funding of the complexes is ensured by a subsidy from the governmental budget to the municipal budgets.)

On 22 June 2006 the Council of Ministers adopted *Ordinance on the Modification and Amendment to the Fees Tariff for Social Services Funded by the Republican Budget*, approved by Ordinance No 91 of the Council of Ministers of 21 April 2003 (It allowed for the social services provided in the day-care centers to be used on a weekly bases – from Monday through Friday. The purpose is through expanding the scope of the services offered in the day-care centers to stave off institutionalization of disabled children and people. They will not be isolated from their family environment for a long time).

In an analysis of MLSP “The Process of Deinstitutionalization and Expansion of the Network of Community-based Social Services” of 2006 it is pointed out that the most essential practical aspects of the reform are related to:

- ◆ Transformation of the current system of social institutions into a system/network of alternative social services;
- ◆ Prevention of neglect and development of a deinstitutionalization plan (displacement from the children’s institutions).

The institutional care should correspond to established standards and criteria and should remain the only form of social services network, which shall include: municipal social services, new services and the current institutions with a staff qualified accordingly.

According to the BHC evaluations steps in the right direction are both the changes to the laws and the

subordinate legislation, regulating the children's rights, and the identification of priorities in the governmental policy for changing the child care system for children with special needs. According to BHC, the problem is that despite the governmental measures that have been adopted the homes for children, and particularly the institutions for mentally retarded children, have not been turned into a major reform engine. And that the stay of the children in the institutions is too long.

## 2.2. Structural and functional development

### 2.2.1. General data about the processes of structural and functional development of HMRCJ

During its monitoring in 2006 BHC concluded that in some HMRCJ it was after the evaluation made by SACP and the recommendations for a change made in 2004 when the processes of transformation started. The examples that can be given are HMRCJ – Petrovo, Sandanski, HMRCJ – Vasil Drumev and HMRCJ – Gorski Senovets. For other specialized institutions for disabled children, however, such as HMRCJ – Medven and HMRCJ – Gorna Koznitsa no specific recommendations have been given for the future development and enhancing the qualities of the child care for the institutionalized children. Even to this day the managers of those institutions have not received any feedback about the conclusions of the monitoring committee. In homes such as HMRCJ – Vidrare and HMRCJ – Iskra no institutional development projects have been developed. In other children's homes such as HMRCJ – Strazha and HMRCJ – Kosharitsa this step is about to be made. Anyway, the evaluation of SACP of 2004 of the situation in the children's institutions in the country is the first in-depth assessment of its kind made by a state institution on the child's institutional care. With this first national monitoring of SACP the process of accreditation of the children's homes began. In 2005 there were regional interagency inspections with the involvement of representatives of the local structures of the MLSP, MH and MES – the three ministries involved with the reform for enhancing the well-being of children in Bulgaria. In September 2006 the second consecutive national SACP monitoring of children's institutions started.

As stressed in the governmental report on the UN Convention on the Rights of the Child within the framework of the first national SACP monitoring 129 children's institutions in the country were evaluated. In this evaluation the children's institutions are classified in one of the three transformation regimes:

- ◆ Enhancing the quality of the services and expanding their scope;
- ◆ Shrinking the scope of activities of the institution and termination of any admittance;
- ◆ Closing of the home.

The general conclusion from the monitoring of BHC researchers in 2006 in the 20 HMRCJ, HMRC and HMRJ visited with regard to the restructuring and the functional development of the specialized institutions for mentally retarded children and juveniles is that two-thirds of the evaluated homes for children and juveniles with intellectual disabilities remain functionally unchanged. The mechanism for social exclusion of the children from the institutions is still working. Despite the changes in the legislation the institutionalization away from the public eye remains the basic form of care for the severely disabled children neglected by their families. 17 out of 20 HMRCJ/HMRC visited are still located in villages. The opportunities for social and educational integration remain limited. There is not a single children's all-year institution for disabled children which was moved to a municipal or district town.

#### Conclusion

**The BHC evaluation is that two-thirds of a total of 26 all-year institutions for children with problems in their intellectual development lag behind in the process of transformation and introduction of new services. In its monitoring of 2006 BHC established the following:**

- In 7 of the 18 HMRCJ visited no significant steps for efficient change were taken - Gomotartsi,

Gorna Koznitsa, Kosharitsa, Medven, Rudnik, Strazha, Sladak Kladenets<sup>4</sup>;

- **In 4 HMRCJ the transformation is still at an initial stage – either just started or in a process of inception** – Ilakov Rat, Iskra, Mihaltsi, Petrovo, Stara Zagora District;
- **In 7 HMRCJ the reform is already showing some results** – the restructuring has made some progress, the stress is on the functional transformation – Vasil Drumev, Vidrare, Gorski Senovets, Mezdra, Sofia, Tarnava, Petrovo, Blagoevgrad district.

All specialized institutions for mentally retarded and physically disabled children and juveniles are decentralized municipal institutions for social services for disabled children and juveniles in conjunction with the changes to the legislative framework (Social Assistance Act and the Implementing Regulations for the Social Assistance Act). The governance of the governmental subsidy, the organization of the work and the personnel policy are within the authorities of the municipal administrations. The methodological guidance and the control over the compliance with the standards for quality cares for children with specific needs are an obligation of the Ministry of Labor and Social Policy. Pursuant to the provisions of the Social Assistance Act and the Implementing Regulations for it the social services institutions in our country are state, municipal and private.

After the changes to the regulatory provisions in Bulgaria the procedure for placement in children's specialized institutions is conducted by virtue of a court decision or by virtue of an administrative order of the director of the Social Assistance Directorate on temporary placement. Institutionalization is determined by the provisions of the Bulgarian CPA as a last resort after exhausting all possibilities for child protection without isolating the child from their biological family. Pursuant to art. 35 of the CPA Children shall be placed in specialized institutions only where the opportunities for leaving the child in a family environment have been exhausted. The procedure for placing the child outside their family environment (with relatives and friends, with foster families or in a specialized institution) has been settled by virtue of articles 26, 27 and 28 of CPA. In HMRCJ the inmates are at the age of 3 to 18 years' old. In agreement with the changes to SAA and the IRSAA (article 40) the officials in charge of providing social services file the inmates/persons with special needs with the HMRCJ register. They develop an individualized plan after an assessment of the specific needs of the children/persons, using social services which is evaluated and updated if necessary every six months. Part of this plan is the written healthcare plan.

The placement procedure has been abided by in all HMRCJ visited by BHC – the children are placed by virtue of court decisions or temporary order issued by the municipal social assistance directorates.

As it was pointed out HMRCJ are specialized institutions for mentally retarded children at the age of 3 to 18 years of age. Those of the institutions which are with a status of homes for juveniles admit young people at the age of 18 to 35 years of age. In some homes like the HMRJ – Tarnava children at the age of 3 to 10 have been placed, while three of the children are above the age of 16. BHC found, however, that in the majority of the children's institutions the practice of keeping inmates above the age of 18 is a common practice. The reason for that is the efforts of the staff to preserve the capacity of the homes and the fears of the worse environment in HMRA, where the children from HMRCJ most often end up after turning 18 years of age.

<sup>4</sup> HMRCJ – Mogilino was visited by a joint team of BHC and BBC Radio on 7 Nov 2006 should also be included in this list. The justification for that is the following: Currently, there are 75 children placed in Mogilino. In 2005 15 children were admitted, while 8 were discharged: 1 child from the ones discharged was reintegrated in their family, 3 were relocated to an institution for adults, 4 have been placed in a rehabilitation boarding school. According to data provided by the HMRCJ director Katerina Petrova the basic problem of the home is lack of new means of transportation, bed sheets and clothes. The staff that is taking care of the children - 19 educational officers and 22 sanitary officers, is extremely disinterested in working with children – watching TV is the most popular leisure activity. There are no children with education needs assessed, there are no children included in the national education system. Training the children on basic skills is all that is understood under education of disabled children. The general impression of the BHC observer who visited HMRCJ – Mogilino is that regardless of the relatively good facilities the children are absolutely neglected. There is no understanding about the individual needs of the children, not any chances for their development. The staff does not have the necessary qualification to work with children with intellectual, nor does it have any motivation for self-improvement.

In 14 of the 18 HMRCJ visited it was established that there are groups of people (between 23 and 37 in number) of more than 18 years of age.

**The BHC conclusion regarding the admittance to HMRCJ is that most of the children and juveniles placed in social institutions have been neglected by their parents and have been institutionalized according to medical indicators. In most of the cases we are also talking about social indicators. BHC found, however, that there are cases of institutionalization based on social reasons only (see the data provided thereafter).**

### 2.2.3. Factors impeding the change in the system of HMRCJ

#### ◆ Institutionalization based only on social indicators is still continuing

In a research of all existing HMRCJ conducted in 2000-2001 BHC found that due to absence of any alternatives to which children and families at risk could have access, and because of the economic and social transition of the country, in homes for mentally retarded children it was possible to place children based on social indicators. This is a trend that is continuing even today BHC found in its research of 2006. The correspondence exchanged between the director of HMRCJ in Kosharitsa and the heads of the Nesebar SAD and Burgas SAD gives an idea about the social status of the parents of children from HMRCJ.

A social report signed by V. Valchev, director of Burgas SAD and sent to the director of Nesebar SAD of 16 May 2006 says:

*CPD under Burgas SAD conducted a research which found the following: at the address you provided no Mrs. ESS, mother of MZS., could be found. The mother is retired due to illness: mild mental retardation (debilitis media gravis, oligophrenic psychopathy, permanent decompensation). She shares that she has given birth to 7 children from different fathers with whom she cohabitated. All the children are named ZSS, but they have been separated for years... She has been provided assistance under the provisions of Integration of the Disabled People Act with an additional allowance for medicines at the amount of BGN 8.25 and transportation allowances at the amount of BGN 8.25. The place of residence where ESS lives is a derelict semi-solid construction. She has moved in there without any permission. She inhabits one single room without water supply or electricity. There are no basic hygienic living conditions to raise a child. The room is full of litter and garbage. In the middle there is a folding sofa used as a bed. According to the neighbors, the woman goes back home only in the evenings, during the day she is out roaming the streets.*

*The father ZSS has not been found at the address provided by you. According to the neighbors no such person has ever lived there. A notice of invitation was sent, but ZSS failed to appear in CPD.*

*Siblings (4 sisters and 2 brothers):*

*YaSZ – at the age of 7, an inmate of Al. G. Kodzhakafaliata HCDPC, Burgas*

*GSZ – at the age of 12, an inmate of Al. G. Kodzhakafaliata HCDPC, Burgas*

*VZS – at the age of 4, an inmate of HMRCJ in the village of Iskra*

*MZS – at the age of 17, according to the mother she lives with her father*

*SZS – at the age of 19-20, an inmate of SEPI in the village of Bata.*

*ESS declared and affixed her signature on a statement certifying that she does not have the financial abilities to raise her child in a family environment. She declares that she does not have the funds to certify the declaration in front of a Notary. CPD under Burgas SAD thinks that currently there are no possibilities for this child to be raised in his biological family and that it is in the best interest of the child to keep him in the institution.*

According to SACP data of 2002 only 2.7% of the inmates are complete orphans. The rest of the children are coming from their biological families – neglected children, single-mother children, children from families with a lot of children, children of unemployed.

The specific data about the family status in one of the social homes visited in 2006 – HMRCJ in Vasil Drumev, draws the picture typical of those specialized children's institutions: only 2 of the 50 children in the home are complete orphans. The majority of the children are abandoned by their parents – these are children from families with more than 3 children, families of unemployed and single-parents. The situation in the rest of the 19 HMRCJ/HMRJ visited by BHC in 2006 is identical. In 10 of the 20 specialized institutions for mentally retarded children and juveniles visited there is no single child that is a complete orphan. The greatest number of children with deceased parents is registered in HMRCJ in Ilakov Rat – 4 inmates are complete orphans. Despite the efforts of the child protection departments with the municipalities to find the parents of the abandoned children in 2005-2006, there is no information about a considerable part of the parents – they have either left the country, or are with an unknown address.

◆ **BHC established a serious problem with the legal notion of guardianship in HMRCJ as a result of parental negligence and legislative shortages**

The information about the legal status of the children in HMRCJ reveals that between half and two-thirds of the inmates from HMRCJ are without the declaration of consent for adoption despite the permanently disrupted contacts with the parents. This fact necessitated the initiative of the MLSP and SACP to change the Family Code to introduce a more adequate procedure for deprivation of parental rights and for a timely introduction of the legal notion of guardianship. So far, the legislative framework regulating the procedure of depriving people of parental rights remains unchanged<sup>5</sup>.

The specific data about the legal status of the children from some of the social children's institutions shows:

- ◆ **HMRCJ – Gorski Senovec**- only 18 of 53 children have the declaration of adoption, but 50 of them are with permanently disrupted contacts.
- ◆ **HMRCJ – Ilakov Rat** – out of 54 children only 20 have the declaration of adoption. 6 of the children maintain occasional contacts with their parents.
- ◆ **HMRC - Tarnava**- there are 24 children placed in the children's all-year homes, 16 of the inmates have the declaration of adoption.
- ◆ **HMRCJ – Sofia** – according to the data about their legal status 30 of the children have the declaration of adoption and 37 have a contract of upbringing which has expired. According to the information provided by the staff 55 of these children have not been claimed for more than a year. There are 96 inmates in the HMRCJ.
- ◆ **HMRCJ – Rudnik** – out of the 35 inmates 20 have never been visited by their parents, 9 have occasional contacts with their relatives, 2 have been visited only once and 1 child was visited every week. 27 of the children institutionalized do not have a declaration of full adoption.
- ◆ **HMRCJ – Gorna Koznitsa** - 12 of the 59 institutionalized children have the declaration of adoption. None of the 59 institutionalized children has a guardian appointed.
- ◆ **HMRCJ – Strazha** - 14 of the 44 institutionalized children have the declaration of adoption signed by their parents.

By law the representative of the child is their parents. The children institutionalized in the homes who do not have a declaration of adoption signed by their parents are under the guardianship of their parents. This situation is not changed even when a declaration of waivers of rights is signed, or when the child is placed in an institution. The change occurs only after the rights and obligations are transferred to another person (adoption) or they have been deprived of their rights pursuant to the law. The BHC studies conducted in the social children's institutions have shown that the prevailing number of the parents who have signed the declarations of adoption or have not, become disinterested in their children and stop trying to contact them

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Art. 75 of the Family Code entitles the local court to deprive of parental rights parents who have left their child for upbringing, but did not search them within six months after the date on which the parent was supposed to take the child back from the institution. The problem is that quite often the court decisions do not state the timeframe of the child's institutionalization.

after they are placed in an institution. In some of the cases the parents change their places of residence or leave the country. In practice they do not exercise their parental rights. For the directors of these social institutions there is no legal and practical possibility to search for the parents of each and every child and to hold them liable for their disinterest in their own children, or to request their permission for each and every activity related to the decision-making about the future of their children, their treatment, etc. (all of these decisions in the realm of parental obligations or those of guardians). In practice the institutionalized children have alive and known parents who are the only people entitled to make decisions for the children. However, such decisions are being made on a daily basis by the people who are taking care of the children in the institutions, the heaviest burden being on the shoulders of the director of the institution. The consequences are that the institutionalized children who are neglected and not contacted by their parents are “dead citizens” (citizens who are underage and therefore cannot represent themselves before the law, but who have not been appointed a legal substitute).

A result with extremely unfavorable consequences from this situation is, for example, the impossibility to give an “informed consent” in case of emergency or urgent medical aid (operation, specific treatment, diagnostic methods).

The law provides for the possibility to deprive parents of their rights. Pursuant to the provisions of article 75 of the Family Code the parent may be deprived of their parental rights:

- ◆ In particularly severe cases of objective impossibility to take care of the child;
- ◆ When without duly justified reasons consistently does not take care of the child and does not pay the child support money;
- ◆ When they left their child for upbringing in a specialized institution and have not contacted the child within the six-month period from the day they were supposed to come and take them back.

To initiate proceedings for deprivation of parental rights, usually initiated with the regional court, the other parent or the prosecutor are eligible to file the appeal. The director of the social children’s institution is not eligible to initiate such proceedings. Even if they are over-proactive the court would not hear such a case since it has not been initiated by the parties expressly identified by the law. Thus the directors of the children’s institutions face the absurd assumption to be obliged to take care of the children entrusted to them, which inevitably is related to decision-making, which, on the other hand, has not been delegated to them neither by the legal substitute of the child, or by the eligible bodies. They cannot initiate proceedings which would make them guardians of the child “by proxy” (since the provision of art. 128 of the Family Code lists a limited number of cases where the ones discussed do not belong. The language of this article 128 provides for unknown parents only), they do not have the time or the funds, or the rights to search the parents in each individual case. However, they are well aware that in many cases the decision-making process concerning the care for the children, including their treatment, education etc., is not a matter that can be postponed until it has been settled by the bureaucratic procedures. Therefore the directors of the respective institutions often resort to personal contacts and untraditional approaches to achieve what they consider to be in the best interest of the child.

### Conclusion

**BHC thinks that a legislative change is necessary to resolve the problem with issue of guardianship which is a serious obstacle for the provision of quality services for the children in the institutions. A problem with the legal concept of guardianship and the related consequences was found in HMRCJ - Petrovo, Stara Zagora, in HMRCJ - Petrovo, Sandanski, in HMRCJ - Sofia, in HMSCC - Pernik, in HCDPC – Shiroka Laka, in HMSCC – Shiroka Laka, in HMSCC– Vetren<sup>6</sup>.**

<sup>6</sup> The legislator should refine the language of art. 109 of the Family Code (FC) (similar to art. 53d of the FC it would be good to add the children with declaration of consent for full adoption, and to identify a specific deadline for initiating the guardianship proceedings). The legislator has provided (FC, art. 53D/1) for children placed in specialized institutions with the consent of their parents for full adoption or whose parents are unknown, for the director of the respective institution within 3 days of their placement to inform the respective SARD about their registering in the adoption register – i.e. within 3 days the proceedings for adoption of a child with the

◆ **In HMRCJ there are children with intact intellect**

The prevailing number of children institutionalized in HMRCJ have been diagnosed as mentally retarded: mildly or severely, and with accompanying diseases – chronic somatic diseases, mental and neurological diseases, inborn malformations, hypotrophy, children born prematurely. One of the homes with children most severely disabled is HMRCJ – Vidrare – more than 80% of the inmates have a leading diagnosis severe and serious mental retardation. According to the staff doctor in the home Dr. Larisa Taneva most of the institutionalized children have mixed pathology – intellectual and physical disabilities. Another home with a focused group of severely disabled and hard-to-move children is HMRCJ – Mezdra. At the end of 2003 31 inmates from the home in the village of Fakia, municipality of Sredets, which was closed down were relocated to HMRCJ – Mezdra. In HMRCJ – Vasil Drumev the leading diagnosis of the majority of the inmates is moderate, severe and serious mental retardation. According to the data of the director of HMRCJ 12 of the children are bed-ridden cases, while 3 have mobility difficulties. Most of the children have accompanying diseases. According to the data of the medical staff in HMRCJ – Vasil Drumev, there are no children with intact intellect. In HMRCJ – Petrovo, Stara Zagora, in 2005 22 severely disabled bed-ridden children and juveniles were relocated from the closed HMRCJ – Dzhurkovo.

Despite the explicit legal provisions (CPA and IRCPA, SAA and IRSAA) in HMRCJ there are mildly retarded inmates and even children with intact intellect. The biggest group of inmates without intellectual disabilities in a home for disabled children according to the BHC study existed by 2006 in HMRCJ – Gorski Senovets. After the SARD – Veliko Tarnovo involvement 9 of the children were relocated to HCDPC. During the BHC monitoring in 2006 it was established that in HMRCJ – Kosharitsa there was a group of 7 children with intact intellect. 5 more inmates are mildly mentally retarded. (*see the table below*).

***Children with intact intellect placed in HMRCJ/HMRC***

<b>HMRCJ for placement of children according to social indicators</b>	<b>Number of children reported as clinically healthy in the report cards addressed to SACP (based on the discretion of the HMRCJ directors and the staff) in 2005-2006</b>
HMRCJ – Gorski Senovets	2005 - 12 children (9 of them relocated from V. Tarnovo HCDPC in 2006) - currently - 3 children
HMRCJ - Mihaltsi	6 children
HMRCJ - Vidrare	1 inmate - 36-year old Sasho, who grew up in the home, with a diagnosis ichthyosis
HMRCJ – Kosharitsa	A group of 7 children – according to the BHC observations

declaration of adoption start regardless of the fact that their parents are unknown. This, however, does not resolve the issue of exercising one's rights on the child (the decision-making right). Determining the guardianship rights could be arranged in the language of art. 28 of the CPA, focusing on the placement of the child in the specialized institution. An addition to art. 28 could specify that by issuing a court decision or the administrative order on temporary placement the court or the respective administrative body can determine the person eligible to exercise rights of a guardian over the institutionalized juveniles.

	and evaluation of the staff – intact intellect. 5 more from the inmates are mildly mentally retarded
HMRCJ - Medven	1 child
HMRJ – Berkovitsa	According to the data of the director of the institution about 30 of the children and juveniles are mildly mentally retarded. 3-4 have intact intellect.
HMRCJ - Strazha	3 clinically healthy children – according to the staff

◆ **A serious problem obstructing the transformation of the HMRCJ and turning them into the major engine of the reform of the institutionalized care is the lack of a definite position of the state institutions regarding the future of each HMRCJ**

As of the current point of time it is clear that in 2005 seven homes for mentally retarded children were placed on a “special surveillance” list (*see section HMRCJ “Under special surveillance”*). These are homes identified by the SACP as “homes in the most lamentable situation”. However, there is no definite statement expressed about the perspectives before these seven social children’s institutions. BHC was left under the impression that the speed with which HMRCJ “switches” to a “mode” of transformation (increasing the quality of the services and expanding their scope; narrowing down of the activities of the institution and terminating the practice of admission; closing down the home), are slow. In practice in the period between 2003 and 2006 3 HMRCJ – in Fackia, Dzhurkovo and Dobromitsi were closed, and the capacity of two institutions was decreased – in Petrovo, Sandanski and Mogilino, by 20 and 30 places. A decision was made for providing financial support of the processes of transformation in one HMRCJ – in mid 2006 the governmental Council on Euro-integration voted a decision for the HMRCJ – Mihalitsi to be allotted the amount of BGN 600,000 for restructuring of the home.

The definite evaluation of SACP and of the MLSP of the perspectives for the HMRCJ is imperative, especially for those homes that will be developing functionally – will be increasing the quality of their services and expanding their scope. To be able to fit into a future developed network of social services in the country, the transformed institutions will need additional financial resources. The average HMRCJ support standard updated at the beginning of July 2006 does not guarantee quality transformation. By virtue of a governmental *Decision No 426 of 5 June 2006, Decision No 21 of the Council of Ministers of 19 January 2006* was modified and amended. As of 1 July 2006 new standards about the staff number and support for the activities delegated by the state standards were proposed. The staffing standards for the specialized institutions for mentally retarded children provide for a ratio of 100:80 for children and staff respectively in the HMRCJ – this ratio provides for the greatest staff in number for 100 inmates. Whether this standard will be applied in practice is another matter. From BGN 1,719.90 the annual support standard for one HMRCJ customer becomes BGN 2,375 (*see the table below*).

*Support standards for the specialized institutions*

Specialized institutions	Old support standards pursuant to Decision No 21 of the Council of Ministers 2006	MLSP proposal for new standards 2007	Average standard
HMRA	1,693.93	2,725	
HEP	1,620.16	2,260	
HAMD	2,482.66	2,724	



HAPD	2,343.52	2,730	
HASD	1,144.95	2,264	
SEVI	1,292.68	2,174	
HMRCJ 3-18-25	1,719.90	2,375	
DCMRJ 3-18	1,035.70	1,490	
DCAMR	1,035.70	1,204	
HTP	550.16	950	
HAD	3,454.07	3,506	
DCEP	289.80	625	
<b>Specialized institutions</b>	<b>Old support standards pursuant to Decision No 21 of the Council of Ministers 2006</b>	<b>MLSP proposal for new standards 2007</b>	<b>Average standard</b>
Protected Home	1,292.68	1,932	
Orphanages	461.29	1,391	
Day-care Center for Homeless Children			3,924
Public Support Center			2,154
Mother and Baby Unit			5,512
Crisis Center			5,512
Family-type Placement Center			5,512

The BHC conclusion regarding the funding of the processes of transformation in HMRCJ is that the state allocates with good reasons financial resources and support for the alternative forms of services for children and disabled people, but the legislative changes allowing for part of the homes for mentally retarded children and juveniles to be transformed and start providing new services – week cares, mobile community-based teams, contracts with individual social services users, micro-homes should also be stimulated. The annual budget of HMRCJ is between BGN 200,000 and BGN 400,000, two-thirds of which is allocated for payroll and social insurance for the staff. The activities with regard to restructuring are supported mainly by donors. In some of the cases the funds were provided by the MLSP Social investment Fund. In one of the 2006 cases the structural development is planned to be supported by the state with an amount of BGN 600,000 – the funds are provided for HMRCJ – Mihaltsi. There is a significant financial support for the municipal administration only for HMRCJ – Kosharitsa, municipality of Nesebar.

A fully individualized approach to the institutionalized children was not established in any of the institutions for mentally retarded children, but the first steps in transforming the model for services are being made. The need for capacity building and respective changes to the human resources for the specialized institutions for children is well known. It is another issue that not all the management bodies have undertaken the practical measures to achieve that goal. The homes that have made the greatest progress in that respect are the ones in Petrovo, the district of Blagoevgrad, in Vasil Drumev and in Gorski Senovets – there is a training needs assessment conducted at those homes, they use the opportunities for re-qualification, new specialists are appointed to the institutions. An efficient change in the healthcare system for the institutionalized children is introduced in HMRCJ – Vidrare, HMRCJ – Mezdra, and HMRCJ – Gorski Senovets. In HMRCJ – Mezdra and HMRCJ – Gorski Senovets, the adequate medical services and the individualized approach cause changes in the health status and social skills in a significant number of severely disabled children relocated from HMRCJ – Fakia and HMRCJ – Dzhurkovo.

A considerable achievement in the processes of restructuring **HMRCJ – Mezdra** is the change in the personnel. Out of 60 people on staff positions 30 are specialized staff. The support staff in direct contact with the children is 14 baby-sitters.

A considerable step in the functional development is the staffing change in HMRCJ – Petrovo, municipality of Sandanski, district of Blagoevgrad, where there are 90 children and juveniles placed. The total number of the people on staff is 62, 38 of them are the specialists from the home. There are 23 workers, who are not on staff: 23 people - 4 rehabilitators, 2 speech therapists, 15 “grannies“, working under the “Granny and grandchild” Project (funded by MHIK – International Women’s Club), 1 psychologist and 1 social worker under a program of the Bulgarian Child Foundation – the projects are long-term projects.

In HMRCJ – Vasil Drumev there has also been a progress in the reform of the institutional services. Under the *Reform for Enhancing the Well-being of the Children* Project in HMRCJ – Vasil Drumev refurbishment works have been completed at the total amount of BGN 116,717.68. Equipment at the amount of about BGN 24 thousand has been provided – setting up of family environment and isolating 8 new rooms: 2 classrooms for individual preparation of the trainees under the rehabilitation school curricula in local classes in HMRCJ with a resource teacher and workshops for individual and group work (labor therapy, work with a psychologist, social worker, art therapist and individual preparation after school), including a kitchen and hairdresser’s. Within the project 6 new appointments were made to HMRCJ: 2 labor therapists, 1 nurse, 1 psychologist, 1 social worker, 1 part-time rehabilitator. In HMRCJ – Vasil Drumev 4 multi-disciplinary teams were formed.

A positive trend in the social homes for children that are making progress in the process of transformation (Vasil Drumev, Vidrare, Gorski Senovets, Mezdra, Petrovo, district of Blagoevgrad, Sofia, Tarnava) is that in addition to transforming the facilities they are also changing the institutional care model and are individualizing the approaches to the children with disabilities, they are providing for conditions close to the family environment, the institution is opening up for the community. The scope of the social services offered is also being expanded. In HMRCJ – Gorski Senovets, for example, at the beginning of 2006 a day-care center for children with disabilities is established, mobile teams were convened which provide services locally at the homes for 11 children with disabilities in the municipality of Strazhitsa. Although the symbiosis between the all-year institution and the day-care center makes controversial assessments of the chance to attain an efficient result, the efforts in that direction are worth encouraging.

#### **Conclusion:**

**In 2006 the quality of the institutional services has been enhanced in 7 out of the 18 HMRCJ visited. In practice, however, the final transformation of the model for services for the children with disabilities – expressly individualized approach in providing services for the individualized children, was not found in any of the cases. In none of the municipalities on whose territory there are all-year homes for mentally retarded children is there a developed network of alternative social services despite that in 10 pilot municipalities throughout the country since 2005 there have been alternative forms, such as CSSCF or the activities in the day-care children’s centers have been expanded.**

### **3. HCDPC: Specific data**

#### **3.1. National policy. Administration and legislation**

The homes for children deprived of parental care (HCDPC) are social-purpose service units in the field of

national education pursuant to art. 2 of the *HCDPC Structure and Activities Regulation*<sup>7</sup>. They are directly subordinated to and funded by the Ministry of Education and Science. These homes provide cares and social services related to raising and upbringing children from 3 to 18 years old. HCDPC provide for the education of the children during their stay in the institution in agreement with standard 12 of Appendix No 3 to art. 48 “Criteria of conformity of the social services provided to children in the specialized institutions with the standards under chapter five of *The Ordinance on the Criteria and Standards for Social Services for Children*. HCDPC are for children at the pre-school age and for children from first to twelfth grade.

According to the SACP data in 2004 the total number of HCDPC was 101. The total number of the children institutionalized in HCDPC was 5,840. In June and July 2006 MES closed down 15 homes for children deprived of parental care – the ones in Pobeda, Slatino, Gavril Genova, Orehovo, Chepelare, Gutsal, Skobeleva, Slavyanovo, Leshnitsa, Ugarchin, Georgi Danyanovo, Stoikite, Kalotina, Rila, Zheravna. This decision was made after monitoring of SACP and MES conducted in the recent 3 years on the grounds of a children’s home assessment mechanism developed by the interagency committee. In each of the above closed homes there were problems with its location in a small town or a village which caused problems with the medical services, the education, the control over the activities and the communication with RIE at MES in the district centers. In addition, there were fewer and fewer children and worse and worse state of the administration because of the personnel turnover or low quality criteria of the staff itself due to its low level of education, inertia of work and reluctance for additional qualifications. Even if a little belated, the MES decision was justified and reasonable. Currently, as mentioned, according to the MES data there are 86 HCDPC with 4,745 institutionalized children.

### **3.2. Structural and functional development**

The HCDPC have diverse characteristics in terms of facilities and conditions they are offering the children. The renovation works, the improvement of the environment, the equipment and the individualization of the dormitories of the children are entirely or partially funded by private donors (mainly foreigners) and by non-governmental organizations. Out of the 14 HCDPC only *Maria Louise* in Plovdiv and the home in Barzitsa offer really good practices. These are some of the few homes where the children live in identified sectors in small groups and in an environment that is close to the family environment which allows them to acquire social skills and emotional stability. In HCDPC – Dupnitsa, HCDPC - Provadia, HCDPC - Shumen, HCDPC – Velingrad, HCDPC – Ruse, the living conditions for the children do not encourage the development of social skills, do not teach to individualize the space, they cause uninviting, traumatic and repelling environment. Although there are efforts in all the homes to change the appliances in and to renovate the restrooms, there are few that manage to ensure a pleasant, secure and cozy environment for the children. In 8 of the homes there are computer labs where the children can play in their spare time, in 2 homes there are workout rooms, in almost all of the homes visited there are sports grounds. There are TV rooms, games halls, recreation areas, but many of them look bleak and are equipped with shabby furniture without toys and things children can play with.

Placement in HCDPC is conducted in agreement with the provisions of the Child Protection Act (CPA). The *HCDPC Structure and Activities Regulation* updated and agreed with the CPA entered into force in May 2004. Thereafter placement and leaving the HCDPC are carried out only by virtue of the provisions of the CPA.

The BHC research about the ratio between the number of the children and the staff (the data always includes the director as well) in HCDPC has shown that on average one supervisor is taking care of at least 5 children. There is a psychologist in two homes only.

There is a rise in the tendency of having children with severe behavioral, health and social problems in HCDPC, who need special care. Both the number of the HCDPC staff and its qualifications are inadequate to meet those needs. Only one of the visited homes had a clear plan for initial and regular qualification courses for the staff.

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<sup>7</sup>

Issued by the Minister of Education and promulgated in SG, issue 39 of 12 May 2004

**Conclusion:**

Although HCDPC are obliged to develop on their own their projects for their future restructuring into social services providers, it was established that no such plans were developed and that the staff has not been trained and supervised on any problems. In addition to relatively recently renovated facilities the HCDPC do not have the necessary resources to help them restructure easily and efficiently. BHC did not receive comprehensive information about how MES envisages to restructure 86 HCDPC after 1 January 2007.

## 4. HMSCC: Specific data

### 4.1. National policy. Administration and legislation

There are 32 HMSCC in the country located by rule in district centers. In the course of the BHC research in the period April to September 2006 7 HMSCC were visited – four in the big cities – Varna, Kyustendil, Pernik and Shumen, and three – in small ones – Zlatitsa, Vetren and Shiroka Laka.

The BHC research has shown that the children at the age of 0 to 3 years have been least affected by the reform that is underway for enhancing the well-being of children in Bulgaria. These children are being institutionalized at the same place as in 2000 when there were no measures for deinstitutionalization for children. There are no practically functioning alternative community-based services for the children who were neglected at an early age (due to shortage of resources in the family to take long-term and quality care of them) or needing special cares because of inborn disabilities. Thus for these two groups of children the institutions turns to be the only form for upbringing. The alternative complexes for social services for children and families opened officially on 1 July 2006 (each of the 10 CSSCF has a capacity of accommodating no more than 9 mothers) still do not have the capacity to address the need for early intervention.

The BHC evaluation is that HMSCC remain too conservative about the reform from institutionalization to community-based services, and about the change in the working approach from fully medical to psycho-social. It was established that in the majority of the HMSCC visited by BHC there have been developed no restructuring plans until August 2006.

According to the management of the HMSCC visited there is no policy of “closing the entrance” of the institution and they report an equal or an increasing number of children joining their institutions. They report about the lack of or the insufficient involvement of MH in their daily business. Usually HMSCC are requested to submit accounting reports. According to the staff of the homes MH has not conducted any inspections in HMSCC in 5 years. There is only one person in MH who is involved in the work of the HMSCC pursuant to their job description. On occasion of a request about the announced decentralization measures in HMSCC BHC received an answer from MH<sup>8</sup>. It says that in implementation of the *National Child Protection Program* adopted by the Council of Ministers by virtue of Decision 891 and of the *2003-2005 National plan for decrease of the number of children raised in the specialized institutions in the Republic of Bulgaria* adopted by virtue of Decision of the Council of Ministers 602 of 2 Sept 2003 decentralization requires a change of the status of HMSCC through a change to the Medical Treatment Facilities Act and the Implementing Regulation for the Social Assistance Act, i.e. HMSCC have to be closed as medical institutions and reopened as complexes for social services for children. Steps are being made to decentralize 6 HMSCC where primarily healthy children are brought up – small homes suitable for institutions of the “family type” have been selected for decentralization.

<sup>8</sup> A letter with outgoing reference number 05-00-12 of 1 Sept 2006, signed by the secretary general Ass. Prof. Dr. Kr. Gigov from MH.

## 4.2. Structural and functional development

The homes for medical and social care for children are medical treatment facilities under the provisions of the Medical Treatment Facilities Act and perform primarily diagnostic and treatment functions. Thus they should meet the standards applied to the medical treatment facilities pursuant to *Ordinance No 29 of 23 November 1999 on the fundamental requirements for the structure, activities and internal order for the medical treatment facilities for hospital inpatient care dispensaries and the homes for medical and social care*<sup>9</sup>. Their activities and organization are regulated by the *Regulation on the structure and activities of the homes for medical and social care for children*<sup>10</sup>. Although by rule HMSCC are the best looking children's institutions in terms of facilities, there is still room for improvement in terms of their work with the children in a direction that would be to the best interest of the child. An example in that respect is regulating the ratio between the children and the specialized staff. By virtue of a change introduced in the Rule of procedure of HMSCC (art. 6, paragraph 4) of 2004 it was provided for multidisciplinary teams to work there. Each multidisciplinary team shall be composed of: 1. Permanent team to take care of the children composed of two nurses and one baby-sitter, 2. A doctor, psychologist, a remedial therapist and a teacher, while each of the doctors, remedial therapists and psychologists on staff in the homes has 6 permanent teams, and each teacher – 3 permanent teams (art. 7). The multidisciplinary team provides services to the group of children residing in the residential building (pursuant to art. 8), as the group of children is a permanent functional unit for upbringing, raising and training of the children which is composed of 6 to 8 children and integrates children at different level of physical and mental health and of different age. Thus each remedial therapist or a psychologist, or a doctor, for example, has to work with 36 to 48 children all the time. No provisions have been made to have a speech therapist included in those teams which would be a guarantee for the normal development of the children at least on the communicative level. Moreover, according to the Regulation (art. 13) HMSCC carry out ongoing medical supervision of children with chronic diseases and medical and social problems (although there is no clear definition of “medical and social problems”); diagnostics, treatment and rehabilitation for children with chronic diseases and medical and social problems; specific cares regarding the upbringing, raising, training and preparation for the integration of children with chronic diseases and medical and social problems. Moreover, these activities should be secured by the medical and the other specialists in the home with an individualized approach ensuring the best possible physical and mental development of the children.

In terms of the regulatory framework for placement of children in HMSCC, the general provisions of the *Child Protection Act* are usually applied. The children can stay in the HMSCC up to their 7<sup>th</sup> anniversary at latest in case there is an open adoption procedure or when the child is with mild or severe physical disabilities.

Even during its first monitoring of these institutions in 2000 BHC established that the level of the cares provided to the children there is relatively higher than that in the other institutions which was due to the location (bigger district towns), the good facilities and the highly qualified, though insufficient staff (mostly doctors and nurses, and few rehabilitators, psychologists, supervisors). The facilities of the HMSCC are maintained very well; however, for expenses for optimizing the heating, refurbishments or beddings HMSCC does not receive the necessary budget funds. Even the maintenance of the hygiene in the facility and of the children is not at the necessary level (in HMSCC – Shumen, for example, no diapers are bought for the infants, instead they use torn bed sheets, a strong smell of urine was felt there, especially in the rooms of the disabled children).

The specialized staff in HMSCC is extremely insufficient.

In HMSCC – Shiroka Laka there are no other specialists but 2 doctors and 7 nurses. There is no teacher, no physical therapist, no rehabilitator, no speech therapist or psychologist. In HMSCC – Pernik for 52 children there are 2 doctors, 19 nurses, a rehabilitator and a psychologist who take care of them. In

<sup>9</sup> Issued by the Minister of Health, promulgated SG, issue 108 of 10 Dec 1999, modified issue 80 of 03 Oct 2000, issue 61 of 10 Jul 2001, amended issue 99 of 11 Nov 2003

<sup>10</sup> Issued by the Minister of Health, promulgated, SG, issue 49 of 16 Jun 2000, amended and modified issue 93 of 19 Oct 2004

HMSCC – Vetren for 66 children there are 1 doctor, 19 nurses, a rehabilitator and a psychologist (as the salaries for the last two are provided under a project). In HMSCC – Shumen for 144 children there are 5 teachers, 6 doctors, 72 nurses, a remedial therapist and a physical therapist, a nutritionist, a supervisor and a part-time social worker to take care of them. In HMSCC – Varna for 178 children there are 6 teachers, 10 doctors, 60 nurses, 3 rehabilitators, 3 physical therapists, 3 psychologists, 2 social workers, 2 speech therapists. In HMSCC – Kyustendil for 29 children there is a doctor, 16 nurses, a teacher, a psychologist, a rehabilitator. The training is conducted only under NGO projects.

The BHC evaluation is that in HMSCC the following trends could be identified: the role of teachers, psychologists and speech therapists in the development of the children is underestimated, the prevailing child care model is the medical one, there is a lack of stimuli for the development of the individual skills of the children both in terms of facilities – shortage of rooms, overcrowded rooms, monotonous environment (repetitive colors and sounds), and in terms of human resources – insufficient and poorly qualified staff which is in constant contact with the children, often not working in its full capacity, insufficient and poorly qualified staff with functions to provide medical care only.

In the course of the discussions with the specialized staff regarding the work in HMSCC the following conclusions and trends were identified:

- ◆ No individual work is conducted even with the psychologists who are available in almost all homes;
- ◆ The specialists from a field other than the medical one are ignored and underestimated in terms of their work with children;
- ◆ The tests and tools for diagnostics and therapy and the basic training aids have been supplied either personally by the experts or by donors – the governmental subsidy does not include funds for rehabilitation and development of children;
- ◆ The psychologists shared that even the tests available prove to be inappropriate to detect and register some of the developmental characteristics typical of the children placed in the homes since they are out-dated and have not been updated for the last 30 years.

Pursuant to the HMSCC Regulation (art. 16) *“the homes for medical and social care for children may open a day-care center for disabled children brought up in a family environment who are physically and mentally retarded and need daily rehabilitation and physical therapy”*. The admission of the children to the day-care center is carried out under the provisions of art. 20 of the Implementing Regulation for the Child Protection Act.

Despite the possibility to establish day-care centers with HMSCC no such centers were functioning by May 2006 in Shiroka Laka, Vetren, Kyustendil and Pernik, while in the rest of the HMSCC which are located in big cities they have not been functioning efficiently. The basic problem is that the alternative service day-care center is funded by the Ministry of Health in terms of facilities and staff in particular, even when staff is relieved of their obligations to take care of the children in the HMSCC. Another problem is the transportation costs of the parents who cannot afford to take their child to therapy or rehabilitation to a certain part of town, as is the case with Varna. The HMSCC – Shiroka Laka has a crisis center to support single mothers who will be able to receive specialized support within the next 6 months. The crisis center built with the support of donors will have 8 places. As of April 2006 they were expecting additional equipment. The center will provide training for candidate adoptive parents, adoptive parents and foster families.

#### **Conclusion:**

**BHC established lack of knowledge on the part of the HMSCC staff about the new policies for deinstitutionalization of children, and about the new legislation; lack of any changes of the model for raising and upbringing children, while where there were any pilot projects they were not funded by**

**the state; inadequate mechanism of funding the services provided in the day-care centers with the HMSCC; lack of any professional standards for services on the part of the staff which is in direct contact with the children; perfunctory development of individual care plans; inadequate ratio between the number of the children and the number of the staff; lack of any monitoring mechanisms; lack of qualified human resources and of motivation for a highly qualified staff to work in HMSCC.**

## **5. Rehabilitation boarding schools**

### **5.1. National policy. Administration and legislation**

On the political level, but without being attached to any legislation and mandating clear obligations, the rehabilitation boarding schools were supposed to be reformed as resource centers which generally were supposed to provide expert's opinions concerning diagnostics and training for mentally retarded children. In practice under the pressure of external observers and due to the need to report on concluded activities MES made the decision as of the 2006/2007 school year to establish "resource centers" with RES where children with special education needs will be diagnosed and referred to the mainstream schools. The idea was to transfer the work of the resource teachers with the mentally retarded children and those with multiple disabilities from the mainstream schools to the resource centers. Thus in the autumn of 2006 the resource centers were established as structures parallel to the rehabilitation schools. An idea which was not bad in itself. MES, however, did not offer for public discussions its visions, or its specific plans. It uploaded on its website on 1 Aug 2006 the draft of the rules of procedures of the centers and gave an initial timeframe of 1 month for discussions. After that it shortened this period without any notice to 15 Aug.

At the beginning of the 2006/2007 school year during its visits to 22 rehabilitation schools and several RIEs with MES BHC established that most of the directors of the resource centers and the resource teachers were not instructed what their job would be. An exception to that was found in the resource center with RIE – Kyustendil. BHC found that in mid October in the region the process of updating the data and evaluation of the real status of the network of schools and kindergartens offering inclusive education for children with special education needs had made progress. RIE and the resource center had developed a plan for cooperation between the educational system, RIE and the children from the community from the district of Kyustendil who needed educational inclusion. A team of experts including a speech therapist, clinical psychologist and the head of the resource center was finalizing their monitoring in the region and the process of identifying specific measures for the necessary changes and the effective integration in the mainstream schools and kindergartens for children with problematic development. Excluded from the integrative process remained only the children from HMSCC – Gorna Koznitsa, but in a conversation with the BHC researcher the manager of the RC with RIE Miroslav Dimitrov stressed that moving the children's home from Gorna Koznitsa to the district center of Kyustendil will stimulate the processes of educational inclusion of the disabled children from HMSCC. For now the remoteness of the home for mentally retarded children is a serious obstacle for their inclusive education according to the evaluation of the experts from the resource center in Kyustendil.

### **5.2. Structural and functional development**

In 2002 BHC conducted its first monitoring of all the then existing 74 rehabilitation schools and 4 mainstream schools with rehabilitation classes. It published the findings of its study which contained a detailed analysis of the activities in each of them<sup>11</sup>. In 2006 BHC studied the rehabilitation schools again, as the majority of them were visited after the beginning of 2006/2007 school year. Two of the schools

<sup>11</sup> An executive summary of this analysis is available on the Internet at the BHC website at: <http://www.bghelsinki.org/index.php?module=resources&lg=bg&id=21>

visited in May 2006 were closed in July 2006; therefore the data about them will not be included in the overall research reported herein.

As of 2002 an estimated 10,000 children were trained in 74 rehabilitation schools and 4 mainstream schools with rehabilitation classes. In the 2004/2005 school year according to MES data the rehabilitation schools were 71 in number with 8,762 children. Out of all the children 606 were with multiple disabilities in the rehabilitation schools. As of the 2005/2006 school year according to MES data the rehabilitation schools were 70 with a total of 7,884 children, of whom 3,241 live in boarding houses at the rehabilitation schools.

As of November 2006, as it was mentioned in the report, there were 62 rehabilitation schools with 5,939 children, 2,856 of whom were placed in 36 rehabilitation boarding schools, while 3,083 visit 26 rehabilitation semi-boarding schools. The table below reflects the data from 15 of the 22 schools visited.

***Number of children in the rehabilitation schools***

	Capacity <sup>12</sup>	Number of children in 2002	Number of children at the end of 2005	Number of children above 18 years of age
Lom	156	230	154	17
Novo Selo	120	108	95	7
Dolni Dabnik	200	166	166	4
Harmanly	300	313	290	4
Shumen	300	268	250	12
Kavarna	155	140	148	17
Ruse	120	97	78	2
Veliko Tarnovo	120	106	102	4
Varna	72	102	56	5
Vratsa	250	246	N/A	N/A
Velingrad	100	107	124	N/A
Stob	150	115	99	N/A
Rakitovo	140	100	118	N/A
Gabrovo	100	84	78	N/A
Lovech	80	61	34	N/A

***Profile of the children in RS***

	Roma	MiMRC <sup>13</sup>	Multiple and	Speech problems
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<sup>12</sup> Obviously, some schools determine their capacity at random. As of 2002 some schools had a capacity which simply coincided with the number of the inmates.

<sup>13</sup> Number of mildly mentally retarded children.



			severe disabilities <sup>14</sup>	
Lom	128	136	2	65
Novo Selo	32	64	15	40
Dolni Dabnik	80	85	21	79
Harmanly	102	265	8	47
Shumen	100	193	21	96
Kavarna	29	118	5	48
Ruse	8	39	21	39
Veliko Tarnovo	10	74	18	30
Varna	0	41	28	37
Vratsa		162	23	N/A
Velingrad	40	101	13	N/A
Stob	65	67	N/A	N/A
Rakitovo	10	88	N/A	N/A
Gabrovo	N/A	N/A	28	54
Lovech	N/A	N/A	10	30

*Children evaluated by the Complex Educational Assessment Team (CEAT)*

	Admitted 2005	Referred from CEAT	Admitted from a school	Admitted from another home	
Lom	10	10	0	0	10
Novo Selo	32	32	20	10	0
Dolni Dabnik	33	33	9	0	2
Harmanly	39	23	23	4	23
Shumen	32	32	19	7 HMRCJ	16
Kavarna	21	27	19	0	0
Ruse	6	6	1	0	5
Veliko Tarnovo	15	15	1	3	2
Varna	3	1	3	0	0
Vratsa	17	17	0	4 HMRCJ	0
Velingrad	11	11	N/A	11	3

<sup>14</sup> Number of moderately and severely mentally retarded children with impaired hearing, vision, speech, locomotory disabilities, etc.

Stob	11	11	2	0	3
Rakitovo	16	N/A	6	N/A	3
Gabrovo	N/A	N/A	N/A	N/A	N/A
Lovech	N/A	N/A	N/A	N/A	N/A

11 of the rehabilitation schools mentioned above are boarding schools and they offer at least week care for the children. Naturally, not all have boarding houses with a capacity for all the pupils. Some rehabilitation schools located in towns have a boarding house for some of the children who come from the nearby villages. Nonetheless, the existence of boarding schools raises the serious issue about what exactly the rehabilitation school is. According to BHC, this is an institution which offers mainly social services such as food, shelter, clothes, bath. The individualized approach is a possibility that has not been applied. According to the school staff many of the children who are visiting the school come from socially disadvantaged, unemployed families, families of many children, Roma families, and they would drop off the educational system if they did not benefit from the conditions offered by the boarding schools. However, there are regions where this trend is decreasing or disappeared altogether (Lovech, Gabrovo, the town of Veliko Tarnovo, Vratsa).

Funding of the rehabilitation schools is provided directly by MES pursuant to the decisions of the Council of Ministers (CM) which have been determining on an annual basis the standards for the support allowances for a child since 2002. The last such decision of the CM is Decision 21 of 19 Jan 2006 which provides for the annual state support for a pupil from a special school of semi-boarding school type for mentally retarded children to be BGN 211.60, while for the boarding houses an additional sum of BGN 271 is added, which includes the salaries for the staff and the maintenance costs for the facilities. The average gross salary for the field of education is BGN 321.49 as of 1 January 2006 and BGN 340.79 as of 1 July 2006. An analysis of the data has shown that in the boarding schools in 2004/2005 school year they received BGN 700 per child per year, while in the non-boarding schools – up to BGN 170 per year.

#### **Conclusion:**

**The BHC opinion about the future of the rehabilitation schools is that, be it gradually, all the social advantages of the rehabilitation schools should be cancelled, such as boarding, free food, clothes, textbooks. The capacity of those located in the district centers should be decreased, while the rest should be closed altogether or if they are the only schools for the neighboring 4 or 5 villages, they should be turned into mainstream schools after negotiations with the local governors.**

**The BHC understanding about the necessity of implementing changes in the legislative framework governing the education of children with disabilities and pupils is based on the principles that the children and their parents need to have a real and equal choice of the form of education, equal opportunities for learning, and application and development of their potential as personalities. By depriving the children with special education needs from their real right to choice, in practice they are deprived of their fundamental right to freedom and personal life. The lack of adequate education, which is the BHC conclusion about the quality of the educational process in the rehabilitation schools, leads to the institutionalization of the persons who passed through the specialized schools. The same is valid for the persons who were left without any education. The opportunities for fulfillment of their working potential for the mentally retarded children who graduated from rehabilitation schools are almost non-existent – they are not competitive on the labor market. Their self-esteem has not been fostered. The potential of their personalities is left undeveloped. Their possibilities for social inclusion are severely limited. Thus in the end they often find themselves in one or another victimized group.**

**The financial and human resources that were invested in the change and in trying to turn the inclusive education into a working system will be justified in future through the decrease in the expenses for social allowances, through the increase in the number of people who have managed to fulfill themselves**

**in the community and the related result beneficial for the community. Overcoming the stigma for the disabled people is part of the process of overcoming their social isolation occurred in their first years.**

## **6. SBS/CBS: Specific data**

### **6.1. National policy**

The national policy with regard to SBS and CBS is implemented by the Integration of Children with Special Education Needs Department under the Educational and Cultural Integration Division at the Ministry of Education and Science. In the last decade the system of the correctional educational institutions underwent considerable changes which to a certain extent humanized the implementation of the educational measures imposed on delinquents, but, on the other hand, failed to bring about a refined juvenile delinquency prevention strategy.

After the changes that took place in 1989 SBS and CBS continued to function in the way and for the goals they were originally created. The systematic pressure on the Bulgarian authorities on the part of local and international organizations brought about two legislative changes – the one in 1996 on occasion of the presentation of the governmental report before the UN Committee on the Rights of the Child and the second one in 2004 which set itself the goal to reform in more detail the system of SBS and CBS. In particular, it had to solve one of the most poignant problems– the one with arbitrary placement of children and the absence of any guarantees for fair trial. In the end, however, the general impression from the legislative changes is that they are rather aiming at justifying and ensuring the future of the existing correctional institutions, rather than finding more adequate mechanisms for prevention and correction of the social behavior of children.

### **6.2. Structural and functional development**

As a result of the legislative changes and the decrease in the number of children placed, which followed, the number of CBS and SBS was considerably reduced. Thus from 8 CBS and 24 SBS in 2000 after the end of 2005/2006 school year only 5 CBS and 9 SBS were left. The decrease in the number of these institutions should be the direct result from the unified strategy for improvement of the general conditions therein. The monitoring of this process has shown that one of the fundamental reasons for that is the refinement of the procedure for placement of juveniles delinquents and the introduction of judicial control over the acts of the local committees. Thus the decrease in the number of SBS and CBS was not the result from the deinstitutionalization strategy, but because of the decrease in the number of the correctional measures imposed. Anyway, so far no data has been given about the destiny of the children who have lived in SBS and CBS until recently – what part of them has been moved to other children's institutions, what part of them has been deinstitutionalized and what part of them went back on the streets or to their harmful family environment.

The procedure for placement of children in SBS and CBS was reformed for yet another time in July 2004, but knowing and applying it remained problematic for the Local Committees in Bulgaria. Imposing correctional measures “placement in SBS” and “placement in CBS” and other correctional measures is initiated when there is a report about juvenile delinquency and/or about a crime committed by minor people. The report may be filed by the courts or the prosecutor's office, police bodies or officials and citizens to the LCCJD and is registered by the secretary of the commission in a special log. The LCCJD members initiate an intervention case and a date is set for its hearing, as it informs immediately the juvenile involved, their parents or the persons who substitute for them, and the respective Social

Assistance Directorate. The case is scheduled for hearing one month after it was initiated. Amendments to the Juvenile Delinquency Act (SG, issue 66 of 30 July 2004) made possible the judicial control on the decisions of local commissions for combating juvenile delinquency on placement in SBS. In the cases when there is a proposal from the LCCJD to the regional courts for placement in SBS or CBS the regional court to schedule the case based on the proposal of the local commission within 14 days of its registration. The regional court hears the case unilaterally in an in-camera court hearing by summoning the juvenile involved, their parents or the persons who substitute for them, the persons who defend their rights and legal interests, and a prosecutor from the respective regional prosecutor's office. Within 7 days the court issues a justified decision on imposition of a measure "placement in SBS" or "placement in CBS", and with the respective ruling by virtue of which they terminate the case, if it is found that no anti-social deed has been committed. The decision of the regional court by virtue of which the correctional measures "placement in SBS" and "placement in CBS" are imposed is subject to appeal or contestation before the respective district court by the juvenile, their parents or the persons who substitute for them or the persons who protect their rights and legal interests within 14 days of the date the decision is issued. The district court schedules the case based on the appeal or the contestation within 14 days of the date they were filed. After the proceedings are finalized the case is remanded to the chairperson of the local commission for implementation of the decision that entered into force.

Pursuant to the provisions of the JDA "Children above the age of eight and adolescents who have become delinquent or conditions exist for them to become delinquent shall be placed in social educational school boarding schools". Thus put, the language lends itself to various interpretations. In addition, the new regulation does not impede the vicious practice to mingle two categories of children in SBS – delinquents and victims of offences and even crimes. After all, the regulation does not define clearly and definitely when "conditions exist for them to become delinquent" which renders pointless the attempt of the legislator to clarify the profile of SBS. The monitoring in 2005 and 2006 has shown that the majority of the children in SBS have been placed there for social reasons only and that they do not need educational, but rather protection measures.

Data collection and summarizing the statistics about the number of children in SBS and CBS is always something relative. Very often the directors of these institutions were unable to identify the exact number of the children placed in the institution entrusted to them by explaining this with the level of the turnover of the children – frequent escapes and unsuccessful searches, failure to report to the school of a child that was placed in it on paper as of the beginning of the school year, lack of coordination between the different institutions which in this way allows for a child to be registered in two schools simultaneously.

After the amendments to the JDA in 2004 the number of the placements under the new procedure marked a steady decrease. In most of the schools the staff explained that with the clumsy procedures or with the demographic decline. The ways to place children in SBS and the reasons for those placements even after 2004 were extremely diverse and contrary to the procedure under the JDA. Among those were placements based on appeals filed by the parents and pursuant to a ruling issued by a prosecutor without a court decision, though (SBS - Pelatikovo), pursuant to a decision of the local commission only issued four years earlier and yet another placement of a child without any documents (SBS - Straldzha) and by virtue of a court decision in accordance with which there is "convincing evidence demonstrating deviations from the moral rules and norms, though not constituting a crime in itself" (SBS - Varbitsa). The provisions for placing children in CBS are much more refined compared to the provisions for placing the children in SBS. The records in CBS contain decisions issued by LCCJD and court decisions which describe specific deeds of the inmates. However, some CBS had some problems with the admission of mentally retarded juveniles the work with whom is extremely difficult.

Pursuant to the provisions of JDA the children placed in SBS and CBS "Persons placed at these schools shall reside there to be brought up and educated, inclusive of acquiring vocational qualification, until they turn 16 years of age and, if they state so in a written submission, until they turn 18 years of age". Pursuant to CBS and SBS Regulations, art. 15 the maximum stay in CBS and SBS may not exceed 3 years. The shortage of pupils in the last years and the fear of having the schools closed for this reason are the core of the efforts of the staff to convince the inmates to stay to finish their education for more than 3 years. For this reason the percentage of the children staying in the institutions for more than 3 years and of the pupils

who turn the age of 16, in SBS and CBS in particular, is between 10 and 25%.

In SBS and CBS there is supposed to be both individual and team social preventive and correctional educational activities. The lack of specific methodology for carrying out correctional educational activities in reality deprives the educational staff from the possibility to work for reforming the SBS and CBS inmates. Instead, in most of the boarding schools different extracurricular activities are taking place – dancing or sports, and hobby groups are formed. The facilities of SBS and some of the CBS are shabby, obsolete and poorly maintained to offer either quality educational, or meaningful correctional activities.

**Conclusion:**

**Despite the progress in terms of guarantees against arbitrary placement made with the JDA amendments passed in July 2004, a number of the serious problems of the system could still be noticed as clearly as during the previous monitoring. These problems affect all of its aspects and cause serious violations of the rights of the children placed in correctional educational institutions. A particularly serious issue is the shortcoming of the education and the violence which is part and parcel to the activities in many of the boarding schools.**

### III. Compliance of the governmental measures with the requirements of the UN Convention on the Rights of the Child

#### 1. Family environment and institutions

*The best interests of the child*

**Article 3**

2. State Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. State Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

*UN Convention on the Rights of the Child*

#### 1.1. Prevention of neglect and deinstitutionalization - General data about the governmental policy and the results from it

*Placement of children in specialized institutions is conducted only when all other resorts have been used up to leave the child in a family environment, as the court takes into account the following sequence: placement in a family of relatives or friends; foster family, specialized institution unless this is contradictory to the interest of the child.*

*From a report on the UN Convention on the Rights of the Child, Family Environment and Alternative Care*

*(art. 5, 18, paragraph 1-2, 9-11, 19-21, 25, 27, paragraph 4 and art. 39), 2006*

Since in 2002 SACP stressed in its annual report that “no real process of deinstitutionalization of the children’s institutions has started in Bulgaria”, in September 2003 the Council of Ministers adopted a Plan on the decrease in the number of children raised in specialized institutions<sup>15</sup>. Pursuant to this plan by 2005 a reduction of 10% is supposed to be achieved. Deinstitutionalization has been identified as the major priority of the national child protection policy in Bulgaria. In the 2006 National Child Protection Program adopted at the end of 2005 the major priorities have been identified as follows: “Reduction of the number of the children brought up in specialized institutions and improvement of the living conditions therein.”

*The most important governmental instrument is the Plan on decreasing the number of children placed in institutions for the period 2003 and 2005. In implementation of the plan in the period between May and October 2004 an evaluation of the specialized institutions in the country was conducted - 86 homes for children deprived of parental care, 24 homes for medical and social cares for children, 18 homes for mentally retarded children and juveniles and 1 home for children with physical disabilities and intact intellect. Reports were prepared on the conditions of each of the institutions assessed and specific recommendations were made which concern their future development and raising the quality of the child care there – change of the care model and individualization of the care, providing for conditions close to the family environment, preparation of the children for their independent life, convening*

<sup>15</sup> Council of Ministers, Decision No 602 of 2 September 2003, published in the SACP newsletter, issue 1/2005

*multidisciplinary teams, etc.*

***From a draft report on the UN Convention on the Rights of the Child, Family Environment and Alternative Cares***

***(art. 5, 18, paragraphs 1-2, 9-11, 19-21, 25, 27, paragraph 4 and art. 39), 2006***

In July 2005 in its analysis of the efficiency of the child protection system made on the basis of report cards submitted by the Child Protection Department on the first half of the year, SACP noted: *During the reported period the number of the children provided with family environment almost doubles in number the children placed in specialized institutions.* The children provided with family environment during the first half of the 2005 (prevention, reintegration, placement with friends and relatives, placement with foster families) are 2,868. The children institutionalized during the same period are 1,686. The SACP analysis clarifies, however: *“Insignificant (only by 7.6) is the rate of reduction of the number of children institutionalized in specialized institutions in the first half of 2005 compared to 2004. Despite the job well done – the successful cases of prevention and reintegration, the number of the children in the specialized institutions remains relatively high and the speed of reduction is not that high as we would like it to be.”*

**According to the SACP data, *Evaluation of the specialized institutions for children, October 2006: the number of the children institutionalized in the homes in 2005 is 9,776. As a percentage of the children’s population in the country the children placed in institutions in 2005 is 0.67%. In January 2006 the Plan on the reduction of children raised in specialized institutions in Bulgaria in 2003-2005, which was adopted by virtue of Decision No 602 of the CM of 2 Sept 2003, was announced. It is indicated that at the end of 2005 the number of the children placed in specialized institutions has decreased by 18.3%, or 2,176 children, while the targeted reduction rate provided for in the 2004-2006 National Child Strategy is 10%.***

**BHC was given information about the children placed in institutions by the responsible ministries and the SACP. At this point BHC emphasizes the statistical information from the SACP, MH, MES and MLSP about the number of the children placed in children’s institutions under the provisions of the CPA for 2005 is discrepant. The SACP data shows, as already mentioned, that in 2005 the children placed in the institutions under the CPA are 9,776. According to the statistics of the MLSP, for example, the number of the children institutionalized is 9,658.**

**According to the SACP report, *Evaluation of the specialized institutions for children, October 2006, the breakdown of the number of the children in 2005 by types of institutions is as follows: HCDPC – 5,506, HMRCJ – 1,310, HMSCC – 2,960.***

**The MLSP data about the same institutions for the same 2005 in the report *“Deinstitutionalization Policy in the process of joining the EU - condition, progress and challenges”*, June 2006: HCDPC – 5,255, HMRCJ – 1,499, HMSCC – 2,904.**

**According to the information of the MLSP, *Child Protection Activities, June 2006, it is pointed out that as of 31 May 2006 on the territory of the country there are 27 HMRCJ with 1,691 inmates where 73 children are placed in a home for children and juveniles with physical disabilities and intact intellect; 1,190 children and 428 juveniles – a total of 1,618 were placed in HMRCJ.***

The lower number of registered institutionalized children in the statistics for 2005 is explained with the fact that the data does not include the number of young people above the age of 18. The BHC standpoint is that since young people above the age of 18 are still institutionalized in HMRCJ, their number should be included in the data<sup>16</sup>. The discrepancy of the official statistics is an indicator about the level of

<sup>16</sup> According to the data provided by MES, MLSP, MH and SACP as of Nov 2006 in the children’s specialized institutions under the provisions of the CPA (HMRCJ, HCDPC, HMSCC) there are 9,323 children and juveniles in total in 144 children’s institutions - 26 HMRCJ – 1,618, 86 HCDPC- 4,745, 32 HMSCC – 2,960. If to this number we add the number of children visited the rehabilitation boarding schools (36 RBS from a total of 62 RS) which according to MES as of November 2006 are 2,856, the number will rise to 12,179 children and juveniles.

coordination between the state institutions responsible for the child protection policy in the country. BHC deemed relevant to use the average values as a basis for the analysis made herein.

***Number of children placed in the specialized institutions according to the MLSP***

Types of institutions	No of institutions	No of children	No of institutions	No of children	No of children	No of children	No of children	No of children	reduction	%
	2002		2003		2004		2005			
<b>MES institutions</b> Home for children deprived of parental care	102	6920	102	6151	101	5,567	101	5255	1,665	24
<b>Institutions subordinated to the municipality</b> Home for disabled children and juveniles	30	1,773	29	1,742	29	1,835	27	1,499	274	13.2
<b>MH institutions</b> Home for medical and social care for children	32	3,141	32	2,906	32	2,882	32	2,904	237	7.5
<b>Total for all institutions</b>	<b>164</b>	<b>11,834</b>	<b>163</b>	<b>10,799</b>	<b>162</b>	<b>10,284</b>	<b>160</b>	<b>9,658</b>	<b>2,176</b>	<b>18.3</b>

Source MLSP: "Deinstitutionalization Policy in the process of joining the EU - condition, progress and challenges", June 2006

The MLSP interpretation of the above data in the above document is as follows:

The reduction of the number of children placed in specialized institutions reflected in the document is due to the developed and functional child protection system. The implementation of the Child Protection Act narrowed down the incoming flow of pupils, because placement in them is carried out only by virtue of court orders. The reduction rate by 18.3% of the number of children in the specialized institutions is due to the application of the protection measures in the family environment and the adoptions made: Prevention – 21.4%, placement with friends and relatives– 31.5%, reintegration in the biological family– 32.5%, placement in a foster family – 0.5%, adopted in the country – 10.3%, adopted abroad – 3.7%, turning 18 years of age.

The information in the draft report on the UN Convention on the Rights of the Child developed by the Bulgarian government about the reduction of the number of children brought up in institutions has been presented similarly and again encourages the conclusion that the decrease of the number of the children in the specialized institutions is due mainly to the functioning child protection system.

*According to the data of the child protection departments as of December 2004 there are 162 specialized institutions for children where the placement is carried out under the provisions of the CPA. The children who are being brought up in them are 10,284 which is 0.69% of the children's population (based on the preliminary data of the National Statistics Institute the children at the age of up to 18 years are 1,488,096). Together with the children in SBS and CBS they are 12,612, or 0.84% of the children's population. Against the background of a steady rate of decrease in the children's population by 2.6% per year the rate of reduction of the number of children in the specialized institutions is 5.4% to 8.7% in 2004. The conclusion that can be drawn is that the reduction of the number of children in the specialized institutions is due primarily to the developed and functional child protection system.*

***From a draft report on the UN Convention on the Rights of the Child, Family Environment and Alternative Care (art. 5, 18, paragraphs 1-2, 9-11, 19-21, 25, 27, paragraph 4 and art. 39), 2006***



According to BHC there are reasons to believe that the governmental criteria for the places of detention (primarily HMRCJ), as well as those for the reduction of the number of inmates, are unrealistic.

The table above of the number of the children institutionalized reveals data about three types of institutions where there is a trend for the reduction of the children by 18.3% in total for the three types. The tendency is detected on the basis of the dynamics of the entries in the institutions by years for the period between 2002 and 2005. From the point of view of this methodology the greatest reduction rate is in HCDPC– by 24%, followed by HMRCJ – by 13.2%, while the smallest is the reduction rate in HMSCC– by 7.5% for the same period. This methodology, however, has major flaws – it does not reflect the general dynamics of the reduction/growth of the children in the age groups of the children registered in each type of the institutions. In the age group 5-19 years where the majority of the children from HCDPC and HMRCJ are, for the period between 2002 and 2005 there is a general decrease of the number of children in Bulgaria due to the negative demographic tendencies. For the same period in the age group 0-4 years where the majority of the children from HMSCC belongs, the tendency, on the other hand, is growing. Therefore an indicator of the governmental attempts to reduce the number of children in the institutions would be not simply decreasing their number in the institutions, but comparing this number with the general demographic trends. Only then will it be possible to assess the reasons for the reduction – natural demographic tendencies or the efforts on the part of the state. Viewed from this perspective, the data draws a different picture. Chart 1 below shows the tendencies for the decrease in the number of children in HCDPC, compared to the general demographic trends in the age group 5-19 years for the period 2002 – 2005 r.<sup>17</sup>

The chart shows that in HCDPC there is a tendency for an actual reduction in the number of the children, but, compared to the general demographic tendencies for their reduction in the age group 5-19 years, it turns out to be around 15%. This is 9% less than what the MLSP report shows – 24%. Moreover, while the general demographic tendency demonstrates a comparatively gradual rate of decrease of the children per year by an average of 3 to 3.5% for the reported period, in their decrease in HCDPC such a gradual rate is not observed. The highest rate is from 2002 to 2003 – by 11.1%. In each of the following years this rate is decreasing.

### *Chart 1*

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<sup>17</sup> The data about the general demographic trends in this and the next two charts has been calculated according to: the National Statistics Institute, Population and demographic processes– 2004, Sofia, 2005, p. 8, and National Statistics Institute, Population – 2005, Sofia, 2006, p. 25.

**Comparative trends in the decrease in the number of children in HCDPC**

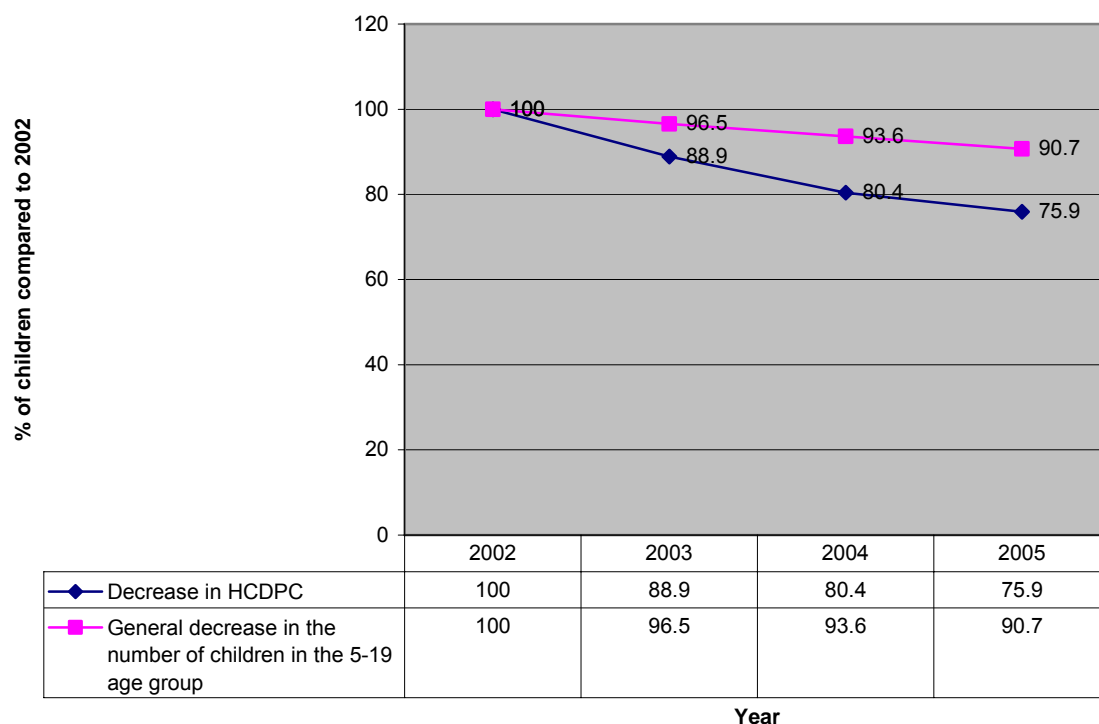
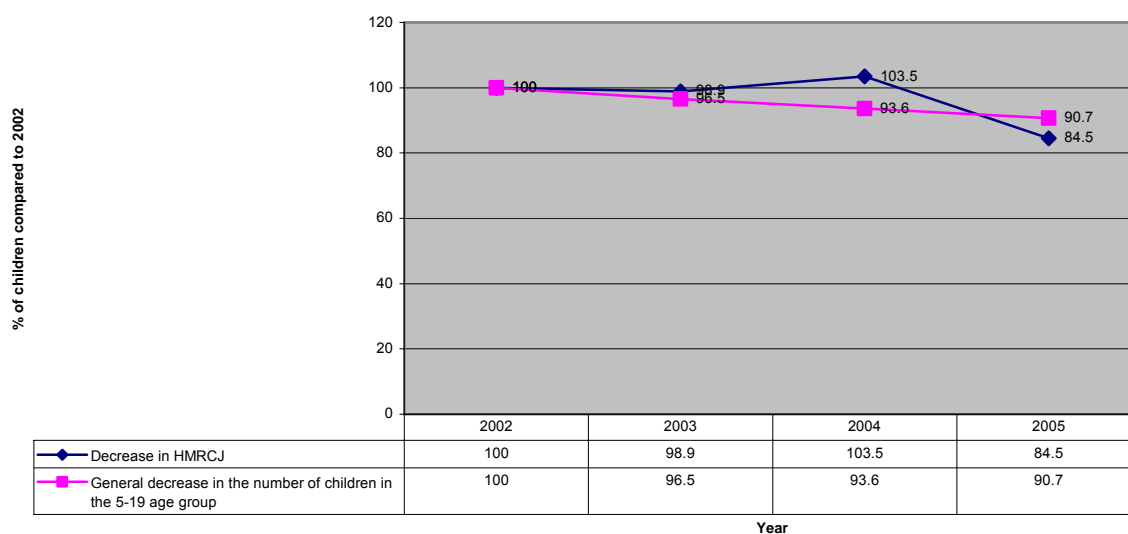


Chart 2 shows the tendencies of decrease of the number of children in HMRCJ compared to the general demographic trends in the age group 5-19 years for the same period.

*Chart 2*

**Comparative trends in the decrease in the number of children in HMRCJ**



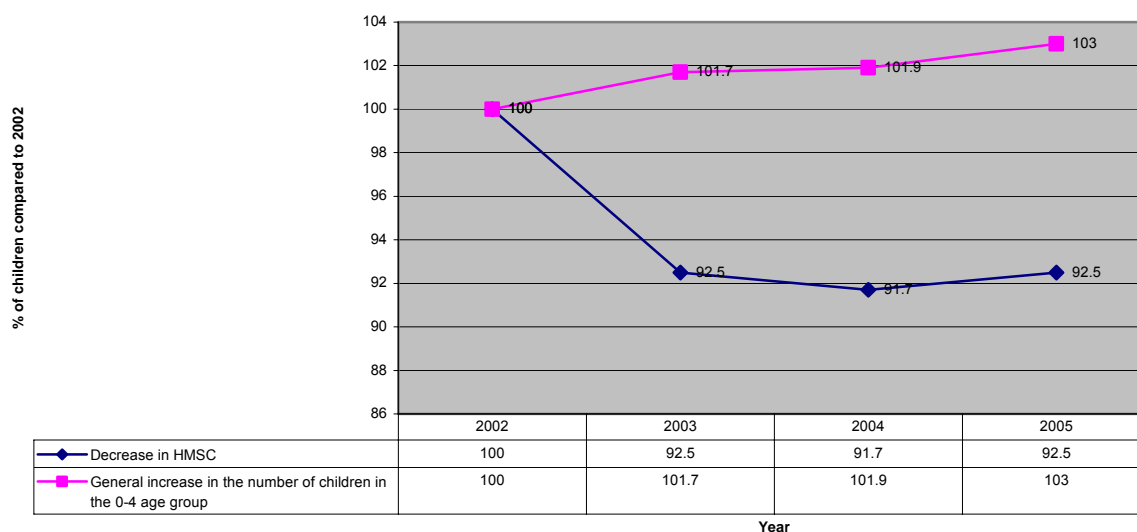
Here the tendency is very controversial. At the end of the period the actual decrease compared to the

general demographic tendencies in the age group 5-19 years is only 6.2%. This number is more than twice lower than the one in the governmental report – 13.2%. The tendency to a decrease in the number of children in HMRCJ for the period between 2002 and 2005 is entirely at the expense of the sharp decrease by 19% in the last year – from 2004 to 2005. In 2004 the children in them were by 3.5% more in comparison to 2002.

Chart 3 shows the tendencies to a decrease of the number of children in HMSCC compared to the general demographic trends for the age group 0-4 years for the period 2002–2005.

**Chart 3**

**Comparative trends in the decrease in the number of children in HMSC**



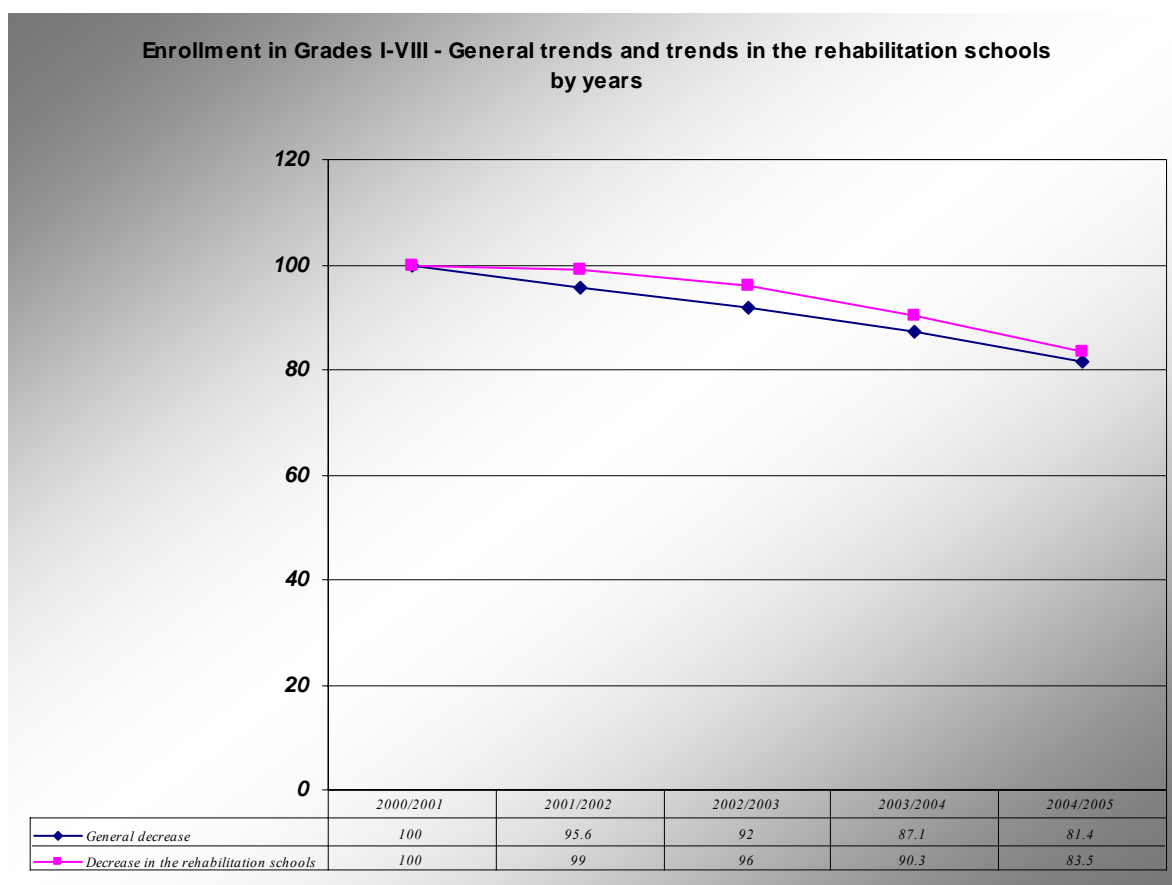
With regard to these institutions the governmental report, following its erroneous methodology, has underestimated the governmental efforts. As the chart shows the actual decrease in them compared to the general demographic trend is 10.5% where the governmental report talks about 7.5%. Both the trends in the absolute, and in the actual decrease, however, are controversial. Here again the major reduction is in the period 2002 – 2003 – by 7.5%. While from 2004 to 2005 there is even an increase in the number of children both in absolute numbers, and in terms of share of the children in 2002 r.

Chart 4 below shows the trends with the decrease of the children in the rehabilitation schools for the period from 2000/2001 school year to 2005/2005 school year. It shows the trend for general decrease and the trend for a decrease in the rehabilitation schools on the basis of the children enrolled from 1st to 8<sup>th</sup> grade of the mainstream schools and in the special schools for mentally retarded children in Bulgaria<sup>18</sup>.

As it can be seen from the chart in the identified period in practice there is no real decrease in the number of the children in the rehabilitation schools. The tendency for the decrease of the number of children registered there coincides with the general tendency of a decrease of the children registered in the primary school which is a result of the natural demographic decline and migration.

<sup>18</sup> Source: National Statistics Institute, *Education in Bulgaria – 2005*, Sofia, 2005 r., p. 47, and the National Statistics Institute, *Education in Bulgaria – 2006*, Sofia, 2006, p. 101.

**Chart 4**



## 1.2. Prevention of neglect and deinstitutionalization – specific data broken down by types of institutions

### *Separation from the parents*

*Right of the child to not be separated from their parents unless this is necessary for the best interests of the child*

#### **Article 9**

*1. State Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.*

*UN Convention on the Rights of the Child*

The 2006 CPD reports identify the inclination for prevention of the institutionalization of children before there is a network of services for early intervention which often leads to early deinstitutionalization of children who remain in a risky environment because the resources of the biological family to take care of the child have been assessed erroneously. In reality prevention or reintegration are being conducted “by all

means” which sets risks for unwanted consequences. The BHC opinion is that the deinstitutionalization carried out in the children’s institutions in the country should not be interpreted as “reintegration by all means”. As already specified in the report the legislative framework has to be changed to guarantee child protection and in cases which require deprivation of parental rights the law should not obstruct the imposition of this measure.

At the beginning of November 2006 the media reported about a case of two children sadistically abused by their mother – the 2-year old Daniel Asenov and his 6-month old sister. On 7 Nov 2006 a report on the abuse is filed with the Child Protection Department under the Social Assistance Directorate – Vrabnitsa. The children were urgently admitted to Pirogov National Emergency Medicine Institute. The child had a broken femur, injuries and bruises all over the body, bites on the arm and missing hair. Daniel and his little sister, who was also admitted to the hospital, were placed temporarily at the Faith, Hope and Love orphanage. The case was reported to the Prosecutor’s Office by the Minister of Labor and Social Policy Emiliya Maslarova and the executive director of the Social Assistance Agency Gergana Dryanska. BHC supports completely the involvement of the MLSP and believes that in similar situation the law should guarantee protection of the children at risk (*see the BHC position regarding the amendments to the legislative framework regulating deprivation of parental rights in the report*).

### 1.2.1. HMRCJ – imitation of deinstitutionalization

The criticism about the great number of institutionalized children in Bulgaria remains and has been reiterated in several consecutive EC monitoring reports, including in the last one of 26 Sept 2006. In response to the recommendations expressed in the EC monitoring report of 16 May 2006 the Bulgarian government adopted a Plan on the political criteria for EU membership (Decision of CM No 416 of 1 June 2006) with concrete measures on each of the recommendations. In the area of child protection in Bulgaria the following measures for reducing the number of the children in the institutions were identified:

- ◆ Closing down two homes for mentally retarded children and juveniles in Pazardzhik (with a capacity for 50 children) and in Berkovitsa, district of Montana (with a capacity for 90). Deadline: 30 Dec 2006
- ◆ Reducing the capacity of two homes for mentally retarded children and juveniles – in the village of Petrovo, municipality of Sandanski, district of Blagoevgrad, with a capacity for 110 children – to 90, and in the village of Mogilino, municipality of Dve Mogili, district of Ruse – with a capacity for 100 children – to 70. Deadline: 30 Dec 2006
- ◆ Restructuring and reforming of two institutions for disabled children – in the village of Vasil Drumev, municipality of Shumen, and in the village of Petrovo, municipality of Sandanski, district of Blagoevgrad. Deadline: 30 Dec 2006.

According to the MLSP data the institutions for children which were closed in the period after 2003 are six:

#### 2004

- ◆ **HMRCJ - Fakia**, municipality of Sredets, district of Burgas

#### 2005

- ◆ **HMRCJ - Dzhurkovo**, municipality of Laki, district of Plovdiv
- ◆ **HMRCJ - Dobromirtsi**, municipality of Kirkovo, district of Kardzhali

#### 2006

- ◆ **HMRCJ – Tri Kladentsi**, municipality of Vratsa
- ◆ **HMRCJ - Berkovitsa**
- ◆ **DCMRCJ - Pazardzhik**

According to BHC from the 6 children’s specialized institutions declared for closed, in practice only 3 were closed down. There is real deinstitutionalization in single cases only – 4 children have been reintegrated.

**Conclusion:**

The BHC monitoring of 2006 leads to the conclusion that the simulation of deinstitutionalization of HMRCJ is a feature of the process of closing homes for mentally retarded children in the country in the period between 2003 and 2006. Closing homes for mentally retarded children in reality does not lead to reintegration, adoption or placement with a foster family of the inmates. Three of the HMRCJ reported as closed have not been closed in practice – they have been renamed to HMRJ – the children who have been brought up in the children's homes continue to live in the same homes transformed to homes for juveniles.

The measure “closing of homes” is usually undertaken after media coverage about the extremely unacceptable conditions in the facilities and negligence on the part of the staff, and not a result of a consistent and clear policy. Even after inspections which find a number of violations of the legislation and very poor quality of the services provided (in some cases complete negligence), the measure “closing” is postponed in time, while there is controversial information distributed to the public about their future. The children from these “closed” homes are relocated to other homes (for children or adults) and in practice they remain institutionalized. There are scattered cases of reintegration of children from HMRCJ.

The closing of the three homes in 2006 – the ones in Tri Kladentsi, Berkovitsa and Pazardzhik, according to the BHC evaluation of 2006 can be qualified as an open delusion. In the three institutions there is no actual closing, reintegration, adoption, foster care. We are talking only about re-labeling.

- ◆ **HMRCJ – Fakia** – after publications in the *Sega* and *Kapital* newspapers and *Obektiv* magazine in 2000 MLSP conducted a number of inspections in the children's institution. In 2004 the children's institution was transformed into HMRA – by the time BHC monitoring of 2006 was finalized the building of the institution was still being reconstructed. The children from HMRCJ – Fakia were relocated to HMRCJ - Mezdra, HMRCJ - Petrovo, Stara Zagora, and HMRCJ - Iskra, Karnobat.
- ◆ **HMRCJ – Dzhurkovo**, municipality of Laki - 52 severely mentally retarded children were relocated in the period from 30 Nov 2005 to 2 Dec 2005 to HMRCJ – Petrovo and to HMRCJ – Sofia. HMRCJ was restructured to HMRA with a capacity for 40 children. 19 juveniles from the ex-inmates from HMRCJ – Dzhurkovo, at the age of more than 18 years remained in the institutions.
- ◆ **HMRCJ – Dobromirski**, municipality of Momchilgrad, district of Kardzhali, was closed after a publication in *Kapital* newspaper. 28 of the children were taken out of the institution – 24 were relocated to another institution, and 4 were reintegrated.
- ◆ **An institution in the town of Pazardzhik** de facto was not closed. Since its opening in 1998 the home for mentally retarded children in Pazardzhik has been providing day-care and week-care services for mentally retarded children and in agreement with the measure that was undertaken in practice there is now compliance between the profile and the functions of the day-care center. In its monitoring in the period 2000 and 2001 BHC found: in 1998 the children's home in Pazardzhik was open as a day-care social institution. In 1999 by virtue of decision of Pazardzhik District Court the day-care center was restructured to an all-year center. Since the beginning of 2000 in relation to Order No 6 of 21 Jan 2000 of the MLSP on profiling the social institutions the day-care center became all-year center. 44 of the children institutionalized come from Pazardzhik and use the service “day-care”, 24 of the children and juveniles come from villages and towns in the municipality (Panagyurishte, Lesichevo, Stamboliyski...). They use the service “week-care”. In 2006 the MLSP again retransformed de jure, but not de facto the “all-year” children's home into a day-care center which in practice the home has always been. The BHC evaluation is that in this case it is only formal

renaming, and not actual closing of the institution and actual deinstitutionalization.

- ◆ **HMRCJ – Berkovitsa** – during its monitoring in 2006 BHC found that out of 89 inmates, only 16 are at the age of up to 18 years. The remaining 73 are juveniles at the age of above 18. This makes it necessary to change the home's profile, i.e. again there is no closing of the institution. BHC believes it to be a step in the right directions to transformation that took place in HMRCJ in Berkovitsa – turning the children's institution into HMRJ. But we need to clarify that this is not a real deinstitutionalization. The institution remains, and the same children, only grown, remain in it; only the home's label has been changed. This home, however, has the necessary prerequisites for a change in the model of services and the introduction of alternative forms of social services. On the territory of the home as of the beginning of 2007 a center of a family type was opened with a capacity for 15 children and a protected home with a capacity for 8 children will be opened.
- ◆ **HMRCJ – Tri Kladentsi**, municipality of Vratsa – in practice the home has been reformed into a home for juveniles at the age from 18 to 35 years (39 from 42 inmates are at the age of above 18 years at the time of the restructuring of the home, 3 are at the age of between 16 to 18 years). Therefore the home profile was changed according to the age of the inmates. The children who were raised in the home remain in the institution where they were brought up.

#### Conclusion

**For the period between 2003 and 2006 MLSP in practice closed three all-year homes for mentally retarded children - Fakia, Dzhurkovo, Dobromirtsi. Real deinstitutionalization is observed in 4 cases only - 4 children from HMRCJ – Dobromirtsi, were reintegrated. Within the framework of its research BHC did not find any tendency for a sustainable decrease in the number of the institutionalized children in the 20 HMRCJ and HMRJ visited.**

According to the Veliko Tarnovo SARD manager Maya Tsekova in the period from 2005 and 2006 CP Departments with the municipal CP Directorates prepared and sent out letters to the relatives of all the children institutionalized in the district. The purpose of this correspondence was to encourage the relatives of the children to take them back to their families. The correspondence was renewed every six months. The results so far: the total number of the deinstitutionalized children (all forms – reintegration in the biological family, adoption, foster care) since the beginning of 2005 till the middle of 2006 in the district of Veliko Tarnovo was 129 children. Only 5 children are in HMRCJ. The number of the deinstitutionalized children placed with foster families is the least, followed by the number of the children placed with friends and relatives. The biggest number is of the children reintegrated in their biological families and the children adopted at an early age.

The processes of reintegration in the three HMRCJ on the territory of the district of Veliko Tarnovo – Gorski Senovets, Ilakov Rat and Mihaltsi, have shown that 42 children left the homes in the period from 2005 to mid 2006.

Most often the exit from one institution is the entrance to the next one:

- ◆ **HMRCJ – Gorski Senovets** - 10 children left (9 relocated to another HCDPC, 1 deceased). There is no single case of successful reintegration for the period from 2005 to 2006.
- ◆ **HMRCJ – Ilakov Rat** – 8 children left (1 adoption, 7 – relocated to HMRA).
- ◆ **HMRCJ – Mihaltsi** – 24 children left (the number of the children reintegrated is 4, 1 deceased, while 19 were relocated to HCDPC and HMRCJ). The number of the institutionalized children remains a constant number for the period from 2002 and 2006: 45 to 47 children.

The current situation in HMRCJ in the district of Vratsa is similar to the situation described above. The

specific data about HMRJ – Tri Kladentsi, HMRCJ – Tarnava and Mezdra has shown that:

- ◆ **In HMRJ – Tri Kladentsi**, there are no deinstitutionalized children so far. Since 2004 there has been no movement of institutionalized juveniles in the home.
- ◆ **In HMRCJ – Tarnava** 3 children were reintegrated in 2006: 2 sisters were reintegrated in their biological family, 1 child was reintegrated with relatives (grandparents). One unsuccessful attempt for deinstitutionalization is reported – a mother expressed her willingness to take her child back, but later cancelled her request.
- ◆ **In HMRCJ – Mezdra** in 2005 1 child was admitted to the HMRCJ. For the period from 2005 to 2006 there have been no children who left the home. At the end of 2003 in HMRCJ in Mezdra 31 children were relocated from the home in Fakia, municipality of Sredets, which was closed. All the children placed in the home (apart from the children from HMRCJ in Fakia) are from the district of Vratsa.

The director of HMRCJ in Mezdra Galia Tsvetanova presented the results from the measures taken as a response to a letter of the executive director of the SAA with the MLSP, ref. No 9100-248 of 01 Dec 2005 to the directors of SARD urging for measures to be taken by SARD, SAD and the directors of the specialized children's institutions for reducing the number of the institutionalized disabled children. After a meeting convened on the initiative of the manager of SARD – Vratsa, Dima Tsanova the HMRCJ team together with CP Department with the SP Directorate initiated a search of the parents of the inmates – letters were sent out, face-to-face interviews were conducted with parents and relatives, there are discussions about the ways the families can be supported, the changes related to the social service called “personal assistant”. Some of the parents that were tracked down sent letters to the CP Departments with SAD - Mezdra, declaring: *“Currently, we are unable to take care of our child.”* More than half of the parents have not been tracked down – the reason is unknown addresses or residence abroad.

Neither did BHC come across data about a steady trend of reduction of the number of children in:

- ◆ **HMRCJ – Vidrare** – in 2005 to 2006 there were no reintegrated children.
- ◆ **In HMRCJ - Petrovo, Stara Zagora** – the cases of placement there in 2005 are twice as many as the cases of deinstitutionalization (22 admitted - 11 left). There are no reintegrated children.
- ◆ **In HMRCJ – Sladak Kladenets**, BHC found 4 cases of reintegration in the biological family for the period 2003 to 2006. There are no cases of adoption and foster care about the children from the home.

In the data of 27 Jul 2006 about the activities of the CP Department with CP Directorate in the district of Varna the chief child protection issues expert at SARD – Varna, Radoslav Dimitrov stresses: *“Despite the active measures on placement prevention and reintegration back in the family environment for children from the institutions undertaken by the child protection departments in the district of Varna and despite the fact that deinstitutionalization was identified as the fundamental priority of the reform of the child care system, the percentage of children in the specialized institutions remains high. The basic reason for that is the lack of alternative services.”* According to the statistics of Varna SARD from the beginning to the middle of 2006 the CP Department with SP Directorate in the district finalized successfully 56 cases of reintegration of children placed in homes.

The least number of cases is that of deinstitutionalized children from HMRCJ in Rudnik.

- ◆ **HMRCJ – Rudnik** for the period 2004 to 2006 only 3 children from the home were reintegrated in their families (1 – with relatives, 2 cases – with their mothers). The majority of reintegrated children was raised in HMSCC and HCDPC.

In an analysis of Kyustendil SARD about the activities in the area of child protection in 2005 it is summarized that: the consistent and unjustified negligence on the part of the parents is the major reason for raising the children in the specialized institutions. Poor conditions in the facilities and the unfavorable environment are the other basic reason which necessitates protection measures (in most cases the



placement of the child in an institution).

- ◆ For the period 2004 to 2006 **HMRCJ – Gorna Koznitsa**, 9 children were deinstitutionalized. There are no cases of deinstitutionalization.

The data about HMRCJ – Petrovo, Sandanski, has shown that in 2005 6 inmates were taken from the home (2 were reintegrated in their family, 2 relocated to HCPDII in Lukovit, 2 left because of coming of age, 1 was placed in a protected home).

- ◆ **HMRCJ – Petrovo, Sandanski** – in 2006 there were no reintegrated children and juveniles.

According to the data of the director of the HMRCJ - Petrovo, Violeta Yaneva, still some progress was made in 2006 in the area of prevention of the neglect of children. 15 children and families sought the services of the all-year home. Only 3 of the 15 children were deinstitutionalized. As for the rest, an alternative to deinstitutionalization was sought. A permanent deinstitutionalization action plan will be developed in the HMRCJ.

The data about the fluctuation of the children and juveniles from HMRJ in Berkovitsa (transformed in the second half of 2006 into HMRJ) has shown that in 2005 3 children were placed in the institution, while 5 were taken out to HMRA – Kudelin.

- ◆ **HMRJ – Berkovitsa** – for 2005 there are no cases of real deinstitutionalization.

The data about the duration of the stay in HMRCJ for 2006 indicates:

*Duration of the stay in HMRCJ*

HMRCJ	Number of inmates staying for more than 3 years in an institution
HMRCJ – Gorski Senovets	41 of 53
HMRCJ - Mihaltsi	35 children of a total of 42
HMRCJ – Ilakov Rat	47 of 54
HMRCJ - Tarnava	24 children of a total of 24
HMRCJ - Mezdra	69 of 69
HMRJ – Tri Kladentsi	All 42 inmates
HMRCJ - Vidrare	All 94 children
HMRCJ – Sofia	84 children of 96 54 of the children brought up in the home and 30 of the ones relocated from the home in Dzhurkovo which was closed
HMRCJ - Petrovo, Stara Zagora	The data about the duration of the stay of 80 children has indicated that the majority of the children (53) have spent more than 3 years in an institution (HMRCJ – Dzhurkovo – 22, and HMRCJ – Petrovo – 31), while 27 of the children have stayed in an institution for between 1 to 3 years, there is no child who has stayed in the institution for less than a year
HMRCJ – Sladak Kladenets	54 children
HMRCJ – Kosharitsa	66 of 71
HMRCJ - Medven	46 of 53
HMRCJ – Rudnik	17 children of 35
HMRCJ – Gorna Koznitsa	59 of 59
HMRCJ - Strazha	41 of 44

HMRCJ	Number of inmates staying for more than 3 years in an institution
HMRCJ - Petrovo, Sandanski	82 of a total of 90
HMRCJ - Berkovitsa	8 of the 18 children of up to 18 years of age and all the 67 juveniles above 18
HMRCJ - Iskra	51 of the 61 inmates have been institutionalized for more than 3 years
HMRCJ – Vasil Drumev	39 of a total of 50

#### Conclusion:

The BHC monitoring in 2006 has shown that despite the explicit will for social reintegration of the institutionalized children and juveniles stressed in all the documents, including in the governmental draft report on the UN Convention on the Rights of the Child the “machine” for social exclusion is still working. The major problem of the institutionalization of children in Bulgaria remains the duration of the stay. The data about 19 of the 20 HMRCJ and HMRJ visited has shown that 81.1% of the inmates raised in HMRCJ are children who have stayed in the institution for more than 3 years – of 1,113 inmates in 18 HMRCJ and 1 HMRJ visited 903 have been staying there for more than 3 years (see the table below). The deinstitutionalization process should include the following basic components:

- ◆ Narrowing down the entrance of the specialized institutions;
- ◆ Broadening up the exit;
- ◆ Enhancing the quality of the institutional care;
- ◆ Development of community-based services.

BHC found that steps have been taken in terms of all the components, but none of these processes is at an advanced state or at the final stage. The institutionalization of disabled children continues. In the majority of HMRCJ the capacity has not been used up. However, the door of most of the specialized institutions remains open. A step in the right direction was the legislative change which settled the new court procedure for institutionalization in Bulgaria. Despite the legislative changes and the concrete steps for reducing the number of children in the institutions in Bulgaria it would be an exaggeration to say that the door of the institutions for disabled children has been closed permanently. The exit door, however, is opened, while not to the community, but to the next institution.

Maya Tsekova, manager of SARD in Veliko Tarnovo: *“We find ourselves in a situation where we have reintegrated one child in their biological family, but we cannot offer the parents an alternative.”*

The BHC conclusion of the observation of the real situation and the measures undertaken for the reduction of the number of the children in 20 HMRCJ/HMRJ on the territory of the country is:

- ◆ Simulation of deinstitutionalization is a characteristic feature of the process of closing down HMRCJ from 2003 to 2006. Particularly drastic is the imitation of governmental policy in 2006. The MLSP reports the closing down of HMRCJ as real, while it was formal only.
- ◆ The real reintegration, to few exceptions, so far has bypassed the disabled children from HMRCJ despite the governmental measures that were undertaken to increase the funds and to develop the different ways to support the disabled children and families.
- ◆ The social exclusion mechanism for the children from the institutions is still working. **No systematic change has been found to lead to a considerable reduction of the number of**

**the children in the institutions and to an effective development of an alternative system for community-based services.** The absence of a developed alternative care system and naturally the economic and social status are the basic factors for the continued placement of children in institutions.

### **1.2.2. HCDPC – tendency towards an actual decrease in the number of the children**

Children and juveniles belong to HCDPC according to social indicators. In these institutions the majority of the children placed there are with parents who are unable to take care of them permanently because they are unemployed or have families of many children, or are single parents. The percentage of children with one or both parents deceased is below 1% of all inmates. Most of the children in HCDPC are placed there because of their risky environment in their families, but their parents have not been deprived of parental rights. More than 50% of the children from the HCDPC visited by BHC are of Roma origin. More and more children have behavioral problems, special education needs and different types of disabilities (mostly intellectual disabilities, sensor disabilities, chronic disabilities). Most of the inmates at HCDPC have been placed there by virtue of an administrative order issued by CP Department as a form of protection or care, but after that the placement has to be affirmed by a court decision. Comparatively rare are the cases of urgent placements. With regard to this group of children no foster care or adoption as applied as measures, or placement with friends and relatives. The most common alternative to the institutionalization is reintegration in the biological family, combined with financial support to that family. Almost all directors of HCDPC report about reduction of the number of children referred by CP Department to the institutional services. However, no considerable evidence was registered for narrowing down the entrance to the institution in 2005, while some of it is even a proof of the reverse occurrence. Below are examples of movement of children from the visited homes.

#### **In Maria Luise HCDPC, Plovdiv:**

For 2005 21 were admitted (21 have been admitted to the institution for the first time), of whom:

- ◆ 10 from their biological family
- ◆ 1 by virtue of a ruling issued by a prosecutor
- ◆ 4 from other institutions
- ◆ 6 from other places.

For the calendar 2005 14 children left HCDPC:

- ◆ 1 child was adopted
- ◆ 1 child was placed with friends and relatives
- ◆ 4 children were reintegrated in their families
- ◆ 3 children were transferred to another institution, 2 of whom to HCDPC and one in a home for mentally retarded children. There is no data about the remaining 7.

#### **In HCDPC - Kyustendil:**

In 2005 10 children were admitted, of whom:

- ◆ 5 came from another specialized institution
- ◆ 3 from their biological families
- ◆ 2 placed by the Regional department of Internal Affairs and the prosecutor's office.

In 2005 6 children left HCDPC, of whom:

- ◆ 2 were adopted
- ◆ 2 were reintegrated in their biological family
- ◆ 2 children were referred to a special boarding school for children with impaired hearing and speech.

#### **In HCDPC – Shiroka laka:**

In 2005 10 children were placed:

- ◆ 4 children came from SBS – Stoikite. The children were institutionalized in SBS without documents and any justification for placement in an institution for children with deviant behavior.
- ◆ 6 children came from their biological families to the home on a week-care basis.

In 2005 13 children left the home (2 of who continue to be provided with week-care services in another home):

- ◆ 2 children who turned 18 were placed with friends and relatives in 2005 – 1 child was reintegrated in the family of their grandfather, and a second child – in the family of their brother
- ◆ 11 children live with their biological families, 2 of them in the home in Shiroka Laka were relocated to HCDPC in Chepelare, as they use the community-based service called “week-care service “. The explanation for that is for them to be closer to their families who live in a village from this municipality – the village of Joakim Gruevo. According to the data of CP Department and RIE the families maintain contacts with their children, and at weekends and during vacations the children are with their families.

In several homes the issue of the children above the age of 18 was raised, who do not have a home and a family, and remain in an institution until work and residence are found for them. In the home in Provadia there are 4 children above the age of 18, in the home in Shumen – 3, in the home in Barzitsa – 1, in the home in Ruse – 30, in the home in Varna – 1. To remain as long as possible in the homes the inmates above the age of 18 postpone sitting their exams and their graduation from the secondary schools.

#### **Conclusion**

**The BHC evaluation is that a real though limited deinstitutionalization in the children’s specialized homes under CPA, a result of the efforts of the government is being carried out in the system of HCDPC. The report noted already that in 2006 MES closed 15 homes of this type. The biggest share of reintegrated children comes from HCDPC – mainly in their biological families. The closed homes are in Pobeda, Slateno, Gavril Genova, Orehovo, Chepelare, Gutsal, Skobelevo, Slavyanovo, Leshnitsa, Ugarchin, Georhi Damyanovo, Stoikite, Kalotina, Rila, Zheravna. Each of the institutions closed had problems with its location in a small town or a village, causing problems with the medical services, education, control and communication. During its monitoring in these HCDPC in the last 5 years BHC found that the number of the inmates decreased, the management kept deteriorating due to the staff turnover, poor qualification, inertia, reluctance to undergo professional retraining and low criteria for the service quality. As a result of the measure undertaken by MES the number of HCDPC of 101 in 2004 was reduced to 86 in 2006, while the number of the inmates in this type of homes from 5,840 was reduced to 4,745, which is a decrease by 1,095.**

#### **1.2.3. HMSCC – the number of the children was reduced only once in 2002 – 2003**

As already clarified, a tendency towards a sustainable reduction of the number of the children in HMSCC for the period 2002 to 2006 was not found. It was established that there was a reduction of the number of the inmates in HMSCC only once for the period 2002 – 2003. The BHC assumption is that this reduction coincided with the beginning of the legislative changes and the real start of the reforms in the sphere of child protection, as well as with turning deinstitutionalization into a priority of the governmental policy.

The common practice in terms of prevention and reintegration measures in 2006 boiled down to the following: in case of a report about an intention to abandon a new-born the experts from the CP

Department with the municipal social assistance directorates visit the mother who expressed her will to abandon her child in an institution. The social workers discuss her intention with her, consider the different options for providing support should the mother decide to keep her child. During the whole period until declaring refusal to provide parental care and giving consent for adoption (14 days) the social workers from CP Department conduct meetings with the mother who expressed her will to give up her child. According to the directors of HMSCC, however, the successful outcome of applying the neglect prevention measures is not usually achieved. This is confirmed by the BHC data in comparison to the research of 2000, and by the fact that more than 50% of the children come to the HMSCC directly from the maternity hospitals.

*Dynamics of children from HMSCC: 2000 and 2006*

Home	Capacity		No of children placed		No of children fro adoption		No of children fro raising	
	2000	2006	2000	2006	2000	2006	2000	2006
Varna	300	180	220	178	133	82	51	96
Vetren	N/A	100	N/A	66	N/A	35	N/A	8
Zlatitsa	85	N/A	39	42	3	N/A	36	N/A
Pernik	55	55	41	52	23	25	32	27
Shiroka Laka	40	36	20	16	4	6	16	8
Shumen	200	180	170	144	0	39	170	105
Kyustendil	50	55	45	29	23	N/A	22	N/A

At first sight one of the changes that have occurred since 2000 is in the capacity of HMSCC. But in reality, as is visible, almost none of the institutions has worked with its full capacity and therefore the capacity has been adjusted in agreement with the actual usage of the beds in the homes. There is a decrease in the number of children in several homes only. There is an increase in the number of children left for temporary bringing up. The greatest number of children is that from the families of many children with more than three children, with unemployed and/or single parents and between 30 and 90% are of Roma origin according to the staff.

The report already noted that the real decrease of the number of children in HMSCC was registered only in the period 2002 to 2003. The BHC assumption is that this tendency coincided with the beginning of the reforms in the institutional care for children in the country – with the change in the adoption procedure provided for by the legislative framework. During the rest of the time in the years from 2003 to 2006 the number of children in HMSCC increased.

The dynamics of the number of the children admitted and those left the home in 2005 is interesting. It can be illustrated by examples from two homes: Shumen and Shiroka Laka.

Through **HMSCC in Shumen** the following number of children for a year passed, broken down by years:

- ◆ 2003 – 216 children
- ◆ 2004 – 210 children
- ◆ 2005 – 224 children.

In **HMSCC in Shiroka Laka** the data about the admittance of the children in the last six years shows the following dynamics:

- ◆ 2000 – 20 children
- ◆ 2001 - 23 children
- ◆ 2002 - 22 children
- ◆ 2003 - 22 children
- ◆ 2004 - 31 children

## ◆ 2005 - 26 children.

Tracing back where the children in HMSCC come from and where they go to has been made below. The most children (more than 50%) come from the maternity wards of the MHAT and relatively less children come from their biological families. On average the children stay at HMSCC (although it is difficult to provide data from all the homes) around 250 days.

- ◆ The most children, who leave HMSCC, are adopted.
- ◆ Less children are reintegrated in their biological families.
- ◆ In some homes between 25 and 50% of all the children who leave the homes in one year are transferred to other children's institutions.

Though the difference is insignificant, the number of the children coming to HMSCC is still greater than the number leaving the homes within one calendar year. In isolated cases only foster care or family of relatives have been applied as alternatives to the institutional measures. Of all the children who in 2005 left the 7 HMSCC visited by BHC 18% continue to live in institutions, while 36% are reintegrated in their biological families. The percentage of clinically healthy children compared to the total number of children as of December 2005 varies in the different homes – from 94% in Shiroka Laka, 64% in Vetren, 40% in Shumen, 39% in Pernik, 36% in Varna<sup>19</sup>.

*Data about the children admitted to HMSCC*

	Pernik	Shiroka Laka	Vetren	Shumen	Varna
Admitted from the maternity ward	11	24	25	54	88
Admitted from their biological families	7	2	6	29	41
Brought in by the police	0	0	0	0	5
Admitted from a hospital	2	0	0	8	6
Total for 2005	20	26	31	97	140

*Data about the children who left HMSCC*

	Pernik	Shiroka Laka	Vetren	Shumen	Varna
Adopted	7	10	25	29	49
Reintegrated in a family	2	7	8	29	54
Foster family	0	0	0	0	2
Relatives	0	1	0	0	2
Another home/hospital	8	0	13	20	10
Total for 2005	17	18	46	79	117

With regard to the placement in different homes different practices were reported. In the bigger cities the court decisions about the placement are expected for several months, while in the smaller cities they come within a month after the child is placed in an institution. In two of the bigger cities there were reports about placement of children brought by their parents who declare their unwillingness to take care of them

<sup>19</sup> An example of the health status of the children from HMSCC in Varna: children with chronic somatic diseases – 13; children with mental and neurological diseases – 33; children with inborn malformations – 37; mentally retarded children – 24; children with physical and multiple disabilities – 1; children with hypotrophy – 67; prematurely born – 60; clinically healthy - 64.

or they leave them in the front yards of the homes. The documents for placement screened describe primarily miserable living conditions in homes without running water, electricity, with no more than one or two rooms, where a family with more than three children lives. With regard to the condition of the institutionalized children they describe symptoms such as dehydration, malnutrition, negligence; a common described feature is neglected hygiene, shortage of clothes, shoes, etc. I.e. the most common reason for the children to find themselves in HMSCC is poverty, inability to take care of the family, risky environment for raising the child. This bespeaks a social, rather than medical problem.

During the BHC research different opinions were voiced about the success and efficiency of the so called “reintegration” in the biological family of the children from HMSCC. It has to be stressed that BHC came across alarming reports regarding reintegration dangerous to the life and health of the children. A conclusion is drawn that often the children are reintegrated in a family environment that does not provide for suitable conditions for their bringing up.

Serious problematic situations of reintegration “by all means” were reported by the staff in **Varna HMSCC**. The information was referred to SACP, but no follow-up measures were taken.

In **HMSCC in Shumen** another concern was voiced about the process of reintegration “by all means” in the biological families conducted by CP Department. BHC was provided with data about a case of reintegration of a child in its family in 2005, where few days before the reintegration of the child the mother and the father had murdered and buried their new-born twins in their yard. Their initial explanation was that the children were born dead, and because they did not have any funds for proper burial the children were buried in the yard. After that an investigation was conducted which proved that the children were not born dead, but were murdered by their parents. The case was covered by the local media. Another reintegrated child from HMSCC – Shumen was found frozen to death on the road between two villages.

In **HMSCC in Pernik** from the two children reintegrated in their families in 2005 one was institutionalized again.

As it was already specified in the report the greatest number of adopted children comes from HMSCC. Adoption is carried out in conjunction with the rules and procedures provided for by the Family Code and the related bylaws. The candidate adoptive parents are ensured conditions to get in touch with the child and the multidisciplinary team that is taking care of the child. The child is submitted to the adoptive parents after the court decision on adoption has entered into effect, about which the respective CP Directorate is informed. Pursuant to art. 53 the regional Social Assistance Departments keep registers of the children eligible to full adoption. Art. 53d, paragraph 1 of the Family Code sets forth the register entries. With regard to children placed in specialized institutions and whose parents have given their consent to full adoption or whose parents are unknown, the manager of the institution informs in writing SARD within three days of the placement of the child about the register entry. The FC specifies that in addition to the above cases, a child in a specialized institution who has not been sought within six months after the date they were supposed to be taken, may be entered in the register pursuant to a decision of the local court. Within 14 days by virtue of a proposal of the SARD director or by virtue of a request of a prosecutor court proceedings are initiated, while pursuant to a request of the parents court proceedings are initiated for entering the child in the register. The decisions are subject to appeal before the district court. Any changes in the circumstances are noted in the register. By exceptions adoptions are allowed even if the parent does not agree, if they consistently fail to take care of their child, and also when they have left their child in an institution and have not sought the child within six months after the date they were supposed to take the child back. Adoption applications are filed with SAD. SAD conducts an interview (home study) with the candidate adoptive parents. A report is developed on the basis of which the SAD director issues a permit within seven days after it was submitted. The permit is valid for two years, and SAD conducts monitoring of the adoptive parents in the next two years. The person who received the permit is registered in an adoptive parents register with SARD. The adoption council with SARD determines the right parents for each child. Adoption is allowed only if it is to the interest of the child. The district court according to the location of SARD is competent to consider the adoption applications and to issue decisions. The adoption is terminated by the court.

According to the HMSCC directors before 2000 a relatively greater share of the children was adopted and thus their stay in the institutions was shorter. The procedure was faster and was not to the best interests of the child. Adoption is still the main way for reintegration in the family environment for children from HMSCC. In terms of the children who were left for upbringing in the institutions and were not sought by the parents later the procedure for registering the children for adoption is preceded by a procedure for depriving the parents of their parental rights. The practice here varies depending on the court and the local CP Department. In HMSCC in Zlatitsa it was reported that HMSCC often initiates this procedure with a prosecutor and manages to deprive of their parental rights parents who consistently fail to take care of their children. Thus due to the light workload of the court and the established practice with the CP Department the children are filed in the adoption registers easily and are adopted in practice. In the bigger cities, however, the procedure for depriving the parents of their parental rights is slow and difficult, and this slows down considerably the adoption procedures.

The problem with the adoption is related to another serious problem which needs to be addressed urgently. This is the problem with the guardianship of the children not only in HMSCC, but in the other children's institutions as well. Based on its observation in the children's institutions throughout the country BHC found that with regard to the guardianship there are widespread illegal practices. Groups of children in HMSCC were found in 2006 in a special legal situation. They were left in the homes for medical and social care for children with declarations for full adoption, they have not been claimed by their parents for years, but they are left without an appointed legal substitute.<sup>20</sup> In none of the municipalities, where there is a HMSCC, the competent body dealing with guardianship has appointed a person to perform temporarily the function of a guardian namely because of absence of legal justification – biological parents deprived of their parental rights.

## 2. Health and well-being

### *Right of the child to health and health care services*

#### *Article 24*

*States Parties recognize the right of the child to the enjoyment to the highest attainable standard of health and to the facilities for the treatment of illness and rehabilitation of health. State Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.*

*UN Convention on the Rights of the Child*

One of the indicators for the increase of the quality of the care for disabled children is provision of conditions in the institutions for the mentally retarded children to grow up diagnosed adequately and ensured with healthcare services, in safe and secure environment. This was stressed in the governmental report on the UN Convention, the draft of which was submitted to BHC by SACP, as indicated above.

<sup>20</sup> Data from a BHC visit on 8 June 2006 to HMSCC in Vetren, where 35 of 66 children have this problem.



*Chapter IV, section I of the law - "Healthcare protection measures for the child", envisages that the state and the municipalities, legal and natural entities shall ensure healthy living environment and normal physical and mental development for the children. With regard to the application of the provisions of art. 23 of the UNCRC it is important to stress that in the past years the attitude of the state and the community at large to the disabled children has changed. From a wide-spread practice of discriminating and isolating these children from the community life, now there has been a change to integrating them with their healthy mates, setting up appropriate institutions for complex treatment and rehabilitation of these children, e.g. day-care centers, specialized medical institutions; developing tailor-made programs for each child by experts depending on the child's potential; provision of medical and social services and benefits for the family, e.g. the parents of disabled children do not pay fees for the children's institutions, they receive free medicines, the child allowances are double.*

***Draft report of the Bulgarian government on the UN Convention on the Rights of the Child, Health and well-being (art. 6, 18, para 3, 23, 24, 26, 27, para 1-3)***

The specific data of BHC study in 2006 has shown that adequate diagnostics and healthcare services continue to be problems for the institutions for mentally retarded children. To support the conclusion of BHC, the expert's evaluation of Dr. Desislava Ivanova - a child's psychiatrist, is attached hereto. On 11 and 12 September Dr. Ivanova visited together with BHC researchers three homes for mentally retarded children – in Medven, Kosharitsa and Sladak Kladenets. Her conclusions coincide with the BHC evaluation. Therefore here BHC publishes her expert's analysis.

#### **From the expert's analysis of Dr. Desislava Ivanova-Genova, child's psychiatrist, Alexandrovska Hospital, Sofia:**

Even in 1843 the prominent French psychiatrist Esquirol stressed that mental disability is not an illness in the narrow sense of the word, but mental disorder. It is about disorders in the very process of development of the skills which determine the general level of intelligence (cognitive, speech, locomotory and social) and which cause reduction of the abilities and skills (i.e. in legal terms the mental disability is related to disablement). Today it is widely accepted that people with mental disabilities have special skills and special needs. To diagnose someone as "mentally retarded" the two most popular contemporary classifications of the mental and behavioral disabilities – the WHO International Classification of Diseases – the 10<sup>th</sup> revision (ICD-10) and the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) of the American Psychiatric Association require establishment of: 1. intellectual functions considerably below the standard – i.e. to correspond to intelligence quotient (IQ) below 70 measured with individual tests with standard psychometric instrument; 2. accompanying deficits in the adaptivity functions (ability to meet the needs and social and personal independence corresponding to what is expected at this age of the child); 3. initial disorder in the child's age. ICD-10 points out that when no standardized testing procedure for the intellect and the adaptivity functions are applied, the evaluation has to be interpreted as approximate.

#### **Conclusion:**

**Mental disability is not an illness per se, but the end result (consequence) of the effect of different pathogenic factors. It is important to know that the susceptibility to other mental disorders is about four times higher with mentally retarded people compared to the general population. Diagnosing and treatment of the accompanying mental disorders require high competence and clinical experience in the field of children's psychiatry.**

In the past several decades the assistance for the mentally retarded people and their families underwent considerable changes in most of the developed countries – the medical treatment and segregation were replaced by the philosophy of "normal life", the bottom line being the idea that mentally retarded people are entitled to normal way of living which includes normal and culturally acceptable daily routine (school or work, relaxation and leisure activities, sleep), weekly routine (workdays and weekends), yearly routine (holidays and vacations). The efforts are focused on leaving mentally retarded people in their families and

integrating them in the community, while providing assistance and support both to the mentally retarded people and their families.

Based on a detailed evaluation of the level of the skills, the strengths and weaknesses, the difficulties and the problematic areas of the patient a complete therapeutical plan is developed which includes rehabilitation, educational and medical interventions in the following components:

- ◆ Specific treatment of the accompanying diseases, if any, for prevention and reduction of apoplexies which may cause mental disabilities (e.g. hydrocephaly operation).
- ◆ Early intervention, training and auxiliary therapies (such as labor therapy, speech therapy), family support, involving other offices and experts when necessary.
- ◆ Treatment of the accompanying diseases, such as hypothyroidism, inborn cataract, cardiac deficiencies with children with the Down syndrome, treatment of the fits, etc.
- ◆ Treatment of the accompanying mental and behavioral disorders.
- ◆ Today the greater part of the efforts of the researchers and the clinic experts are focused on prevention of mental disability and of the complications related to this disorder.

### **HMRCJ – Sladak Kladenets, district of Stara Zagora**

Currently, in HMRCJ – Sladak Kladenets there are 69 children, most of them severely mentally retarded. The medical services are provided to the children by a general practitioner and a dentist outside the home, who work under a contract with the National Health Insurance Fund; a full-time doctor on staff at the home; senior nurse and six nurses; rehabilitator. The dentist ensures prophylaxis and treatment of the dental problems of the children. The general practitioner (GP) is obliged to conduct the prophylactic examinations and immunizations; he is entitled to refer the children to a consultation with a specialist or for hospital treatment, if necessary. The doctor on staff pays daily visits, follows the condition and treatment of the children. In addition, together with the social worker he prepares on a regular basis the medical certificates, where any changes in the physical development and mental status of the child are registered. The nurses provide for an ongoing monitoring of the children and prompt measures with regard to the health condition of the children. The rehabilitator conducts an individual therapy and group activities focused on stimulation of the development of locomotory abilities and general strengthening. During the year four inmates were hospitalized in the infections' ward due to dysentery (*shingella flexneri*). Most common are consultations in out-of-hospital environment are with neurologists because of komorbiditet with epilepsy. EEG tests of the children are paid by the “Medicines and treatment” budget item of the home. All the children undergoing continued therapy with medicines take anticonvulsive medicines.

Six of the inmates study at a rehabilitation school. The home has a local class with a resource teacher from the RS in Vetren. The children are distributed into three groups according to the level of their intellectual development; in these groups there are classes with a supervisor/teacher. The toddlers are accommodated in two rooms depending on their age. The services provided to those children are primarily medical and rehabilitation, and are focused on meeting the hygiene and food needs.

### **Examples from HMRCJ – Sladak Kladenets**

- In the rooms of the older toddlers a girl named Dora was placed. She had a distinct and harmful self-aggressive behavior for which the GP had issued a referral slip for consultations with an expert – psychiatrist, but the management of the home kept delaying this consultation until the return of the doctor on staff, while in the meantime the girl continued to hurt herself.
- It is worth noting that there are no structured activities or basic training for the toddlers, although they are interested and their hands are with better locomory skills.

### **HMRCJ - Medven, district of Sliven**

Currently, there are 52 children in this home, more than half of them are diagnosed as severely mentally retarded, while a big part of them have accompanying diseases – ICP, Down syndrome, hydrocephaly, multiple disorders. From medical point of view there is a GP who takes care of the children, a doctor on staff, occasional consultations with a pediatrician and a psychiatrist are ensured (NB There is no consistent reporting in the medical records of their expert's conclusions), there are five nurses working in the home on shifts along with a senior nurse, two rehabilitation experts. A former rehabilitation expert, who underwent a special training in Italy, currently works as a social worker in the home. Since March this year four times a month a psychologist has been visiting the home, who is about to conduct psychological and educational profiles of the children, which, however, were not produced during the inspection. The director clarified that so far there have been conducted psychological and educational profiles of 6 inmates only. There is a sensor simulation room equipped in the home which is not being used efficiently. Twenty-two of the children, five of whom have been diagnosed as epileptic, take psychotropic medicines – anticonvulsive, benzodiazepins, conventional neuroleptics, primarily in connection with their aggressive and self-aggressive behavior, i.e. an estimated 33% (22 of 52 is almost 50%) of the children undergo psychiatric therapy. The personal medical records do not show what the targeted symptoms are, or how they are affected by the treatment. Usually the dosage and the type of the medicine that is being taken are reconsidered when the aggressive behavior has not been controlled, the change usually being increase of the intake and adding another medicine. The medicines are prescribed and monitored by an expert psychiatrist.

Recently, a child ran away from the home and drowned (see the details about the case in the report).

Three groups of 10 children were formed with which some activities are held. On the day of the visit activities were held with about 7 to 8 inmates; according to the medical staff and the home director 22 children do not carry out structured activities and training, because, according to the staff's evaluation, they are difficult to move.

#### **Examples from HMRCJ - Medven**

- ◆ During our visit to the home between 7 and 8 p.m. Erhan – a boy diagnosed as severely mentally retarded and with self-aggressive behavior, was found fixed to the bed; according to the nurse he remains fixed all night long (probably until 8 a.m.– i.e. somewhere between 10 and 12 hours). On the other hand, however, the nurse herself declares that self-aggressive activity is noticed mainly when the child remains in the bed. These activities of the staff contradict the established immobilization rules.
- ◆ The Sami case – the boy is an Ukrainian citizen, there is no parental rights waiver, because of which the child cannot be adopted. The child has the relevant for the age physical and locomotory development, demonstrates good communication skills, as well as constructive abilities, he has mastered basic mathematical knowledge. It is important to conduct a precise psychometric study to establish the intelligence level (probably within the standard indices), to determine the abilities and difficulties of the child (if any) and to prepare the appropriate training plan. I would recommend checking into the possibilities and legal aspects of the foster family option.

#### **HMRCJ - Kosharitsa, district of Burgas**

There are 71 children placed in the home, as a considerable number of them are above the age of 20. The inmates are found to be with intact intellect or mildly mentally retarded. According the medical records this share is 10%. One of the inmates in HMRCJ is a child with normal intellect called Damyan. The child was examined at the Psychiatric Clinic for Children and Juveniles with the Alexandrovska Multi-profile Hospital for Active Treatment and was diagnosed as having hyperkinetic disorder. One child with an IQ between 60 to 70 was placed in HMRCJ – i.e. it is a mildly mentally retarded child; there are several other mildly mentally retarded children. There is a child diagnosed with ICP, without being MR. During the inspections of the diagnoses of the children **in the medical records** it was found (please consider the percentage as approximate values, and not as absolutely punctual):

- ◆ 4% of the children are not mentally retarded; 50% of them have an accompanying severe neurological illness; 50% - have another psychiatric diagnosis;
- ◆ 6% are mildly mentally retarded; 33% of them have an accompanying illness (epilepsy);
- ◆ 53% are moderately mentally retarded; an estimated 60% of them have a second general, neurological or psychiatric diagnosis;
- ◆ 31% are severely mentally retarded; 29% have an accompanying disease – ICP, epilepsy, autism, hydrocephaly, retarded in their overall development;
- ◆ 6% are deeply mentally retarded; 100% have a second somatic or neurological diagnosis.

HMRCJ – Kosharitsa does not have a doctor on staff, but the inmates' GP works in the nearby village and is able to respond to calls. On the day of the HMRCJ visit the GP had responded namely to a call for a consultation in the home. The medical staff in the home is represented by nurses and two rehabilitators. Periodically and if needed, the children are referred to a psychiatrist to evaluate their development and for consultations upon a problem that has arisen and to monitor the treatment. In the cases when the necessary effect from the therapy has not been reached outside hospital conditions, the children are referred to the children's psychiatric ward of the University psychiatric hospital in Varna with a referral slip for hospitalization issued by the expert psychiatrist. The children with neurological problems – epilepsy, hydrocephaly, encephalopathy, conditions after apoplexy, etc. are monitored by an expert neurologist. A total of 27 children are on a continued medical therapy:

- ◆ One child is with gastroesophageal reflux;
- ◆ 14 of the children are on therapy because of their epileptic fits;
- ◆ Two of the children are diagnosed as schizophrenic;
- ◆ Four of the children take medicines because of their aggressive and self-aggressive behavior;
- ◆ Four of the children took on single occasions medicines in the evening with regard to sleeping problems;
- ◆ Two other children with sensor disorders and locomotory excitement are on therapy with medicines on a regular basis.

Hence, 16% of the children are on a continued psychotropic therapy with regard to an accompanying psychiatric disorder, dangerous, destructive or harmful behavior and sleeping problems.

#### Examples from HMRCJ in Koshritsa

- ◆ **Naida, Krastina and Mehmed** – the three children were hospitalized in the Children's Psychiatric Ward of the University Hospital in Varna on occasion of their explicit agitation, restlessness and aggressive behavior; there were initial consultations with the three children and medical treatment began outside hospital environment – the consultations and the justification for the therapy were reflected in the children's medical cards, but due to ineffective influence they were referred for hospitalization. Upon their discharge from the hospital discharge slips were issued. The senior nurse from the home noted that after their discharge from the hospital the children became calmer, without severely aggressive behavior. The interview and the examination of the children show that the children are lively, energetic, no drowsiness or slow movement are found; there is no data about explicit side effects from the medical therapy. The girls have seductive behavior targeting men and they are not critical of their own behavior (this has to be considered within the framework of their mental disorder rather than a symptom of another mental disorder). Mehmed is visibly nervous and restless; according to the nurses, he is nervous in the presence of strangers. He gets a bit more relaxed when he sits in the farthest corner of the room. With the people he knows he communicates by gestures and signs, he uses vocals and different intonation. He obeys rules – he asks for permission to leave the room through gestures again.

- ◆ **Damyán** – he was placed in the home by virtue of an order issued by CP Department in Aitos; the child was adopted and learnt about this suddenly from his mates; due to his hyperactivity he was consulted and examined at PCCJ with Alexandrovska MPHAT in Sofia, where it was established that he has a normal intellect, problematic behavior and there are poor parental skills to handle the situation on behalf of the parents; the child and the parents were referred for family consultations and advice. Since the behavioral problems of the child escalated (it is not clear whether the recommended consultations and advice were conducted in the first place), he was institutionalized. The situation with the child is still unclear – cancellation of the adoption or not, but since he is with normal intellect, it is not appropriate to leave the child an inmate in home for children with mental disabilities. It is crucial to make a **final** decision about whether the parents will continue to look after the child or not – this unclear situation brings about uncertainty, which is harmful to the child. During the visit to the home in Kosharitsa Damyán was hospitalized in CPW in Varna.
- ◆ **Zhelio**, 7 years' old – he graduated from a pre-school group with RS in Sredets, he will be in first grade in the same school. The boy is with a developed receptive and expressive speech, and very good communication skills. He assimilated knowledge from different areas, knows and can write some letters; the prospective difficulties are in the refined locomotory abilities and visual perception which may become the reason for possible specific disorders of his development and skills at school of the type of dyslexia and dysgraphia. It is recommendable to conduct a detailed psychiatric and psychological analysis with an in-depth study of the intellect, memory, attention, visual perception and refined locomotory system, and only then to determine what type of school he should attend and the level of assistance (psychologist, speech therapist, resource teacher).
- ◆ **Todorka**, 12 years' old – she looks comparatively small for her age; she attends the RS in Sredets, she graduated from the fourth grade. She is a child with very good speech and social skills; she has very good knowledge about the world and the people; she solves mathematical problems of up to 100 very well, she mastered the principles of multiplying very well. During a detailed psychometric study it is very probable to establish an IQ of above 70. It is recommendable to conduct such a survey, and then to develop an individual training program for the child.

The general conclusion that can be drawn about the healthcare services in HMRCJ is that to few exceptions (HMRCJ - Vidrare, HMRCJ – Gorski Senovets, HMRCJ – Mezdra) a thorough change in the healthcare system for the institutionalized children is missing.

In Bulgaria the children are usually admitted to homes for mentally retarded children and juveniles at the age of three, in the majority of the cases they are transferred from a Mother and Child home. The diagnosis “mentally retarded” is made as early as in the HMRCJ, and it is clarified, i.e. even the level of mental retardation is determined. After the children are placed in HMRCJ, their degree of development is usually measured once or twice a year, most often by a doctor without specialization or by the medical staff at the home. Diagnosing and the regular evaluation of the HMRCJ inmates' status remain problematic.

During its monitoring in HMRCJ in Sladak Kladenets, HMRCJ in Kosharitsa and HMRCJ in Medven BHC established that the practice of re-diagnosing and re-evaluation of the prescribed therapies is the following:

- ◆ In HMRCJ – Sladak Kladenets, the regular evaluation of the status is made by a psychiatrist with wide experience in the area of the psychiatry of children and juveniles;
- ◆ In HMRCJ – Kosharitsa – by a psychologist;
- ◆ In HMRCJ – Medven – by a psychiatrist, and recently – by a psychologist.

The result: in the three homes inspected only two children from HMRCJ – Kosharitsa have their IQ determined, one of them has their intellect within the normal standards, and the other – with values within

the scale of mildly mentally retarded. The rest of the children have not been examined with standardized instrument for determining their intellectual and adaptive functions, but, as stressed at the beginning, without such an evaluation the diagnosis has to be considered approximate. One should not forget that the skills and abilities demonstrated are influenced by a number of emotional and social factors. In the homes visited the staff seems to have taken for granted that the “severely” mentally disabled children (the diagnosis is in inverted commas, because it has not been objectively proven) and the children with organic brain damage (ICP, hydrocephaly) need primarily medical and rehabilitation care and have not been included in cognitive and speech development stimulation programs, or in programs for acquiring different skills. We can reiterate that the lack of an in-depth evaluation which describes accurately not only the difficulties and problematic areas of the child, but also their strengths / abilities, is the reason for discarding them from different training and entertainment activities. In HMRCJ – Kosharitsa, where a detailed inspection of the medical records was conducted, something worth attention was found: when comparing the moderately and severely mentally retarded children it was established that the greater share of the moderately mentally disabled children (60%) have a second diagnosis compared to the severely mentally retarded children (only 29% of them); while this ratio should be the reverse.

It is recommendable for the severely mentally retarded children without accompanying diseases to be evaluated more precisely.

With regard to the medical therapy of the psychiatric disorders and symptoms it was established:

- ◆ **HMRCJ – Sladak Kladenets** does not have at its disposal a permanent consultant psychiatrist; there are no children in this home who take psychotropic medicines; on the other hand, there is a child in the home (Dora case), who urgently needs consultation with a psychiatrist and urgent intervention, but it is being delayed.
- ◆ **HMRCJ – Medven** maintains a contact with a psychiatrist from Sliven; the doctor is specialized in psychiatry only without special training and experience in the area of child psychiatry. This home has the highest number of children taking psychotropic medicines – 33%.
- ◆ **HMRCJ - Kosharitsa**, 16% of the children are on an ongoing psychotropic therapy; the psychiatrist who is providing services to the inmates, though without any profile specialty in children’s psychiatry, has been in charge of a medical room in psychiatry for children and juveniles in RS in Burgas, and has been conducting trainings in the field of children’s psychiatry. In the cases of hospitalization of children from the home in CPW in Varna the procedure endorsed by the NHIF has been complied with, namely referral from the GP for a consultation with a specialist from the out-of-hospital aid, treatment in out-of-hospital conditions, referral for hospitalization by a specialist, discharge from the clinic and monitoring the treatment by the specialist from the out-of-hospital medical aid.

#### **Recommendations in the area of healthcare services for the children from HMRCJ:**

- ◆ Specially trained and experienced professionals – psychiatrist/pediatricians and psychologists should conduct periodically a detailed evaluation and psychometric study of the child. This can be done, for example, upon admittance of the child to the home; upon turning a school age (it is good to involve a teacher at this point). It is known that there are certain obstacles of financial nature and in terms of professional resources, but the exact evaluation is the basis of developing an overall strategy – therapeutical plan, including medical, training and rehabilitation components.
- ◆ Ongoing training for the staff that works in the homes and provides services to the inmates.

### **3. Right to education**

***Right of the child to education******Article 28****1. State Parties recognize the right of the child to education.****UN Convention on the Rights of the Child***

The right to education is a fundamental child's right which is mandatory for the exercise of all the other child's rights and for the development of the child. Each child regardless of their individual learning skills is entitled to a right to education. The BHC opinion is that there is no quality education without integration and no integration without education. Inclusive education is wide-spread practice throughout the world. It is part of the fundamental rights protection policy. The idea of inclusive education was supported by the UNESCO declaration in Salamanka of June 1994. The obligations for promoting and introducing the inclusive education as approach have been affirmed by the World Education Forum in Dakar, Senegal in 2000. The idea was supported by the UN Standard rules for equal opportunities for the disabled people.

So far in Bulgaria there have been two inclusive models – direct integration in the mainstream schools and indirect integration which for now is trying, but fails to prepare efficiently enough a maximum amount of pupils from the special schools and the children's institutions to be transferred to the mainstream school. Despite the changes in the regulatory framework of 2002 and 2003 providing for the educational integration<sup>21</sup>, the job descriptions of the resource teacher, the roles of the resource center and of the resource teacher, the processes of inclusive education in Bulgaria remain unclear, while the educational policies and practices – unchanged. The cases of inclusion of disabled children in the system of the national education concern mostly the children with parents and mildly mentally retarded children. The children with difficulties in their development have legal right to inclusive education, but in reality they remain deprived from an access to quality education. As far as the children from the all-year HMRCJ for moderately and severely mentally retarded children are concerned, though formally they are no longer considered “uneducable”, in practice it is difficult and slow to include them in the mainstream education system.

**Educational segregation because of disabilities is a serious problem for Bulgaria**

According to MES data only 1,538 children with special education needs were included for training in the mainstream schools in the 2005/2006 school year. The comparison with the total number of the children included in the statistics of disabled children up to 18 years of age is 18,512 which leads to the conclusion that:

- ◆ Still the prevailing number of disabled children is excluded from the education process in the mainstream schools.
- ◆ The children with SEN who are trained isolated from their mates are deprived of an access to quality education and of the possibility to develop their maximum capacity.
- ◆ Although in the last years governmental measures have been taken to introduce inclusive education, it is not among the priorities of the educational policy in the country.

So far the systematic BHC monitoring on the children's institutions that has been conducted on the territory of the whole country since 1999 and still in progress has shown that forms of educational segregation are:

- ◆ Rehabilitation schools for mildly mentally retarded children.
- ◆ “Correctional” schools – social educational boarding schools and correctional boarding schools (SBS and CBS).
- ◆ Homes for mentally retarded children.

<sup>21</sup> The National Education Act, the Implementing Regulations for the National Education Act, Regulation No 6/19.08.2002 on education of children with special education needs and/or chronic illnesses, National plan for integration of children with SEN, Resource Centers Regulation

**Conclusion:**

**The BHC research of 2006, as well as the previous one of 2002 about the rehabilitation schools in the country have shown serious flaws in the procedure of diagnosing intellectual disabilities which causes unjustified enrolling of children in special schools based only on social factors – free textbooks, free or cheap food. With the adoption of the amendments to the National Education Act and Regulation No 6 the procedure for diagnosing the disabled children was regulated by law which entailed mandatory tests and other guarantees for objective diagnosing of intellectual disabilities. Nonetheless, conflict of interests sometimes makes both the school diagnosing teams and the complex educational assessment teams (CEAT) with RIE to keep the children in the specialized schools. The school diagnosing teams silently resist taking pupils out of the rehabilitation schools. The fear of losing one’s job is the basic factor impeding the educational integration in the mainstream schools and explaining the ongoing though decreased in number referral of children to the rehabilitation schools. Referral to mainstream schools has a belated start in the rehabilitation schools. There is still no stable cooperation between the teachers from the rehabilitation and mainstream schools. The BHC evaluation is that the specialized schools and the homes for mentally retarded children are part of the “machine” for social exclusion.**

**3.1. Rehabilitation schools or resource centers**

The first governmental document that registered the serious problem with the education of disabled children was the National Strategy for Equal Opportunities for People with Disabilities 2003-2005 adopted in March 2003 which stresses the lack of access to quality education for the children with disabilities. According to it the existing legislation and in particular the existing practice do not ensure the necessary conditions and guarantees for access to inclusive education for the people with disabilities. Inclusive education was an individual case. It stressed the absence of any statistics about the children with disabilities, who are not getting any of the mandatory school education. The strategy identified measures for guaranteeing access to quality education for the children with disabilities.

In implementation of the strategy an Action plan for equal opportunities for people with disabilities (adopted in December 2003) was developed by all responsible ministries – MES, MLSP, SAA. The implementation of the plan began by the ministries after the middle of 2004 and the schools started considering it as of 2004/2005 school year. The action plan had some measures regarding inclusive education: Development of a regulatory provision settling the support of the education of gifted children with disabilities, deadline December 2004; Including each child with disabilities at pre-school and school age in the educational system, deadline September 2004; Providing for opportunities for the children with multiple and mental disabilities to participate in the process of education, deadline September 2004; Providing for enough specialized personnel, deadline September 2004; Training of resource teachers and ensuring their employment, deadline ongoing; Restructuring the special schools to conduct activities as resource assistance centers, deadline September 2004. For all the measures identified by MES, to the exception of providing for enough specialized personnel and training of resource teachers, it was noted that no additional funds are necessary.

In terms of the implementation of these two governmental documents no reports were submitted until October 2006. The BHC monitoring until October 2006 has shown that none of the measures identified has been applied. There is still no statistics about the children with disabilities which would allow their inclusion in the system of school education, there is still not enough specialized personnel in the schools, the children with disabilities are not yet included in the school education, the special schools have not been restructured, the resource teachers have not been trained and they have a lot of difficulties in their work.

The National child strategy for 2004 to 2006 reports that:

- ◆ The mainstream schools and kindergartens have not been adjusted for children with disabilities.
- ◆ The speed of improving the quality of education for children with special education needs is



dissatisfactory.

- ◆ It envisages adoption of measures regarding:
- ◆ Inclusive education for the children with special education needs.
- ◆ Boosting the quality of education for the children with special education needs.

The national child protection program for 2005 envisages additional measures for guaranteeing access to quality education of children with special education needs, but this time the measures have to be funded by the state budget for 2005:

- ◆ Providing for a support environment in the kindergartens and schools for including children with special education needs in the process of education
- ◆ Architectural adjustment of kindergartens and schools – the mayors of the municipalities are in charge;
- ◆ Providing for resource teachers; additional support staff (companions, personal assistants) for support to the inclusive education – MES, MLSP are in charge;
- ◆ Development and implementation of individual programs for education and development of children and pupils with special education needs by the inclusive education support teams in the kindergartens and schools;
- ◆ Changes to the regulatory provisions affecting the education of children and pupils with special education needs – MES and MH are in charge, training and enhancing the qualifications of educational and management personnel on work with children and pupils with special education needs in a common educational environment
- ◆ Training of experts from the regional inspectorates of education, directors of kindergartens and schools, psychologists, educational counselor, municipal administration;
- ◆ Conducting qualification courses and seminars for the educational staff that will be in charge of carrying out inclusive education;
- ◆ Carrying out different activities in the kindergartens and schools related to the integration of the children with special education needs in a common educational environment;
- ◆ Providing information and consultations with parents, teachers and pupils about the inclusive education, social services and rights of the child;
- ◆ Conducting training seminars with GPs to raise their awareness about the social approach to disabilities
- ◆ Assessment of the special kindergartens and schools in terms of establishing resource centers in support of inclusive education

The rehabilitation schools were inspected by RIE at MES on site twice in October-November 2005 and in February 2006. After the SACP inspection in 2004 MES closed 10 of the rehabilitation schools in June and July 2006. These are the schools in the villages of Ahmatovo, Slavyanovo, Mindya, Lozino, Radostina, Vetren, Chokmanovo (all boarding schools) and in the towns of Ruse, Chirpan, Dimitrovgrad (only the latter had a boarding house for part of the children). In practice the majority of the closed rehabilitation schools were institutions where the children lived at least 9 months throughout the calendar year. Most of the children were neglected in their families of Roma origin and lived in the schools with several of their siblings.

MES policy has major flaws expressed in lack of coordination with other ministries with regard to the children with disabilities, lack of coordination with the regional structures and the schools themselves, lack of real political will to involve the children with disabilities in the system of schools education, shortage of human and administrative resources and facilities to carry out the inclusive education.

In terms of tracing down children with special education needs RIE (and in particular CEAT with RIE) are mostly responsible and they should be more pro-active in performing this function<sup>22</sup>. Despite the legislative changes of 2002, which entitled each child with disabilities to study where their parents choose, RIE did not organize any information campaign, nor did they give any instructions to the schools in that respect. The mainstream school learnt about Ordinance No 6 as late as in 2004/2005 school year. Until

<sup>22</sup> IRNEA, art. 6a, para 4 of 11 Nov 2003, Ordinance No 6, art. 23, item 2, 3, 4.

October 2006 RIE has not traced down actively children with special education needs. At best they are using the database of the child protection departments or of the regional board of medical experts. It is still unclear why RIE do not visit and do not know about the inmates in the homes for mentally retarded children that are subordinated to the MLSP despite the measures identified for them in the different plans and strategies of MES. It is a fact that if any inclusion of such children was conducted anywhere in a rehabilitation school or (very rarely) in a mainstream school, it had been conducted on the initiative of the management of the rehabilitation school or nongovernmental organizations of parents. According to the provisions of the Social Assistance Act and the relevant implementing regulation the all-year homes and the day-care centers for children with disabilities, where moderately and severely mentally retarded children are usually placed are decentralized municipal institutions for social services. Use of community-based social services or services in the specialized institutions is an opportunity to support a targeted group – in this case, children with mental and physical disabilities. This opportunity, however, does not preclude the children from exercising their right to education granted to them by virtue of the Constitution, the National Education Act, and Ordinance No 6 of 19 Aug 2002. Thus providing social services on the part of the state does not exclude its obligation to provide free education of all children until they turn the age of 16 regardless of their special education needs, physical or mental disabilities. Pursuant to art. 38 of the Ordinance on criteria and standards for the social services for children<sup>23</sup> the provider of social services ensures the involvement of a child placed in an institution in the process of education and assists their training. The homes themselves are not very pro-active in ensuring the education for the children, while some of them are left uninformed about the change in the legislative provisions of 2002 and continue to treat the children as uneducable. As late as in 2005/2006 school year classes of such children are formed and they are trained in the home by teachers from the rehabilitation schools. All these children are still an insignificant part of the inmates from HMRCJ who are deprived of training because of administrative obstacles and lack of coordination between the ministries and their regional structures. Only in one home there was to be conducted a review of all the children in terms of their education and that was HMRCJ – Mihaltsi where thanks to the initiative of the new director this had to be done in October 2006 at the extraordinary meeting of the board. In addition to that and quite alarming is the problem who and how shall inform the parents of the severely retarded children about their rights to education provided it is so difficult to integrate children who have at least one place of residence – the social services home. Gradually the rehabilitation schools (and sometimes the mainstream schools) are attended by more and more children at the age of 9, 10 and more years who have never attended any children's institution because of their disability or the prejudices of the parents. These are primarily children with multiple disabilities or severely retarded who have been diagnosed late. Such children could be seen in the majority of the schools visited which was not typical of the findings of the BHC research in 2002. For these children the resources and the competence of the rehabilitation schools were not enough to get quality education. There is a wide-spread fallacy about them that they can be trained on basic self-services only and therefore they are trained on individual programs. Pursuant to art. 8 of Ordinance No 6 of 19 Aug 2002 on the education of children with disabilities “the children and pupils with multiple disabilities, moderately and severely mentally retarded, autistic children, are trained on individual development programs”. Employing the method of individual programs the children can be trained in a format of inclusive education or in a special class in a rehabilitation school, or in a special class with DCMRCJ/HMRCJ, or individually at home. The education can be supported by a resource teacher. The individual educational programs for severely mentally handicapped children include: general locomotory development, refined locomotory movements, self-services, cognitive skills, development of speech and communication skills, social skills, artistic skills, labor activities, and educational activities. The individual programs are developed by the diagnosing team of the special kindergarten and the special school under art. 19, they are adopted by RS and are endorsed by the director. The pupils, who are trained under the individual programs, are awarded a certificate of the specific skills and knowledge assimilated. In the rehabilitation schools in Dolni Dabnik, Shumen, Ruse, Veliko Tarnovo, Varna, Vratsa, Gabrovo according to the records there are between 21 and 40 children, who have been diagnosed by RBME and are assigned a disability group (high level of inability to adapt socially). The diagnosis of those children include: infantile cerebral paralysis, epilepsy, hydrocephaly, muscle atrophy, strabism, multiple malformation syndrome, neuropathy, encephalopathy, hyperkinetic behavioral disorder, toxoplasmosis,

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<sup>23</sup> Adopted by virtue of Regulation of the Council of Ministers No 256 of 7 Nov 2003, SG, issue 102, 21 Nov 2003

cortical atrophy, the Down syndrome, the West syndrome, Crouzon syndrome, Moebius syndrome, psychopathia, speech disorders, blindness or visual disorders, deafness or hearing disorders, moderately or severely mental retardation. In addition, the rehabilitation schools received the information about such children integrated in the mainstream schools who are taught by resource teachers from the rehabilitation schools. They shared about the difficulties of the severely mentally retarded and/or children with multiple disabilities to adjust to the mainstream school class and about the necessity to teach them separately in another classroom. These are usually children with parents who, despite the CEAT conclusion and the referral to a rehabilitation school, preferred the mainstream school. The resource teachers believe that the autistic, hyperactive and severely mentally retarded children are not feeling well in the mainstream schools and their educational deficiency is increasing due to the lack of supportive environment. Thus some of the children integrated in the mainstream schools, who came from rehabilitation schools, go back to the rehabilitation schools after 2 years (Veliko Tarnovo, Dolni Dabnik, Shumen), but are now much more retarded even in terms of the learning material taught in the rehabilitation schools.

Here it is appropriate to mention about the procedure employed by MES to select the resource teachers (RT) who have to assist the children with special education needs in the mainstream schools. In the first place, the awareness about the need of resource assistance was perceived late in terms of the political measures for inclusion. The rehabilitation schools and CEAT were instructed to include the mildly mentally retarded children in the mainstream schools without any possibility for funding. Few schools followed this instruction of MES, which was given rather unofficially and not seriously in 2004. After that MES developed a job description and requirements for the resource teachers. According to the MES data in 2004/2005 school year there were 129 resource teachers, while in 2005/2006 school year – 223. The original idea was for them to be teachers from the rehabilitation schools, but in some locations they did not want to be involved in terms of resource support due to lack of clarity about their functions and guarantees for the quality of their work. Thus in certain locations there were open competitions for resource teachers and teachers without any experience were selected, only having the necessary qualification. This was the situation in Veliko Tarnovo, Dobrich, Varna, Ruse. Some of the directors of the rehabilitation schools explained that they selected the resource teachers based on their responsiveness (Lom, Harmanly). Thus in practice the schools were deprived of some of their best experts. During their visits to the rehabilitation schools the BHC researchers talked to the resource teachers in detail and found the following problems:

- ◆ The activities of the resource teachers have not been planned in advance for a third school year now.
- ◆ The resource teachers are facing on their own the resistance of the parents to children without disabilities, of teachers and principals of mainstream schools.
- ◆ The mainstream schools should have diagnosing teams to discuss the individual programs and the development of each child with SEN on resource support. They, however, do not even have staff positions for psychologists and speech therapists. In addition, the directors of the mainstream schools do not know about their obligations in terms of convening diagnosing teams. The diagnosing teams with the mainstream schools should identify the children with SEN.
- ◆ Resource support should be provided to mentally retarded children who are borderline cases to avoid deterioration of their problem. These children have not been included in the MES instructions in terms of resource support provided to pupils and in practice they get no support.
- ◆ The parents are unwilling to have their children diagnosed by a psychiatrist, psychologist or in the rehabilitation school because of the existing stigma. The parents primarily can be divided into two types in terms of the problem of their children: the first group denies the problem of the child, but know it, which the other group does not know it. To work with the parents special time needs to be allocated which has to be paid to the resource teacher.
- ◆ Where the resource support with qualified teachers has been conducted for more than 3 years, it is being promoted by the participants in the process of inclusion themselves.

- ◆ Resource support requires resources in terms of sufficient number of classrooms and relevant equipment. The terms “supportive environment” should be defined in the law and MES should be entitled to provide for this environment.

Children referred by CEAT with RIE (IRNEA, art. 37, para 2) are enrolled in the first grades of the specialized schools. CEAT are appointed at the beginning of each school year by the regional inspectorates of education and play a decisive role in referring children to special or mainstream schools. They involve a speech therapist, special education expert, psychologist, primary school teacher and are chaired by the person functioning as Inclusive Education Expert at RIE.

**In the different rehabilitation schools visited by BHC different practices were registered in terms of diagnosing and referring the children to special or mainstream schools.**

The teachers from RS were unanimous only about two changes that have been introduced since 2002. First, the parents are getting the necessary medical records about the mental status of the child after an exam of a psychiatrist and clinical psychologist, and then the child is seen by CEAT to have their SEN determined by a teacher, speech therapist and a psychologist from the school. Thus CEAT records now have only a short report with general personal data about the child (names, Personal IdNo, place of residence, parents’ names, what children’s institution they attended – mainstream school or a kindergarten), data about memory and sensor tests, IQ and where the child is referred to. The records are signed and sealed by CEAT. The essential diagnosing work is performed by the diagnosing teams in the schools. The tendency is for CEAT to refer children to the mainstream school, rather than the rehabilitation schools.

In addition to that, CEAT work with children’s psychiatrists, who used to work in medical and educational boards in the past. This questions their knowledge about the recent legislative changes in terms of education of children with disabilities, since currently they do not even conduct meetings with RIE representatives, and in addition, the records issued by them show that **they are not even consistent in applying the same code and diagnoses system – the ones of ICD 9 and ICD 10**. It is not clear how many of the psychiatrists who examine mentally retarded children have specialization for that. **The process of deinstitutionalization should include several main components:**

- ◆ **Narrowing down the entrance of the specialized institutions;**
- ◆ **Broadening up the exit;**
- ◆ **Increasing the quality of the institutional care;**
- ◆ **Development of the social community-based services.**

**BHC established that steps have been taken on all components, but none of the processes is in a progressed stage of development or in final stage. The institutionalization of children with disabilities is continuing. The majority of HMRCJ have not used up their capacity. However, the entrance to the majority of the institutions remains open. A step in the right direction was the legislative change which streamlined the new court procedure for institutionalization in Bulgaria. Despite the legislative changes and the specific steps for decreasing the number of inmates in Bulgaria it would be an exaggeration to say that the entrance to the institutions for children with disabilities has been permanently closed. The HMRCJ exit, however, is open, while not to the community, but to the next institution.**

The CEAT psychologists usually work together with psychiatrists from clinics and medical centers. They usually test the memory, the perceptions and the IQ. At some locations it is not possible to draw conclusions about the tests made, because they have not been recorded anywhere in the child's medical records. The records still have diagnoses that do not comply with ICD 10 and it appeared that for some of the specialists these diagnoses are not even known. To some of the psychologists, speech therapists and teachers it was difficult to determine what exactly “moderately mentally retarded” means and what children with the Down syndrome can or cannot do. There is hardly any information about the pupils with multiple disabilities. Oftentimes this leads to inadequate identification of their education needs and method to work with them. It is worth noting that in the classes with children with multiple disabilities the

teachers found it difficult to even ensure the environment for them and to find the appropriate individual approach. In some of the classes the autistic children were physically impeded by their teachers to get out of the room. For them no secure education environment was provided.

The psychologists from all the schools where there were any psychologists explained that the materials they use in their work with the children were provided by themselves or by their predecessors, and that MES has never paid for such. Very often they have to adapt methods and materials of work because of the shortage of time they have at their disposal to work with the children. To find out the IQ most of the schools use Raven's matrices or rarely Wechsler. Often the school records note down quotient 0% on Raven or Wechsler, and the explanation of the psychologists was that these were children with whom no contact was established. Some psychologists test the children using only part of the tests and in practice they fail to establish an accurate quotient. The children's perceptions are usually tested by a picture of a particular subject or a game with forms. The children's attention is tested by the Porteus maze and scrabble. The memory is tested by Luria's tests with pictures and words. Thinking and concepts are tested with the odd-one-out test. Despite the legislative requirement, there are still no methodologies for testing the different indices of the psychological test, and thus it is impossible to unify and follow the opinions of the different psychologists about the development of the child. When they conduct any therapeutical process at all, the psychologists manage to work with about 15 to 30 children in a year in at least 10 sessions. What is most impressive is that in schools they were perceived as mediators whenever there was a problem with the children, but the legislation was not explained to them with regard to the children's diagnoses, or their function, and often they worked in isolation from the others experts in the school. Thus their volumetric work often seemed taken for granted and underestimated by their colleagues. In terms of the records filled out by the psychologists, one can still read the typical and formal expressions, such as "thinking – concrete, figurative; memory – short-term, concepts – undeveloped, intelligence – cannot be tested". However, in some schools there is a tendency to record diagnostic process in a manner that would allow the other experts to use the psychologist's findings and follow the child's development in as many details as possible with the passing of years.

In RS there was a widespread opinion that there is an unnecessary overlapping of the functions of diagnosing between CEAT and the school's diagnosing teams. Very often there is a discrepancy between the test results of the children and their monitoring between CEAT and DT (diagnosing teams). This is due to the different methodologies, competences and testing periods. Nonetheless, RS explained that there is an established tendency to refer the severely mentally retarded to them, while the mildly mentally retarded children are referred to the mainstream schools, although the data of the resource teachers was to the opposite.

If we are to judge by the collected statistics about the referrals made by CEAT in the last two school years, we will see that they refer to RS children who have not been trained at all up to their seventh year in a children's institution and have parents. In some cities big groups of children are referred to RS who otherwise reside in HCDPC (Velingrad, Ruse, Veliko Tarnovo).

**In terms of the children with special education needs there are still no educational standards for the necessary amount of knowledge and skills that they should have mastered after a given grade.** Since there is no practice of having children repeat their grades in RS, they complete the eighth grade regardless of the knowledge they have. This lies at the heart of lack of quality and applicability of the education at the rehabilitation school along with the problems with the facilities and lack of qualified teaching staff.

### **3.2. Possibilities for inclusive education for the mentally retarded children placed in HMRCJ**

What was the practice of educating children with severe physical and mental disabilities until recently?

Pursuant to the provisions of the Instruction No 6/18 Mar 1977 of MES and MNH, which existed up to 2002, certain categories of children (the children with more severe disabilities: severe character deviations, schizophrenia, moderate and severe degree of mental retardation) were considered uneducable. These children could not visit the mainstream and special schools, but were placed in DCCMRCJ (day-

care) or in HMRCJ (all-year) – social institutions outside the field of national education, subordinated to the MLSP. In practice the children and juveniles with severe disabilities were excluded from the system of national education. The law provided for them not to be admitted to mainstream and special schools. The specialists were focusing mostly about degree of socialization and basic training. The specialized institutions (HMRCJ and DCCMRCJ) have been working under special MLSP programs on correctional compensatory and educational activities, along with individual programs on training, speech therapy and physical therapy. The purpose of these programs is attaining an elementary level of socialization. The disabled children have to acquire basic self-care skills – eating, ironing, laundering, cooking, shopping, who I am, how to buy bread and milk ...

In the period 2002 to 2003 amendments to the *National Education Act (NEA)* were introduced<sup>24</sup> along with changes to *The Implementing Regulations (IRNEA)*<sup>25</sup>. In 2002 *Ordinance No 6 of 19 Aug 2002 on training children with special education needs and/or chronic diseases* of MES was adopted<sup>26</sup>. The law provided for all the children with disabilities to be trained and educated in the mainstream school and entitled the parents/guardians to choose the school where their child will study. Art. 27, para 1 of NEA provides for the opportunity for children with mental disabilities to be included in the mainstream schools. However, although the purpose of this provision is “inclusive education” the law does not preclude the formation of individual classes for children with intellectual disabilities in the primary and secondary schools, though by exception in the junior high school only (IRNEA, art. 66, para 3). The procedure for enrolling in the “rehabilitation” classes of the mainstream schools is the same one as enrolling in the special schools. Most common are the special classes in the rehabilitation schools for children with multiple disabilities. Art. 7 of Ordinance No 6 of MES of 19 Aug 2002 provides for the formation of groups and classes for children with multiple disabilities in the special schools and kindergartens. Art. 72, para 2 of IRNEA also provides for formation of classes of pupils with multiple disabilities in the specialized schools for children with sensor disabilities and in the rehabilitation schools. Thus, the law and the regulation provide for inclusive education (in a class of the mainstream school – up to 2 children with disabilities in a class<sup>27</sup> or education in special schools). It is envisaged to reduce the required minimal number of children in a class when there are children with disabilities.

All the children up to 16 years of age with disabilities who are subject to mandatory education undergo a procedure for assessment of their special education needs by a complex psychological and educational assessment team (CEAT) at RIE<sup>28</sup>. CEAT may recommend either inclusive education (in the mainstream school) or refer the child to a special school (rehabilitation school). The inclusive education in the mainstream school is carried out under programs for the mainstream schools and is with resource support (resource teacher). The students who graduated from the mainstream school are awarded a certificate/diploma of the degree of education they have in compliance with the governmental requirements for education. The students who graduated from the rehabilitation school do not receive a certificate of degree of education at the end of their education. Pursuant to IRNEA the students who complete the eighth grade of the rehabilitation school are awarded a certificate of eighth grade in compliance with the governmental requirements for education of children with special education needs unless they sit an exam of equivalent level of education. The students who graduated from the tenth grade of the vocational training classes of RS may receive a certificate of professional qualification, 1<sup>st</sup> degree after successful examinations.

*The system of education and raising children with disabilities (children with special education needs), c with chronic diseases, with deviant behavior and of children deprived of parental care has been built on the principle of differentiated approach to them. The tendency is for the children with disabilities to be*

<sup>24</sup> Promulgated in SG, issue 86 of 18 Oct 1991, essential amendments of SG, issue 90, 24 Sept 2002, latest amendment of SG, issue 41 of 19 May 2006

<sup>25</sup> Promulgated SG, issue 68 of 30 Jul 1999, essential amendments of SG, issue 99 of 11 Nov 2003

<sup>26</sup> Promulgated SG, issue 83 of 30 Aug 2002

<sup>27</sup> IRNEA, art. 6a, para 4, item 7.

<sup>28</sup> IRNEA, art. 6a (in force as of 11 Nov 2003).

*included as much as possible in the mainstream schools, where their mates are studying.*

***From a governmental draft report on the UN Convention on the Rights of the Child  
Education, Leisure Time and Cultural Activities (art 28, 29, 31), 2006***

According to the BHC jurists to implement in practice the inclusive education in the country, a goal that has been stressed in a number of governmental reports, including in the governmental draft report on the UN Convention it is necessary to have new legislation in the area of inclusive education. Coordinated efforts need to be made to develop a common, detailed action plan regarding the special schools. This plan needs to have a clear, ambitious and long-term strategy for closing special schools that needs to be widely promoted.

The following specific examples illustrate the tendency in the development of the inclusive education in the system of HMRCJ:

- ◆ 21 of 50 mentally retarded inmates from HMRCJ – Vasil Drumev, attend school (mainstream and rehabilitation). All 24 children with intellectual disabilities from HMRC – Tarnava, have been included in the system of the national education.
- ◆ In the practice of HMRCJ – Sofia there have been only two cases of inmates who attended a rehabilitation school for a year (2002-2003).

Given the achievements in the sphere of the inclusive education HMRCJ could be divided into two categories: DCCMRCJ where inclusive education is one of the directions for transforming the children's institutions, and HMRCJ where the children with special needs are still considered uneducable.

### **3.2.1. DCCMRCJ where inclusive education is one of the directions for transformation**

The BHC monitoring data of 2006 puts in the first category the following homes for children with intellectual disabilities:

#### **◆ HMRCJ – Gorski Senovets**

According to the data of SARD – Veliko Tarnovo in the 2005/2006 school year CEAT assessed 237 children (122 children were referred to mainstream schools, 67 – to rehabilitation school. 48 have been admitted to the inclusive education of the mainstream school). Only 10 of the assessed children come from HCDPC and HMRCJ. Currently, 10 children from HMRCJ are included in the system of the national education: 4 – in a mainstream school in the village of Kamen, 1 child – in a mainstream all-day kindergarten – Gorski Senovets, 5 children – in RS – Novo Selo.

#### **◆ HMRCJ - Mihaltsi**

At its first visits to HMRCJ – Mihaltsi in 2000-2001 BHC found that a group of about 10 children attends the rehabilitation school on the initiative of the director of the home. The occasion of this educational inclusion is the intact intellect of the children. The current situation: 13 children from HMRCJ are integrated in the local mainstream school. As of 2005/2006 school year 9 children attend mainstream and rehabilitation schools in Veliko Tarnovo and Balvan (3 – inclusive education offered in the mainstream school in Veliko Tarnovo, 6 – in rehabilitation schools - 3 in Balvan and 3 in Veliko Tarnovo). 6 more children were introduced in September 2006 for assessment by the CEAT experts and for inclusive education in 2006/2007 school year. (NB – the personal initiative of the directors of HMRCJ – Gorski Senovets, and HMRCJ – Mihaltsi, is the decisive factor for the educational inclusion of the children from these homes.)

#### **◆ HMRCJ - Vidrare**

In 2005/2006 school year 9 children visit the mainstream school in the village of Vidrare and 7 children visit the rehabilitation school in the village of Radotina. As of 2006/2007 school year 2 more children were included in the inclusive education for the first grade of the mainstream school in the place of

residence.

◆ **HMRCJ - Iskra**

The data has shown in the 2005/2006 school year 11 children at the age of 18 and 7 of above the age of 18 attend school: 17 visit the rehabilitation school, 1 child – secondary school for children with impaired sight - Varna. The education needs of the children were assessed by CEAT at RIE of MES - Burgas.

◆ **HMRCJ - Petrovo, Stara Zagora**

Educational inclusion has been one of the main directions of transformation of the institution for children with special education needs in the village of Petrovo, municipality of Stara Zagora in the last years in Bulgaria. According to the data of the director of HMRCJ - Petrovo, 16 of the inmates participate in the process of education. The children were included in educational programs for individual inclusive education in the rehabilitation schools. A problem in the organization of the educational integration is the transport. HMRCJ has a van which is not big enough for all the 14 children who have been involved in the inclusive education.

◆ **HMRCJ - Petrovo, Sandanski**

11 of the inmates from HMRCJ – Petrovo are studying under MES curricula for the rehabilitation schools. The training is conducted at the HMRCJ. There are two classes of 6 children each from 1<sup>st</sup> and 4<sup>th</sup> grade. Two resource teachers train the children from HMRCJ – the teachers are on staff and are appointed at the RS – Petrich. 5 of the children in DCCMRCJ attend the mainstream school in the town (2 of the children – Emil Cholakov and Asya Asenova, have a leading diagnosis MMR, and since 3 years they have been pupils at the local mainstream school). The comparison with the situation of 2000-2001 shows that the children's institution has made a significant progress in the direction of educational inclusion for the children with disabilities. 16 children have been integrated in the last years in the system of national education – mainstream and special schools.

The cooperation between HMRCJ – Petrovo and the *Friendship* children's Day-care center for spiritual and social integration in Petrovo is entirely subordinated to the need of providing services to the children with disabilities in a unified environment with children without disabilities, of overcoming the isolation, disintegration and the retardation in the psychological and social development. The day-care center established with the help of an NGO continues its functions even after the end of the project that established it. With the assistance of the municipality of Sandanski, SAD, NGO visits of children from the all-year home are organized to the day-care center. The children with disabilities participate in joint activities together with the local children; they participate in children's festivals and artistic shows. The mildly and moderately mentally retarded inmates participate in the joint activities. Forms of social inclusion for the severely mentally retarded children are being considered.

◆ **HMRCJ – Vasil Drumev**

Half of the children in *Kalinka* HMRCJ – Vasil Drumev participate in the process of education. According to the director of the children's home as of 1 Sept 2005 21 inmates have been enrolled for regular students in three classes for local training – resource preparation, on curricula of Vasil Drumev RS - Shumen: first grade - 7 children; second grade - 6 children; third grade - 8 children. Each day until noon the children have regular training seminars on RS curricula with teachers from Vasil Drumev RS – Shumen. As of 1 Sept 2005 under the "Teachers involvement in the process of education of children with disabilities" program there is a resource teacher in the HMRCJ who carries out individual activities and assists the individual training of the pupils. As of 1 Sept 2005 1 child from HMRCJ has been referred to the first grade of the *Prof. Iv. Shishmanov* secondary school for children with impaired sight in Varna.

**3.2.2. HMRCJ where the process of involvement in forms of inclusive education is lagging behind**

◆ **HMRCJ - Kosharitsa**

The educational inclusion of 13 of the children from HMRCJ (5 in RS and 8 in the mainstream school) has



been carried out formally. There is no cooperation between the teachers from the HMRCJ and those from the system of the national education. Until 12 September 2006 there was still no list of the inmates with abilities for inclusive education. After discussions of the problem with the social workers and the director of the HMRCJ it was agreed that by the end of September a list of inmates would be submitted to RIE of MES – Burgas to assess their educational needs.

BHC came across a very drastic violation of the children's right to education.

**During its monitoring in 2006 in HMRCJ – Kosharitsa the BHC team found that a group of 7 children did not fit in the profile for the children's institution and needed reconsideration of their education needs:**

- Marian Valev - 14 years' old, attending RS – Sredets
- Andon Rashidov – 11years' old, attending RS – Sredets
- Emil Georgiev – a student at RS – Sredets
- Asya Zlateva Milanova – has never attended a school
- Tanya Kuneva – a student at RS – Sredets
- Zhelio Sabotinov – enrolled for 2006/2007 school year in the first grade of RS – Sredets
- Todorka Georgieva – a student at RS-Sredets.

The cases of two of the children – Todorka Georgieva and Zhelio Sabotinov, demonstrating the most shocking violation of the placement procedure and of guaranteeing their right to education, were described in detail in a report from BHC to the manager of SARD - Burgas, and to the management of RIE – Burgas. In response of the BHC report of 14 Sept 2006, where request for counter-actions was expressed for taking the inmates Todorka Georgieva and Zhelio Sabotinov out of HMRCJ – Kosharitsa, and for taking them to a CEAT at RIE - Burgas, SARD – Burgas, SAD – Pomorie and RIE – Burgas undertook specific measures: SARD – Burgas commissioned an inspection of the cases for taking immediate steps under the provisions of the CPA. On 3 Oct 2006 CEAT at RIE – Burgas performed psychological and educational tests of 20 inmates from HMRCJ. The opinion of the committee at RIE – Burgas was that Todorka Georgieva and Zhelio Sabotinov should be integrated in inclusive education and should attend mainstream schools, in the first and fourth grade, respectively. On the initiative of SAD-Pomorie the children were placed temporarily in *Detelina* HCDPC-Shumen, until the court issued a decision under art. 28 of CPA. Part of the justification to place the children in Shumen was that there was a resource center with *Detelina* HCDPC - Shumen. The fact that the father of Todorka Georgieva has a place of residence on the territory of the district of Shumen was taken into account. Social reports and action plans were developed for the two children.

#### ◆ HMRCJ – Strazha

The educational inclusion of 9 of the children from HMRCJ (8 in RS and 1 child in the mainstream school) is utterly formal in this home as well, according to the supervisors and representatives of the medical staff. In the opinion of supervisors from HMRCJ a serious obstacle for the real educational integration of the inmates with SEN is the poor preparation of the teachers from the system of national education to work with children with disabilities. The most common way out of a problematic situation is the position expressed by the teachers from the rehabilitation school, where 8 children from HMRCJ are studying: *“This week the child shall not come to school. They disturb the class. We cannot deal with them.”*

The HMRCJ management has not prepared and submitted to RIEMES – Targovishte, a list for a complex educational assessment of the possibility for inclusive education for the inmates.

#### ◆ HMRCJ - Medven

For the period 2005-2006 only one of the inmates was referred to HCDPC. Currently, the child is in third grade of the mainstream school. By 11 Sept 2006 none of the inmates from HMRCJ was referred for a complex educational assessment of the possibilities for inclusive education to CEAT at RIE – Sliven (see the assessment of Dr. Desislava Ivanova).

#### ◆ HMRCJ – Ilakov Rat

Two children from HMRCJ – Ilakov Rat were referred to CEAT and were included in the system of the national education in 2005/2006 school year. The children attended RS – Novo Selo, and completed fourth grade. In the new 2006/2007 school year 2 other children were referred to a specialized school - first grade.

#### ◆ HMRCJ – Gorna Koznitsa

A feeling of formality and occasion is left in the external observer from the attempt to include inmates from this home in the process of education outside HMRCJ. The data has shown that throughout the 2005/2006 school year 7 of the children in HMRCJ were referred from CEAT to RS – Lozno. All the children are at the age of 7 to 15 years and have been included in a “rehabilitation class” for children with multiple disabilities. In school time the children are placed for day-care in the boarding house with the RS. The appearance of the children before CEAT is an initiative of RIE – Kyustendil. An inspection in the records of CEAT and the personal records of the inmates from HMRCJ established that in one of the cases a record of the CEAT meeting is missing from the HMRCJ archive. In two of the cases the team determines an IQ of the children at 38% and 40%, respectively. In 4 of the cases there is even no mention of the CEAT opinion in the records issued. In 2006/2007 school year the inmates from HMRCJ are referred to RS-Stob.

#### ◆ HMRCJ – Sladak Kladenets

Since 2004/2005 school year 6 inmates were included in a form of inclusive education – a local class at HMRCJ. Today the children are in third grade – in their studies they are assisted by a salaried resource teacher at RS – Vetren. As of 2006/2007 school year the training of the children will be taken over by a resource teacher from Stara Zagora. In the new school year a new list of the inmates for assessment of their education needs was not submitted to CEAT at RIE of MES – Stara Zagora. Asked to summarize the nature of the training and social inclusive activities performed in the home with the rest prevailing part of the inmates Maya Dimitrova told the BHC team: *“It is sufficient to turn the TV set on and leave them on their own for an hour.”*

#### ◆ HMRCJ – Rudnik

In 2004 a joint committee composed of representatives of the SACP, MES-RIE, MH-RHC, SARD, SAD and the municipal administration recommended the development of an assessment of the education needs of the inmates. Until the BHC visit in 2006 none of the children from HMRCJ was included in any form of education outside HMRCJ. According to the HMRCJ staff at least 5 of the children can be integrated in the system of education. In 2006 the HMRCJ director prepared a list of 27 children to be assessed by CEAT.

#### ◆ HMRCJ – Sofia

Severely mentally retarded children are considered to be a purely medical case. In HMRCJ – Sofia there are not any children included in the system of the national education (mainstream or special school). HMRCJ did not refer any children at the age of between 7 and 16 years to the complex assessment team at the relevant RIE for the assessment of the possibilities for training in compliance with the provisions of Ordinance No 6 of 19 Aug 2002. RIE – Sofia did not take up the initiative either. The children and juveniles from the home do not attend any schools – special or mainstream. Currently, all inmates participate in the specialized training program developed by the MLSP on correctional compensatory and educational activities, as well as on training, speech therapy and physical therapy.

#### **Conclusion:**

**The existing legislation (NEA, IRNEA, Ordinance No 6, CPA) and the national plans and strategies adopted by CM (*National plan for inclusive education of children with special education needs, National Child Protection Strategy, National Child Protection Program 2005*) provide for good conditions and guarantees for access to inclusive education of the children with special education needs, but the existing practice has shown that the inclusive education is not yet a real alternative to the training in the rehabilitation schools. Despite the political will demonstrated in the last years to**

**overcome the segregated education due to disabilities it remains a problem for Bulgaria. There are more quality changes needed in the regulatory provisions and consistent efforts for a wider application of the good practices of the inclusive education.**

### 3.3. Education for children from HCDPC

The children from HCDPC by rule attend the schools in the town or the village where the homes are. There are homes the majority of the inmates from which attend one and the same mainstream school, which does not provide for real integration even during the process of education. This is the situation in Plovdiv, Barzitsa, Varna, Shiroka Laka, Preslav. A growing number of inmates attend rehabilitation schools due to their intellectual disabilities. No special cares are taken for them in the homes unless it is assistance provided in some homes in the individual preparation after classes, but the assistance is rendered by supervisors who have not been trained for that. The rooms for individual preparation in the homes are poorly equipped and do not stimulate a meaningful educational process. Oftentimes the home staff considers the inmates insufficiently motivated to study which brings about less and less efforts on the part of the staff to foster any such motivation. For the inmates no textbooks are provided for free by MES which is another obstacle in the process of individual preparation. Educational materials, books and funds for education in the homes are provided mainly through donations. Some of the homes (few) have libraries, but they are not renewed and the children remain indifferent to them, while some do not even know what the rules to get a book from there are.

### 3.4. Process of education in SBS and CBS

*The United Nations rules for the protection of juveniles deprived of their liberty*<sup>29</sup> (art. 38) provide for the fundamental principles of the organization and functions of the process of education for children placed in detention facilities where juveniles serve a term as a correctional or punitive measure. They focus on the right to education suited to their needs and abilities and designed to prepare them for return to society.

SBS offers conditions for completing primary education, while CSB offers conditions both for primary and secondary education. After completing eighth grade at SBS children, who are willing to continue their education, have to leave the boarding school and most often they do not continue their education. According to the teachers who work at SBS the reasons for that are that parents are not able to cover the costs for education for their children or because of inappropriate family environment there is no parental control. Students who complete eighth grade would remain at SBS if they could continue their education there. It is only in SBS-Straldzha that there is a ninth grade for vocational training in cooking after completing primary education. A survey was made into the percentage of children who continue their education after completing the primary school level, which proved to be no more than 10-15%. At some SBS there are reports that pupils who continue their education are a few. An exception to that rule is SBS-Sofia only, where probably due to the higher quality of the education and better social contacts of children, more than half of the pupils who complete primary education continue to study. The children who do not complete the eighth grade and leave SBS because they come of age or because they had already been there for three years, in most of the cases do not continue their education either. This trend is typical of children who leave CBS before completing their primary or secondary education.

*United Nations Rules for the Protection of Juveniles Deprived of their Liberty* provide for the requirement for the education of children to be offered "through programmes integrated with the education system of the country so that, after release, juveniles may continue their education without difficulty". Education at SBS and CBS is offered through standard curricula, approved by the Minister of Education and Science. These curricula differ from those for the schools of general education only in the part concerning obligatory optional disciplines. The SBS curriculum for the initial grades provides for an additional lesson

<sup>29</sup> Art. 38, accessible in English at <http://www.un.org/documents/ga/res/45/a45r113.htm>, accessible in Bulgarian in "Children of Bulgaria—police harassment and arbitrary detention", a report from Human Rights Watch, 1996, page 59.

per week in Bulgarian language and literature given the greater needs of children to be educated in that subject, while the curriculum for the primary school level provide for two additional lessons per week in labour and technical skills to help the vocational training. Therefore after completing their primary education the few pupils who continue their education choose primarily vocational schools. Since in most of the cases the pupils who complete primary education are at the age of 16, 17 or 18, most often choose to attend evening classes. Something unique for the CBS system is the curriculum of the boarding school in the village of Gabrovtzi which is in agreement with the approved curriculum for rehabilitation schools in Bulgaria. Upon starting their education there some 50 % of the children were illiterate. All of them are diagnosed as "mildly mentally retarded", while few of the children have even more serious psychological diseases (two cases of epilepsy, schizophrenia, etc.). Some 20% of the pupils continue their education at a vocational school for farmers or at a social educational and vocational establishment.

The general assessment of the educational activities at SBS and CBS is that the process of education there is considerably less effective, while the quality of education is at a lower level compared to the level of education in the remaining schools of general education. There are several fundamental reasons for that. Considerably higher rate of mobility of pupils is typical of SBS and CBS compared to the rate of mobility in the schools of general education. Placements in SBS and CBS are not complied with the start of the school year. At any time during the school year newly placed pupils or runaway pupils, who have not been looked for, are brought in. They join the process of education at the stage where the other pupils are. In addition the rate of mobility of children is raised because of their frequent absences due to the fact they need to attend different court cases. In most of the CBS there are several cases initiated against a single child. According to the reports of the management of CBS-Rakitovo there are 7 to 10 cases with different subject matter against most of the inmates at a time, which entails frequent absences from school because pupils are brought to the trials or for investigative activities. Another explanation for the mobility rate is the fact that SBS and CBS pupils are entitled to a release after they have spent three years there, no matter whether this period is at the beginning or at the end of the school year.

One of the most serious problems for the education system of SBS and CBS stems from the shortage of pupils to form a consistent class. Pursuant to the provisions of *Ordinance No 7 of 29 Dec 2000 on the Number of Pupils to be Enrolled in Different Classes and Groups in Schools, Kindergartens and the Auxiliary Units*<sup>30</sup> the minimal number of pupils in a class at SBS should be 14. When the number of pupils in the classes is less than that teachers are compelled to unite classes. To the exception of several SBS, in all of the other institutions there is one or most often several united classes.

The percentage of illiterate pupils at SBS and CBS is considerably higher compared to the percentage of illiterate pupils at the schools of general education. The *United Nations Rules for the Protection of Juveniles Deprived of their Liberty* provide for the following: "*Juveniles who are illiterate or have cognitive or learning difficulties should have the right to special education*". In CBS and SBS additional reading and writing classes can be organized to raise literacy levels of juveniles under some model curricula approved by the director after coordination with the regional inspectorate of education. It is not rare to have children with Roma origin placed in SBS and CBS who are above the age of 14, who have never attended school and are completely illiterate. For such cases *the Implementing Regulations for the Public Education Act (IRPEA)*<sup>31</sup> provide "for children with special education needs, who are not meeting the state education requirements for learning due to objective reasons, the school team develops individual lesson plan for one or more subjects included in the curriculum of the school." In addition, IRPEA provides for pupils from first grade who are not assimilating the subjects, not to repeat the grade<sup>32</sup>. For them additional individual classes are planned taught by their teachers during the regular classes or during vacations<sup>33</sup>. The training is organized based on a proposal from their teachers, with the assistance of the

<sup>30</sup> Issued by the Minister of Education and Science, promulgated, SG No 4/12 Jan 2001, in force as of 15 Sept 2001 amended No 49/17 May 2002, No 55/4 June 2002, No 74/22 Aug 2003, amended No 87/3 Oct 2003

<sup>31</sup> Issued by the Minister of Education and Science, promulgated SG No 68/30 July 1999, the provision identified is art. 111, para 8 and is a new one, SG No 99/11 Nov 2003

<sup>32</sup> Art. 112, IRNEA.

<sup>33</sup> Art. 112, IRNEA.

respective experts - psychologists, speech therapists, etc., under conditions and provisions identified by the principal of the school in an order<sup>34</sup>. In none of the SBS visited were BHC researchers shown individual lesson plans, no additional training course was conducted and no orders issued by the director were found which determine the provisions for such training. What is more, according to some of the teachers working at SBS no matter what the efforts are, there is no hope for the children to be taught how to read and write and complete successfully at least primary education.

The percentage of pupils in SBS and CBS, whose age corresponds to the grade they are in, is less than 20 %. For example, the age of pupils who are in first grade is not 7 years like in schools of general education, but may vary from 7 to 18. The great age difference between pupils and the difference in their psychological development and interests is another obstacle to their normal learning process. Therefore the average examinations grade of pupils in most of the schools varies from 3.80 to 4.40.

Finally, efficiency of the learning process is directly related to motivation and payment of pedagogical staff, which by the common opinion of the teachers interviewed is extremely insufficient for their working conditions.

Rule 26.6 of the *United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")*<sup>35</sup> stipulates: *"Inter-ministerial and inter-departmental co-operation shall be fostered for the purpose of providing adequate academic or, as appropriate, vocational training to institutionalized juveniles, with a view to ensuring that they do not leave the institution at an educational disadvantage."* In agreement with this requirement in all SBS and CBS vocational training is provided to a certain degree. Most often the pupils are trained in carpenter's shops and metal processing workshops, in some boarding schools there are courses in electrical engineering, computers, applied arts, needlework, etc. In SBS – Dragodanovo pupils from the upper grades attended the course in masonry, 1st degree, where they were taught by teachers from the vocational school in construction in Sliven. In several boarding schools the children's leisure time is devoted to activities of individual interest: cooking, drawing, music, dancing, herbology, gardening, photography, etc.

Educational facilities are maintained well and are in a relatively good state only in few CBS (Podem, Rakitovo, Kereka, Zavet), while in the rest of CBS (Dinevo, Gabrovtsi), as well in most SBS, facilities are insufficient and in a wretched state. Most lamentable in that respect is the situation at CBS-Dinevo and SBS-Nevsha, SBS-Pchelarovo, SBS-Sigmen, SBS-Ostritza and SBS-Medovina. The classrooms are often poorly equipped, with obsolete blackboards, which have been used so intensely that one cannot discern what is written on them, the desks are all in scratches and the chairs have no backs. The temperature in the rooms and the corridors in some SBS and CBS was very low (Berievo, Straldzha, Varbitza, Dinevo). The pupils in the classrooms and study-rooms had their jackets on. According to the staff and the pupils the heating in most of the boarding schools is not on all the time, but in the mornings and evenings for few hours.

The degree to which schools have textbooks, notebooks and study aids varies from school to school. Most of them complain of regular shortage of textbooks for the upper grades. The textbooks available are often in a lamentable state, they are old, shabby and without covers. Notebooks are also insufficient and pupils in several SBS were compelled to use one notebook for all subjects. To most of the schools no budget funds were provided for purchases of study aids, drawing materials, materials for the creativity and art lessons etc. for the current year. The management of some of the schools contacted sponsors and managed to ensure pens, notebooks, sketch-pads, color paper pads and other aids.

#### 4. Special Protection Measures

<sup>34</sup> Art. 112, IRNEA.

<sup>35</sup> Accessible in English at [http://www.unhchr.ch/html/menu3/b/h\\_comp48.htm](http://www.unhchr.ch/html/menu3/b/h_comp48.htm), accessible in Bulgarian in "Children of Bulgaria—police harassment and arbitrary detention", a report from Human Rights Watch, 1996, page 48.

**Article 40**

*1. State Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.*

*UN Convention on the Rights of the Child*

#### **4.1. System of prevention and combating children's asocial behavior – homes for temporary placement of juveniles**

The system of prevention and combating juvenile delinquency is composed of structures both with the Council of Ministers (CCCJD) and the municipalities (LCCJD), but also under the Ministry of the Interior – Child Counselling Services (CCR) and homes for temporary placement of juveniles (HTPJ). Pursuant to the provisions of JDA accommodated in such institutions shall be juveniles:

- Whose permanent or current address cannot be identified;
- Who have been caught in vagrancy, begging, prostituting, abusing alcohol, dealing or using drugs or other intoxicating substances;
- Who had left without permission compulsory correctional or compulsory medical treatment institutions;
- Who had committed an offence against public order and had lapsed in such a state of neglect as to render inappropriate their further stay in the custody of parents or foster parents.

In Bulgaria there is a total of five homes for temporary placement of juveniles located in Sofia, Plovdiv, Varna, Burgas and Gorna Oryahovitsa, which provide services to the children from the 28 districts. In the home in Sofia, which has a capacity that does not exceed that of the other homes, children are placed from the Western part of the country, which in certain cases makes it busier. To the exception of the home, which is five kilometers away from Plovdiv, the rest of the homes are in the populated areas. The capacity of the homes varies from 12 to 18 places, but at any point they accommodate no more than 3 to 4 children. According to the staff there have never been occasions when the capacity of the homes was used up, while in the cases when the inmates were more, this was usually because of campaigns and for short periods of time, not exceeding 24 hours. Most often this happens at the beginning of the school year and during the fall, when children are placed in SBS and CBS, and when breakaways are most common.

The dormitories of the homes have two to six beds. In addition to the dormitories, the children spend most of their time in the study-rooms which have tables and chairs, TV sets, video players, books and entertainment games. In the last years there have been renovation works in all the homes – in the dormitories and the closets, as well as in the bathrooms and toilets, due to which the living and sanitary conditions there are in a very good status. An exception to that rule is the home in Gorna Oryahovitsa, where the money earmarked for renovation works by the World Bank never found its way to the home. The amount for the renovation works had to be granted under a joint project of the MLSP and the Ministry of the Interior, but the then acting Minister of the Interior Yavor Haitov transferred the authorities on the implementation of the project to the MLSP. The five homes were granted the same amount of money. Unlike the home in Gorna Oryahovitsa the rest four homes were thoroughly renovated. According to the management of the home, the reason for this situation in the home in Gorna Oryahovitsa is that the other four homes managed to negotiate the contractors of the homes to be local companies, while the contractor for the home in Gorna Oryahovitsa was a company from Blagoevgrad, whose proprietor was Armenian. The company sent a Roma team, which worked for few days and then promised to continue the renovation works after the upcoming Christmas and New Year's season of 2004/2005, but never showed up in the home after the holiday season. The management of the home wanted to know why after the holiday season the company failed to resume its work and was answered that the contractor was closed. The team's work

was of poor quality and they used cheap materials – a shocking example is the flooring in some of the dormitories, where they used furniture foil which wore in two to three weeks. Contrary to the expressed desire of the staff to have the corridor painted in color, the company painted the plinth in the corridor grey. Later the manager was assured by MLSP that there would be money for the renovation works and hired a local company to finish the most urgent renovation works. In the end, however, Peshev (the grants official from the MLSP) snapped that they would not see any money from him. After that the management of the home addressed the MLSP and the Ministry of the Interior many times asking about the reasons for the preliminary termination of the renovation works, but never got an answer.

Given the names of the homes, their primary function is to serve as places for temporary placement for children, and the stay there, as provided in the legal framework, should not have a punitive nature. Although it does not have such a nature, in its character the stay in the homes is detention even only due to the fact that during the stay there the children are deprived of free movement and the related limitations. The analysis of the characteristic features of HTPJ allows the conclusion that the inmates are de facto deprived of liberty. HTPJ are places of detention and no external people are allowed in without permission, while the children are not allowed to go out without permission.

The stay in the institution is regulated by art. 37 (Amended – SG, issue 110 of 1996) of the Juvenile Delinquents Act: Para (1) “Stay in juvenile foster institutions may not extend beyond 15 days. A stay longer than 24 hours shall be approved by the Public Prosecutor.” Para (2) In exceptional cases and subject to the permission of the competent Public Prosecutor, the stay in a foster institution may be extended to a maximum of two months”.

Chapter eight report of the government of the Republic of Bulgaria on the UN Convention on the Rights of the Child titled “Special protection measures” notes: *“With regard to the legislative and practical application of the provisions of art. 37, b-d of UN CRC the police bodies may arrest juvenile delinquents. As of the point of detention, they are entitled to an attorney. The detention period cannot be more than 24 hours. To take the detainees to the respective places of detention, the police bodies issue a written order. The police bodies are obliged to release immediately the person should the reason for the arrest be unjustified. Obvious from the legal provisions, the policy adopted and the established practice, the arrest of children is used a measure of last resort, for the shortest possible period of time provided there are minimum age limits.”*

Below is an enquiry about the stay of delinquents in the five homes for the first half of 2006:

HTPJ	Total number of inmates for the first six months of 2006	Of them – placed for 24 hours	Of them – placed for up to 15 days	Of them – placed for over 15 days
Sofia	305	140	160	5
Plovdiv	257	188	62	7
Varna	190	145	44	1
Burgas	196	155	36	5
Gorna Oryahovitsa	285	62	223	-

The enquiry shows that the report of the Bulgarian government cited above on the UN Convention on the Rights of the Child does not reflect completely the scope of detentions in HTPJ. The period of duration of the police detention in practice does not exceed 24 hours, while a stay exceeding this period is permitted by a prosecutor. Permission from a prosecutor for a stay of children in HTPJ above 24 hours is in itself a formal act. The stay itself has a character of police detention since the initiative for that most often comes from the inspectors of the Child Counselling Services or another police body, while the prosecutor’s ruling, which affirms the request for a prolonged stay, is issued without checking the need for such a detention. In this respect the practice in the home in Gorna Oryahovitsa is illustrative. The management of

the home believes that the home should not be used as a detention center by the prosecutor's office and the police. Exactly with this argument the manager of the home managed to counteract placements for more than 15 days. In the previous 2005 there were three cases of placement for more than 15 days in the home, but in all three cases the manager objected to that by reporting to the district prosecutor, who on their part forwarded the file back to the regional prosecutor. In the end the prosecutor's rulings were not repealed. In the home in Varna there was another fruitless attempt to appeal a ruling for placement. In agreement with the adopted practice of placement of children in the home for up to 15 days only an affirmation from a prosecutor is required of the placement proposal developed in advance, while for placement exceeding 15 days it is necessary to have an explicit ruling for placement issued by a prosecutor. Placements for a maximal period of up to two months are not a common practice. The enquiry about the stay of juveniles in the homes shows what the number of placements for more than 15 days is, but it does not show how many of those placements lasted for up to two months. In certain occasions placement for the maximum legal period of two months was repeated. This is the case with N.R. who was placed in HTPJ – Burgas for two months due to repeated violence over her foster parents. Before that she was placed in the home on many occasions, including for a period of two months. There is a decision issued by the local placement committee for placement in CBS which was affirmed by the court. The decision itself was not sent to the home, but in MES, where a letter for a distribution of the juvenile is expected. According to the manager of the home this is a redundant procedure, because the CBS for girl is only one in the whole country and there is no point in waiting for the MES letter, provided there is a court decision. The girl will stay in the home until she is escorted to CBS in Podem.

Pursuant to the Criminal Procedure Code the prosecutor's office may impose a detention measure of up to 72 hours, while detention exceeding this period shall be provided by the court and is subject to appeal. In the case of detention of juveniles in HTPJ the prosecutor's office is entitled to impose detention of up to 2 months without a right to appeal of the detention measure imposed and without the right to an attorney from the moment of detention or at a later stage. As it is clear, any attempts to appeal the detention measure imposed remain fruitless. Thus the regulation on placement of children in HTPJ contradicts the Child Protection Act, article 26 of which stipulate that placement of a child in a specialized institution is done by the court. A contradiction to the governmental report is established with regard to the right to an attorney from the point of detention. In none of the homes was there any defense by an attorney before, during or after imposing placement in the home. Only in the home in Sofia it was allowed to the attorney to visit an inmate. Along with juvenile delinquents, the homes accommodate other children detained for other reasons. The majority of the inmates placed in HTPJ have run away from correctional educational boarding schools or boarding houses. As far as they are concerned, after being caught and taken to HTPJ the duration of their stay should be limited only to their bringing back to the institution, from which they broke away. If the duration of this category of inmates from HTPJ was unduly prolonged, it would be a punitive measure.

#### **4.2. Detention measures and serving time for juveniles – detention centers and reformatory homes**

##### **Detention centers**

Detention measure for juveniles is a measure of last resort and should be imposed in very rare circumstances. The time is served in detention centers and reformatory homes in Bulgaria. The report of the government of Bulgaria on the UN Convention on the Rights of the Child notes: *“In the cases where detention measure is imposed for the juvenile the law provides for a placement in suitable conditions and separately from the adults. This guarantee is abided by for the punitive measure “deprivation of liberty”. We have to stress that the conditions in the detention centers are still far from the requirements of the international standards for access to light, private space, etc. Representatives of the judiciary are of the opinion that a special detention center for juveniles needs to be established.”*

In the 50 detention centers where the cells for juveniles, where there are any, are no different from the other cells. The majority of the detention centers are overcrowded and these cells are used for placement of adults and only when a juvenile comes to the detention center, they are placed in a cell vacated from the



adults. Therefore the living and sanitary conditions for the juveniles are no different from the conditions for the adults. The cell space is far from being compliant with the requirements for private space – most often it is from 6 to 8-10 square meters. The equipment in the cells is composed only of beds and small tables. To a few exceptions, the cells in the most of the detention centers do not have access to direct sunlight, while the possibility of letting some fresh air in the cells is close to minimum. An extremely poignant issue is the impossibility of the juveniles to stay in the open, therefore the only opportunity for some exercise is going out of the cell to the WC. To ensure such an access the juvenile in one way or another has to let the warders, know who are obliged during any time of the day and night to unlock the cell for letting the juveniles go to the WC – an obligation, which even if they wished they are unable to perform unconditionally. Establishing a special arrest for juveniles would not solve the problems stemming from the actual procedural activities and the related regular convoys of the juveniles and their bringing back to the detention center.

### **Reformatory homes**

The report of the Bulgarian government mentioned above has considerable flaws with regard to deprivation of liberty of juveniles. Only a paragraph in the report focuses on the scope of the detention measures and the maximal periods of the punishments. The report does not mention anything about the system as a whole and the problems of this part of the penitentiary system. The reformatory homes accommodate both juveniles who have been imposed detention measure, and juveniles who are serving time. There are two reformatory homes functioning in the country: in the town of Sliven – for girls, and in the town of Boychinovrsi – for boys. The two facilities are in a condition that is considerably better than the rest of the places for deprivation of liberty. However, the equipment in the dormitories in RH – Boychinovtsi consists only of metal beds, small metal wardrobes and a locker for personal belongings, but not everywhere, while some of the rooms do not even have any other equipment, but the beds. The plaster on the ceilings on the last, fourth floor, has peeled off here and there because of the leaks from the roof. The floor has a coating, which is shabby, and the walls need painting.

In both reformatory homes they organize a wide range of activities and classes. The home in Boychinovtsi has a secondary school, there is vocational training going on. In contrast to that in RH – Sliven the juvenile girls cannot continue their education. The quality of the process of education in Boychinovtsi is extremely poor due to the short duration of the periods of stay of the inmates in RH and the ongoing travels for cases and procedural activities. A considerable part of the pupils (an estimated one-fifth of the total number) are illiterate or semi-literate. Summer literacy courses are organized for them. The juveniles come to the homes with unclear medical status. Some of them, who have never attended school and are mildly mentally retarded, have not been examined by medical diagnostic committees. Those of the juveniles, who are brought in the home before February, are included in the respective class. If, however, the juveniles are brought in after February, they cannot attend the school and lose the whole school year.

## **5. Alternatives to the institutions for children with disabilities**

*The development of a network of social community-based services for children was the main factor that helped to the greatest possible degree for the reduction of the number of children placed in specialized institutions.*

*From a report of the Bulgarian government on the UN Convention, Family environment and alternative care (art. 5, 18, para 1-2, 9-11, 19-21, 25, 27, para 4 and art. 39)*

### **5.1. Day-care centers for mentally retarded children and juveniles - 10 years later**

The day-care centers for mentally retarded children and juveniles that existed in 2006 are 33. The BHC monitoring in 2006 in 7 day-care centers for retarded children and juveniles - Pernik, Blagoevgrad, Stara Zagora, Pazardzhik, Kyustendil, Vratsa and Bansko, led us to the following conclusions:

The day-care centers for retarded children are the best functioning and developed alternative form of child care for retarded children so far. On the one hand, this is a form of integration of the children with special needs in the society, and, on the other hand, it is an opportunity for a social inclusion of their parents. Until the development of this form of a social service for children with physical and mental disabilities in the 90s, if there was a child with disabilities from the family most often one of the parents – usually the mother, gave up her work to start taking care of her child with special needs.

The admission of children with disabilities to the day-care center is done under the provisions of art. 20 of IRCPA. The procedure provides for the following: after an agreement is reached for provision of community-based services the parent/guardian submits a written request to the SAD director. The director issues a placement order (a referral to the provider of the social service). The day-care centers for mentally retarded children are decentralized as municipal institutions for social services pursuant to the changes in the legislative framework (SAA, IRSAA).

The multidisciplinary teams, which have been established in all day-care centers studied by BHC prepare an individual plan after an assessment of the specific needs of the children/persons using the social services, which is evaluated and updated, if necessary, every six months. Part of this plan is the written healthcare plan. The use of the service “day-care center” is possible on the grounds of a referral issued by the manager of SAD – Stara Zagora, and a contract signed between the mayor of the municipality as a provider of the social community-based service and the users of the service.

The day-care centers are the first children’s institutions, which have started to include their inmates in the system of general education in the last years – the mainstream and special schools.

Good practices of the inclusive education for children with disabilities:

The BHC research in **DCCMRCJ – Pernik** established that for the period 2005 to 2006 12 inmates with different degree of mental disabilities (from mild to severe retardation, multiple disabilities, chronic diseases) started their inclusive education under the MES programs – in the mainstream and rehabilitation schools. Two other inmates will be included in the MES programs. Together with the complex educational assessment team at RIE an evaluation of the education needs of each child was performed and they are referred to different forms of inclusive education – 5 of the children are trained in a group formed at the RS with place of study at the mainstream school, 1 child is trained under an individual plan at home following the RS curriculum, 5 of the rest of the children are trained in an individual form following the curricula of the mainstream schools and 1 child participates in an integrated training in the mainstream school.

In **DCCMRCJ – Pazardzhik** good practices were also established in terms of the inclusive education for the period 2003 to 2006. 31 inmates of the day-care center with different degree of disabilities (from mild to severe retardation, multiple disabilities, chronic diseases) started their inclusive education under the MES programs – in the mainstream and rehabilitation schools in Pazardzhik. The data has shown that: 9 children were included in integrated classes with L. Karavelov Primary School; 17 children were trained under the MES curricula for RS (8 of the children attend the special school Ivan Vazov RS – they were included in 4 classes for children with generalized disorder of their development and with multiple learning difficulties, 9 are trained in local classes in HMRCJ – 1 of the classes is for autistic children – generalized development disorder); 5 children were included in an individual form of education following the MES curriculum for the general education schools at Vasil Levski Primary School.

We can summarize that in the DCCMRCJ visited by BHC there are practical possibilities for social and educational inclusion of mentally retarded children – the prerequisites for that are both the good condition of the facilities and the qualification of the staff, the support activities of the specialists working with a special category of the children, involvement in the social live of the community.

## 5.2. Day-care centers with HMSCC – still only an opportunity

In 2006 according to the data of MLSP 4 day-care centers for disabled children with HMSCC were opened in the country. The Civil Report prepared on 31 Jul 2006 by a network of NGO, which is an evaluation of the governmental measures set by the government under the Action Plan on the political criteria for EU membership, for the development of a system of alternative services for disabled children notes: “*The HMSCC have day-care centers, which are not functioning due to shortage of funds from MH (examples are the homes in Zlatitsa and Varna, which were visited in June 2006 by BHC), although they are the only form of rehabilitation in the region for children at an early age with different types of disabilities. Therefore the measure related to opening new centers raises a number of issues regarding the provisions for the funding, ensuring staff positions, promotion and delivery of the service – work under an individual program on the part of the experts and the results it yields.*”

*With the purpose of supporting the government in the reform in the sphere of child protection, in May 2001 a project started called “Reform for enhancing the well-being of children in the Republic of Bulgaria”, which is funded by a World bank loan, funds under the European Commission Phare Project, the British government, donations of the Japanese fund for social development and the Swiss agency for cooperation and development on the part of the Bulgarian government. The primary function of the project is implementing a reform in the policies for children through development of community-based services for children as an alternative to institutionalization, prevention of neglect, work with children in the streets, reform in the management of children’s institutions, as well as institutional building and strengthening of the state bodies which develop and implement the policies with children in Bulgaria. To carry out the activities planned a Project Management Unit was established, which is located in the Ministry of Labor and Social Policy. The project includes five main sub-projects: “SACP institutional development”; “Municipal structures institutional development”; “Development of services in support of the families”; “Management of the reform in 20 social institutions in ten pilot municipalities selected in advance by the National Social Assistance Office and MLSP; National Training Center”.*

*From a draft report of the Bulgarian government  
on the UN Convention on the Rights of the Child, 2006*

## 5.3. The new alternative form of CSSCF – on the border between desired and reality

The most comprehensive governmental project for encouragement of the development of community-based social services is the project that was implemented by MLSP between May 2001 and 30 June 2006, called “Reform for enhancing the well-being of children in the Republic of Bulgaria”. The projects sets itself the goal to assist the transitional period from the system of the child protection, carried out mainly through institutional care, to community-based services meeting the needs of the individual communities. The project envisages support and improvement of the quality of the services for the institutionalized children.

Financial resources are:

- ◆ Loan from the World Bank at the amount of Euro 8,800,000
- ◆ Donation from the Japanese Social Development Fund on the prevention component – USD 1,050,000
- ◆ Donation from the Swiss Agency for Development and Cooperation for the project management – Euro 78,600
- ◆ Department for International development, United Kingdom – GBP 9,870, granted for a training needs assessment of the staff in 17 specialized institutions

- ◆ Second donation of the Japanese Development Fund for development and building of local capacity for management of social services for children in the pilot municipalities under the project – USD 543,000
- ◆ International Labor Organization – trainings at the amount of BGN 7,542
- ◆ The Bulgarian government – BGN 12,857,623

The project's main components are:

- ◆ Capacity building.
- ◆ Deinstitutionalization.
- ◆ Prevention of neglect and child's rights protection.
- ◆ Services for the children in the streets.
- ◆ The project activities related to institutional capacity building of the entities involved in the services for children are conducted on national and local levels.

The activities related to development of alternative forms of social services for children and families are carried out on a local level in 10 pilot municipalities. According to the MLSP data as of November 2006 complexes for social services for children and families were developed in Burgas, Varna, Pazardzhik, Plovdiv, Ruse, Sliven, Stara Zagora, Sofia, Targovishte and Shumen. They offer a new type of community-based social services for children and families at risk. Their activities are focused on providing for conditions for raising all children in a family environment and reduction of the number of children admitted to social homes. The complexes include three individual centers: Public Support Center, *Mother and Baby Unit* and Center for Work with Children in the Street.

The **Public Support Centers** provide social, psychological and educational consultations and support for children and their biological families, for adoptive and foster parents. The work is channeled in several directions: prevention of neglect, taking the inmates back from the homes to their family environment, violence prevention, deviant behavior prevention and school dropout prevention.

The **Mother and Baby Units** provide temporary shelter and support to mothers at the risk of neglecting their children. The mothers are assisted in building their parental skills and in their preparation for a single life, so that the neglect of new born babies is prevented. MBU have been established in all pilot municipalities to the exception of Burgas municipality.

The **Centers for Work with Children in the Street** offer special services – food, shelter, medical assistance to the children who are in the streets and the efforts are focused on bringing them back to their families. CWCS have been established in Sliven, Burgas, Shumen, Ruse and Plovdiv. Each complex has its specificities, which correspond to the needs and the different profiles of the risk group children in the local community, as well as different practices, which are developed through a methodology of work developed by the suppliers.

The information provided to BHC by MLSP in November 2006 specifies:

*In their pilot year of their work the management of the complexes was delegated to NGOs selected after a competition. After the pilot stage the complexes acquired a status of municipal services, activities delegated by the state. The municipality of Plovdiv made a decision to manage the complex on its own, the rest of the municipalities, to the exception of Pazardzhik, opened competition procedures and signed contracts with NGO for a period of 3 to 5 years. In the municipality of Pazardzhik the pilot stage with the project funding will continue until the end of 2006. For the period from June 2005 to October 2006 a total of 123 customers went through the MBU, which are functioning. The Public Support Centers offered their services to a total of 6,087 customers, including on campaigns for prevention of violence and school dropout. In the five centers for children in the streets support has been provided to a total of 166 children. The most common service was family consultations and support within the framework of the prevention department, where services were provided to a total of 995 customers on 388 cases. The complexes*

*worked with 297 inmates and their families with the purpose of bringing them back to their family environment or preparation for an independent life depending on the needs of the customers. The centers for children with disabilities, functioning as part of PSC– Targovishte, and PSC – Plovdiv, had 89 customers. The complex in Ruse also worked with 47 customers with special education needs.*

The management of **CSSCF** was assigned to NGO. After competitions held contracts between the municipalities and NGO were signed: Burgas municipality – NCSR (National Center for Social Rehabilitation), Varna municipality – NCSR, Plovdiv municipality – a consortium with the leading *Each Child* organization, Ruse – leading organization *Care International*, Sliven - leading organization *Care International*, Sofia – NCSR, Stara Zagora – leading organization *Samaritan*, Targovishte – leading organization *International Social Services*, Shumen – leading organization Institute for Social Activities and Practices, Pazardzhik.

In 2006 BHC visited six from the ten alternative complexes for social services (CSSCF – Shumen, CSSCF – Targovishte, CSSCF – Burgas, CSSCF – Plovdiv, CSSCF – Stara Zagora, CSSCF – Sliven). The BHC evaluation is that this alternative form has a potential, but so far the functional development of CSSCF remains controversial. All the complexes visited have perfect facilities and contemporary equipment. The teams of experts have the appropriate professional qualification. However, the functional development of the social complexes lags behind considerably from the potential they have – in terms of facilities and staff.

The BHC evaluations found an efficient process of work for 4 of the CSSCF visited (Shumen, Targovishte, Varna, Burgas) – the entire scope of the services offered in the complexes is used by the targeted groups – children from disadvantaged families, children who are victims of violence, children with deviant behavior, children with special needs. For 3 of the complexes, however, it is difficult to draw this conclusion. The information about the types of activities and about the targeted children and families covered in CSSCF – Sliven, for example, reveals that the alternative form does not have any users yet. During its visit to MBU in CSSCF – Sliven, the BHC researcher came across one mother placed and her baby. On Saturday there was one representative of the team on duty in the facility of the unit. Personnel problems and unregulated relationships between the state and municipal administration – the provider of the services, on several occasions have been in the center of the attention of the local press – facts about financial disorders, problems in the psychological environment, about failures on the part of both parties to fulfill their obligations, about shortcomings of the work of representatives of the NGO *Care International*, with which the contract on the management of the national complex was signed.

In CSSCF – Plovdiv BHC found out about serious problems in the relationship between the municipal administration and the provider of the social services at that point: *Each Child* NGO.

In CSSCF – Sofia, according to MLSP data of November 2006, no activities have yet started.

The best practices of providing social community-based services BHC established in CSSCF – Shumen – this is the first complex for social services for children and families in the whole country. The complex for social services for children and families in Shumen was built like the other CSSCF in the country, under a project called “*Reform for enhancing the well-being of the children in Bulgaria*”. CSSCF was opened on 2 Oct 2005.

IN a year 17 services and activities were initiated. Among them:

- ◆ Development of a team of professionals and establishment of sustainable standards for quality of the social services for children and families from the complex. There are 21 experts working in the complex – social workers, psychologists and supervisors, and 53 volunteers.
- ◆ Within the project an apartment was renovated and furnished, which was provided by Shumen municipality for work on the activity called “Protected home”. As of the current moment there are two young girls, who underwent training, taken from the CSSCF who are developing skills for independent life in a protected home.

- ◆ In the day-care center, located in the CSSCF facility, as of the point of time when the BHC visit took place, there are 13 children who are trained, taken care of and assisted in the development of their social skills.
- ◆ In the Mother and Baby Unit prior to the BHC visit shelter and support have been provided to two mothers and their babies. One of the mothers was integrated successfully in the community with the assistance of Shumen municipality, which provided an apartment from its housing facilities.
- ◆ Two foster families, who are undergoing training, were referred to the complex by CPD. In one of the foster families a child from the home for children deprived of parental care in Kaspichan was placed.
- ◆ Two mutual assistance groups start their work to help candidate adoptive parents, adoptive parents and adopted people, and assist relatives and friends, in whose families children were placed as a protection measure under the Child Protection Act.
- ◆ CSSCF organizes two groups for mutual assistance to future mothers and a group of children with behavioral problems for building social skills. A total of 45 customers of the complex were involved in the group work. There is an emergency admittance center established in the center. Children and parents who suffered violence are placed there.
- ◆ Prior to the BHC visit to the complex the CSSCF team worked on 4 cases of domestic violence and with two children victims of sexual abuse. One child was provided with shelter and secure environment, after they were found homeless by the police officers. The total number of the people sheltered, placed in a protected environment and assisted since the beginning of the year has been 9.
- ◆ With the parents, family, relatives and neighbors of the one of the children a group family conference was held.
- ◆ CSSCF held 9 public discussions with professionals working in the field of child protection.
- ◆ In May 2006 there were 8 mobile teams formed, who are working in the field and are studying the needs of the local communities of support and social services for children and families.
- ◆ Since the beginning of the project to the middle of 2006 assistance and help were rendered to an estimated 390 children and families working on the above services.
- ◆ The team of CSSCF – Shumen, works in close coordination with the municipality of Shumen, RIE at MES, the Regional Healthcare Center, the Employment Office, Shumen University, the regional police department.

As of 01 July 2006 after a competition the Social Activities and Practices Institute signed a 5-year contract with the municipality of Shumen on management of the social services in the Complex for social services for children and families.

**Conclusion:**

**A common disadvantage of the functional development so far of all CSSCF is the fact that the HMRCJ inmates for now stay outside the scope of the focus of the experts from CSSCF. There are occasional instances of assistance (consultations, intentions for work on reintegration and socialization, personnel training), but there is no system built for provision of assistance on the part of CSSCF for the specialized homes for mentally retarded children located in the region. A good practice of assistance was established by BHC in Targovishte and Stara Zagora only. The experts from CSSCF work primarily with children from the community and occasionally with children without disabilities from HMSCC and HCDPC.**



## IV. Rights of the children with disabilities – HMRCJ “under special surveillance”

### Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy **a full and decent life**, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of **preventive health care and of medical, psychological and functional treatment of disabled children**, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

*UN Convention on the Rights of the Child*

In this section BHC explains why the homes for mentally retarded children and juveniles in Gorna Koznitsa, Rudnik, Strazha, Medven, Kosharitsa, Sladak Kladenets, Berkovotsa are on the list of children's institutions under special surveillance and underlines the difference between them and the requirements of the UN Convention on the Rights of the Child.

As already pointed out in the report of the end of 2005, 7 homes for mentally retarded children and juveniles in Bulgaria were categorized by SACP as homes in the most lamentable state:

- ◆ HMRCJ – Berkovitsa, district of Montana
- ◆ HMRCJ – Kosharitsa, municipality of Nesebar, district of Burgas
- ◆ HMRCJ – Iskra, municipality of Karnobat, district of Burgas
- ◆ HMRCJ – Mogilino, district of Ruse
- ◆ HMRCJ – Gorna Koznitsa, district of Kyustendil
- ◆ St. Dimitar HMRCJ – Kula, district of Vidin
- ◆ St. Marina HMRCJ – Medven, district of Sliven



*In implementation of the recommendations expressed in the 2005 Comprehensive Monitoring Report on the state of preparedness for EU membership of Bulgaria SACP proposed the development of specific plans for reform of the homes for mentally retarded children in the country which are in the most lamentable state, namely the homes for mentally retarded children and juveniles in the towns of: **Berkovitsa**, district of Montana, **Kosharitsa**, municipality of Nesebar, district of Burgas, **Iskra**, municipality of Karnobat, district of Burgas, Mogilino, district of Ruse, **Gorna Koznitsa**, district of Kyustendil, **St. Dimitar Home in Kula**, district of Vidin, **St. Marina – Medven**, district of Sliven.*

*From a draft report of the Bulgarian government  
On the UN Convention on the Rights of the Child*

Within the framework of its monitoring of 2006 BHC visited 5 of the seven homes categorized by the SACP experts as institutions in “the most lamentable state” – Berkovitsa, Gorna Koznitsa, Kosharitsa, Iskra, Medven. According to the BHC evaluation there are enough reasons to place the identified institutions on a list “under special surveillance”:

- ◆ The activities for the reconstruction of these specialized institutions for children come down to superficial renovation works and equipment with the support of donors. No updated pre-project research has been conducted of the necessary overall refurbishment. The existing training needs assessment for the staff and the necessary staff appointments remain on paper only.
- ◆ No entirely individualized approach to the institutionalized children exists in any of the institutions for children with disabilities in the country, but in some of the specialized institutions the first steps to transforming the services model have been made already. The teams of the majority of the specialized children’s institutions have realized the need for capacity building and changes in the personnel of the children’s institutions and they are looking for ways to attain this goal.
- ◆ Partial or complete ignorance about the problems of HMRCJ on the part of the municipal management, lonely survival battle of the staff and status quo of a deadlock – these are the characteristic features of the present-day situation in the HMRCJ “under surveillance” visited by BHC, 4 years after the beginning of the reform in the institutions for children in Bulgaria. In the meantime an obstacle to the transformation of HMRCJ – Gorna Koznitsa, for example, is the absence of any cooperation with the municipal administration in Bobov Dol. It was established that contrary to the common positive tendency to an increase in the financial support for the children and adults with disabilities, in this social home for children there is still a problem with the ongoing funding for subsistence costs for the inmates and social insurance for the staff. HMRCJ has pending costs at a total amount of more than BGN 21 thousand for the period from January to May 2006. The SACP committee established for HMRCJ – Rudnik, while BHC affirmed the conclusion that “the cooperation between the staff of the home and SAD in the municipality of Dolni Chiflik was not at the necessary good level”.
- ◆ In some of these specialized institutions for children there is still a process of institutionalization based on social indicators. In HMRCJ – Medven, HMRCJ – Berkovitsa, HMRCJ – Kosharitsa, BHC established that children with intact intellect were admitted.
- ◆ Sticking to obsolete stereotypes in the services for children with disabilities – immobilization of self-aggressive children (tying of hands, use of “strait jackets”, immobilization of the hands, physical violence on the part of the staff and isolation by metal bars in the internal rooms) are still part and parcel to the practices in HMRCJ – Medven, HMRCJ – Kosharitsa. The yard of HMRCJ – Medven has outdoor isolating cells, fenced off with metal net and locked metal doors. The space isolated with metal nets is used for isolation of the self-

aggressive children. In HMRCJ – Berkovitsa, cases of physical violence and child labor exploitation were established.

- ◆ Re-qualification of the staff and new appointments of experts, along with dismissal of personnel that does not comply with the requirements of the Ordinance on the standards and criteria for social services for children are measures, which the employer – the mayor of the respective municipality, and the supervising body – the SAA with the MLSP, have to initiate promptly. In the homes “under surveillance” no mention of a change in that direction can be made. It cannot be talked about any transformation and future development, if the qualifications and trainings deficiencies of the staff are not eliminated.
- ◆ Cases of inadequate healthcare services and diagnoses that were not updated were established. Out of 59 inmates in HMRCJ – Gorna Koznitsa, for example, 21 are without updated diagnoses. As a serious obstacle for the necessary updates the problem with the referral slips was identified, which are issued by the GP of the inmates, referring them for consultations with experts.

About 4 of the 5 HMRCJ visited we can say that the location they are in does not comply with the standards for a location of a specialized institution for children. With regard to the compliance criteria with Standard 19 the provider is obliged to abide by the following requirements for the location and facilities of the institution: they have to respond to the goals and functions of the service, to provide for environment beneficial to the development of the children, the rooms, their location in relation to one another and equipment should be similar to those in a family environment, and to have enough toilets. In four of the 5 HMRCJ visited – in Gorna Koznitsa, Kosharitsa, Iskra, Medven, the prevailing number of children is with severe disabilities.

Since the situation of the homes placed on the SACP list of homes “in most lamentable state” can be characterized with its specificities, the most important observations of the BHC researchers about each one of them will be summarized to justify their regime of homes “under surveillance”.

***Right of the Child to protection of all forms of physical violence***

***Article 19***

*1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or **negligent treatment, maltreatment or exploitation, including sexual abuse**, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.*

*2. Such protective measures should, as appropriate, include **effective procedures for the establishment of social programmes to provide necessary support for the child** and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.*

***UN Convention on the Rights of the Child***

According to BHC at least four other HMRCJ could be added the list of institutions for mentally disabled children evaluated as homes in “most lamentable state”. According to BHC researchers these homes are:

- ◆ HMRCJ – Rudnik, district of Varna
- ◆ HMRCJ – Strazha, district of Targovishte
- ◆ HMRCJ – Sladak Kladenets, district of Stara Zagora
- ◆ HMRCJ – Mogilino, district of Ruse.

## V. Conclusions – proposals and recommendations

### 1. HMRCJ

The 2006 BHC monitoring has shown that despite the will for social reintegration of the institutionalized children and juveniles expressed in all documents, including the draft report of the Bulgarian government on the UN Convention on the Rights of the Child, the “machine for social exclusion” is still working. The institutionalization of mentally retarded children in Bulgaria continues. The main problem of the institutionalization of children in the country remains the duration of the stay. The data about 19 of the 20 HMRCJ/HMRJ visited has shown that 81.1% of the HMRCJ/HMRJ inmates have stayed in the institution for more than 3 years. Despite the legislative changes and the identified measures for deinstitutionalization the HMRCJ entrance remains open, while the exit usually does not lead to the community, but to the next institution for adults. The HMRCJ inmates usually remain a group of outsiders without any perspectives for social and educational integration.

The reform of the institutional care for mentally retarded children should put an end to the institutionalization for social indicators. In 7 HMRCJ BHC established institutionalization of children with intact intellect only by social indicators. In terms of all the components of the deinstitutionalization – narrowing down of the entrance to the specialized institutions, broadening up the exit, raising the quality of the institutional care, development of the community-based services, there are some steps taken, but none of the processes is in an advanced stage or in its final stage. The deinstitutionalization and reintegration in practice are lagging behind the goals set in the national strategies and plans. The simulation of these processes with regard to the children with disabilities should be terminated.

The inmates, especially those who are severely mentally retarded, placed in HMRCJ, continue to live in isolation. It is high time the homes for mentally retarded children were transferred to the municipal centers.

The problems with the facilities and the provision of environment that guarantees humane treatment and dignity remain in 1/3 of the social homes for children. BHC evaluates that 7 of the 18 HMRCJ visited remain rather stagnant than in a process of transformation (HMRCJ – Gorna Koznitsa, HMRCJ – Medven, HMRCJ – Rudnik, HMRCJ – Strazha, HMRCJ – Gomotartsi, HMRCJ – Kosharitsa, HMRCJ – Sladak Kladenets). In these homes the old stereotypes are prevailing in the relationship personnel – children. Immobilization outside any rules and control, tinging to beds and wheelchairs, isolation in locked rooms and in areas in the yard surrounded by bars and metal doors are still the common approaches in the childcare model for children with disabilities in some Bulgarian institutions. In some of these homes cases of institutionalization by social indicators only was established. Children without diagnoses and with intact intellect still end up in HMRCJ. Lack of re-diagnosing and no adequate therapy are among the main reasons for the existing cases of aggression and self-aggression on the part of the inmates in some of the institutions for children with intellectual disabilities. The Bulgarian government, the ministries in charge and the specialized governmental body – SACP, should commit themselves to a final decision in terms of the future of these institutions.

The HMRCJ inmates have to be accurately assessed in terms of their health status. Healthcare services have to be provided by specially trained and experienced experts – psychiatrists/pediatricians and psychologists should perform regularly a detailed assessment and psychometric tests. The procedure for diagnosing mentally retarded children should be set forth in a regulatory provision (ordinance), by introducing a standardized methodology for assessment of the intellect, attention, memory and other indicators, as well as collection of data from recent tests of the hearing and sight of each child. To that aim the methodology should be adjusted in advance to the Bulgarian conditions and should be tested in them.

It is necessary to ensure human resources for the specialized children's institutions to guarantee quality of the healthcare services for the inmates that complies with the unified governmental standards and criteria. It is necessary to conduct ongoing training for the staff working in HMRCJ.

The children from the specialized institutions, even those with the most severe disabilities, can and should be included in the public education system using the forms of education provided in the regulatory provisions and corresponding to their abilities. Their inclusion in the process of education for now is formal. The Bulgarian mainstream school is inaccessible for the children with physical and mental disabilities. The disabled children with parents usually are trained at home. While the children with mental disabilities from the institutions, especially the ones with severe disabilities, most often do not attend the mainstream school at all or are included in “local classes” opened locally in the social homes.

The reform of the institutional care for children should put an end to the segregation by the indication “disability”. The inclusive education in Bulgaria is not yet an alternative to the rehabilitation schools, where education services of poor quality are still offered, which hurls down the Bulgarian children with mental disabilities in the last places of the ratings of literacy and professional qualifications.

The CSSCF established at the end of 2005 should use their potential and should focus their resources on the mentally retarded children from HMRCJ. It is necessary to have developed new service packages with transparent price policy.

The firm position of MLSP and SACP with respect to the future of the seven HMRCJ placed “under special surveillance” is needed. It is necessary to have a firm position about the perspectives of each of the homes for children with developmental difficulties.

## **2. HCDPC**

HCDPC should develop projects about their future restructuring into providers of social services.

MES should implement in practice the decentralization agreed in principle of this type of children’s institutions.

## **3. HMSCC**

The transformation of this type of institutions for children will not be implemented effectively without the actual decentralization of HMSCC, which have to be performed by MH.

According to BHC, as far as HMSCC are concerned, the following transformation steps are necessary:

- ◆ Involving the HMSCC staff in the development of restructuring plans. Training of staff on work with children for early intervention through practice.
- ◆ Employment of rehabilitation experts, speech therapists, psychologists and teachers in all centers and homes for cares about children between 0 and 3 years of age in a reasonable ratio with the number and needs of the children so that this can allow a real individual work with them.
- ◆ Focus on the work with the parents in terms of child upbringing.
- ◆ Functioning of a central adoption register.
- ◆ Development of service packages with transparent price policy and with a possibility for flexible compliance with the needs of the children.
- ◆ Regular monitoring of the quality of the services by an independent body.
- ◆ Refining art. 109 of the Family Code (similar to art. 53d of FC, to add a provision about the children with declaration for full adoption and to identify a specific deadline to launch the guardianship procedure).
- ◆ Determination of guardianship rights in the language of art. 28 of CPA, setting forth the

placement of a child in a specialized institution. An addition to art. 28 could specify that by issuing a court decision or an administrative order for temporary placement the court or the administrative body can identify the person who will be exercising guardianship rights on the institutionalized minor children.

#### **4. SBS and CBS**

Despite the progress in terms of the guarantees against arbitrary placement made by virtue of the amendments passed in July 2004 to the JDA, a number of the serious problems of the system continue to exist as seriously as during the previous monitoring. These problems concern all of its aspects and bring about serious violations of the rights of the children placed in correctional educational institutions. Particularly poignant are the deficiencies of the education and violence, which is a common practice in many of the boarding schools. With the purpose of further reformation of the system, BHC addressed the following recommendations on several occasions to the Ministry of Education and Science and the other institutions in Bulgaria:

The Ministry of Education and Science should consider the effectiveness of the very existence of CBS and SBS as places of coercive placement of juvenile delinquents. The existence of such institutions is hardly in agreement with the contemporary approach to the integration and social rehabilitation of vulnerable children, while the experience from their functioning so far does not present convincing evidence about any positive role in that respect.

The placement procedure of children with CBS and SBS should be reformed additionally. The law needs to determine clearly certain aspects of “juvenile delinquency” and to provide for differentiated sanctions. The child has to be ensured effective legal aid at all stages of the procedure.

Combining juvenile delinquents and children victims of domestic or community violence should not be allowed.

Placement in CBS and SBS should follow strict procedures in agreement with the law without allowing any arbitrary placement. The supervisory bodies should monitor that carefully and should impose strict sanctions on those who violate the law.

The facilities and the hygiene in CBS and SBS should be improved considerably. Some of the most problematic institutions in terms of their facilities should be banned from use, because the stay of children there is inhuman and humiliating, which is in breach of the Bulgarian and international law.

The medical offices in CBS and SBS should meet the requirements of the active legislation in Bulgaria. The equipment has to be appropriate and compliant with the effective standards.

The process of education in SBS and CBS should be reformed completely. Currently, in the majority of the institutions there is no process of education going on that could be described as such. In these institutions the process of education should not only contribute to the assimilation of the study material according to the Bulgarian education standards, but serve the purposes of rehabilitation and social integration.

The correctional and re-socializing activities in CBS and SBS should be diversified and made interesting for the inmates. They have to acquire socializing and integrating value.

In CBS and SBS only the punishments provided for in the regulatory provisions should be imposed. The fact that according to the majority of the supervisors the punishments in CBS and SBS are not working means only that neither the teachers, nor the system at large are able to focus in the right direction the socializing and rehabilitation processes for the children placed there.

The Ministry of Education and the law enforcement bodies in Bulgaria should pay serious attention to the physical, sexual and psychological violence to which many of the CBS and SBS inmates are subjected. The directors and the rest of the staff should be instructed not to use any physical violence on any occasion and not to allow for the children to turn into a subject of physical, sexual or psychological violence on the part of other children. All such cases have to be investigated carefully and the guilty ones to be held responsible in compliance with the legal requirements.

The practice of checking the correspondence and the parcels which breaches the right to personal life of the CBS and SBS inmates should be terminated immediately and never be allowed in future. The bodies of the Ministry of Education, the prosecutor's office, the Ministry of the Interior and the other institutions, protecting the human rights in Bulgaria, should perform periodic and detailed inspections in CBS and SBS, to address written recommendations and to monitor their implementation.

## **5. Rehabilitation schools**

Strict guarantees should be introduced for each child with disabilities that they will be able to attend the mainstream school.

To that aim each child, regardless of their situation, will have access to the resource centers/complex education assessment teams at RIE. In terms of the severely retarded children an option for training should be proposed which would correspond to their condition, along with measures for mastering social skills and inclusion in the community. Appropriate experts should propose contemporary training technologies (including use of contemporary technical devices and contemporary training programs) and special cares for these children (psychological social supporting care).

The decisions of CEAT and RIE are subject to appeal, as at least one of the decision-making instances should be a court instance (with terminated timeframes for decision-making). Appeals may be filed by the legal substitute of the child and an NGO, as well as the child protection department.

The committees should meet the child with developmental disorders in an inviting environment. The environment should be as natural for the child as possible. There should be standards for the conditions in which exams should be conducted, what methods should be used, how the results are documented, as well as what period of time should be devoted to the children. The standards should be complied with the contemporary scientific understandings about the child's development and good practices.

By virtue of a new Regulation on the inclusive education state education requirements should be adopted for the children with special education needs.

Specialized training programs should be developed, which factor in each individual form of disorder, which guarantee assimilation of the study materials on the part of the children in an accessible way so that at the end of the education process they have knowledge comparable to that of the children without disabilities.

They should be awarded certificates and diplomas for each education level they have passed, where there are no marks discriminating the child with disability.

Definition of the term "supportive environment" in the mainstream schools should be given. The term should be presented in details in view of the specificity of each group of diseases. For example, accessible architectural environment would be an appropriate definition of a supportive environment for a child with physical disabilities. It, however, would not be fully correspondent to the needs of a child with impaired sight or hearing. Moreover, it would be completely inadequate for a child with intellectual disabilities only or with learning difficulties. The term "supportive environment" should include forms of support such as psychological and social support for the child and their relatives.

There should be measures encouraging the specific talents and abilities of each child.

There should be special programs for support of the children and their parents - "school for parents".

There should be preconditions for informing the parents about the benefits of the inclusive education for the development of their children. The informed choice of the parent or the substitute of the child for education in an inclusive environment should be supported.

Special training and support for the parents – the general and resource teachers. There should be supervision for the resource teachers, the specialists rendering psychological and social support, as well as group supervision for the staff of teachers and forms of support for the professional and personal development.

Special care should be provided for the children who are studying in specialized schools or by individual programs outside the inclusive education or have not been included at all in any training programs. To that aim there should be a period of time (no longer than a school year, as at any point of this period of time they can switch to an inclusive form of education), in which through special trainings they should be prepared for a transition to the inclusive education. No age limits should be introduced for carrying out a type of training.

Measures should be introduced for training juveniles who turned 18 years of age but were deprived of an adequate form of education prior to coming of age due to lack of realizing the need of such in the past. This is possible through introduction of similar training programs in the social homes and in the community, focused not only on getting acquainted with the fields included in the education standards, but also on obtaining skills and knowledge focused on inclusion in the community. This is something necessary that would repair in part the harm done to the juveniles in the past, who have been deprived of any real chance for social inclusion.

There should be a clearly defined budget for implementing the programs and measures identified above.

The measures for a resource (including financial) provision of the measures regarding inclusive education should be announced in a publicly accessible manner.

Compiling a database and maintaining statistics information about the number of the children with special education needs, their territorial distribution and the type of disabilities. The resources providing this data should be the Social Assistance Directorates in the municipalities, TBME, the child protection departments, the school network, the kindergartens, the homes for children with mental disabilities subjected to the MLSP, the homes for medical and social cares subordinate to MH, NGOs, the Agency for Disabled People. The data should be collected and processed in a manner that would provide statistics about the age and gender of the child, the type and degree of their disability, about the level of education already acquired (if any, about the rehabilitation they have undergone) and the venue where this level of education was acquired, about the resources of the family, about the location of the child. The statistics about these children should be publicly accessible on the MES site.

Establishment of a mechanism of cooperation with the rest of the institutions related directly or indirectly to the cares about the disabled child. Establishment of working relations with the child protection departments, the Child Protection Agency, the Social Assistance Agency, MLSP, the Ministry of Health.

The social education vocational institutions (SEVI) should be transferred to the jurisdiction of MES, and not of MLSP, like the situation now. Their status should be settled by virtue of regulations – whether high schools or vocational schools, where secondary education shall be acquired, or they shall be used as vocational colleges.

MES should search actively and should refer through its regional structures all children who are being raised in homes for children with mental disabilities, subordinated to MLSP, and other disabled children, who live in a family environment, who are at a mandatory school age, but do not attend, nor have attended

schools so far.

There should be clear selection criteria for the resource teachers and their training, and what the possibilities for their further qualification and quality assurance of their work should be. Training of teachers, who will be working with children with special education needs, should be conducted in the school environment and should be practically oriented.

MES should provide transportation for all children with special education needs so that the possibility for their inclusion in the mainstream schools be guaranteed based on the choice of their parents.

The practices of conducting training in homes for mentally retarded children by teachers from the rehabilitation schools should be terminated. MES should take up the transportation for those children to the nearest mainstream school, where the children shall be trained by resource teachers.

Financial analysis of the support of the rehabilitation schools so far should be conducted and at least the same amount should be earmarked for 2007 for the process of integration, as no new children shall be admitted to the rehabilitation schools for 2006/2007 school year and the pupils there should be prepared for a training in the mainstream schools (they should be profiled in terms of their knowledge and skills, and their degree of compliance with the governmental education standards for the mainstream schools).

As of 2007/2008 school year only half of the rehabilitation schools should be functioning – those which are located in the district centers. They have to develop their own development plans.

**Executive summaries of statements made and information provided during the workshop organized within this project and held on 5 December 2006 and attended by representatives of the Ministry of**



## **Education and Science, Ministry of Health, Ministry of Labor and Social Policy, Delegation of the European Commission, and the non-government sector**

### **1. Ivan Igov, Bulgarian Psychology Society:**

One of the poignant problems which the Bulgarian education system faces is the identification of children with special educational needs, particularly children with mental retardation and educational difficulties. The legal framework and the methods used in Bulgaria are outdated and imperfect; they are usually applied by people who lack the required qualification and experience while the controlling authorities often turn a blind eye to flagrant violations of the applicable laws and regulations. The result is two basic type of problems, each having critical effects on the future of dozens of children.

**First** – identification of mentally retarded children who can be educated at the so-called “rehabilitation schools”. The legal framework provides for setting up a commission (a team for complex assessment) participated by a psychologist but there is no provision for the psychologist’s specialization and qualification to diagnose. By presumption, this position can be occupied by any person who holds a degree in Psychology which does not necessarily mean that he/she is competent in the field of child psychology and psychodiagnosis in particular. Additionally, the methodologies which must be employed in these examinations are not defined anywhere. IQ tests are most frequently used in which cases they are not standardized and usually the tester isn’t authorized to administer the tests. In addition to the infringements of professional ethics and the copyright violations of these methodologies, the human rights of the tested children are also breached because such assessment very often is inaccurate. For this reason, I’m not surprised at the fact that a great number of “normal” children who can easily go to ordinary schools are found at rehabilitation schools and even at some HMRCJ, as evident from the data provided by BHC (7 of the 20 HMRCJ (HMRJ) visited in 2006). The flaws of the legal framework are also “skillfully” used by the school headmasters to “man up their lines” even if they need to wangle the data. I’m aware of cases (e.g. the 4<sup>th</sup> Rehabilitation School in Sofia) where the school psychologist had been forced to quit for not agreeing to falsify the examination data.

On the other hand, the diagnosis methods that are used are limited and inaccurate because they don’t cover the overall development of the child but, rather, obtain information only from the particular activity that is taking place at the time of examination. There are methods utilized in the developed countries that can follow the development in details, collecting information from several independent sources (parents, teachers, and the children themselves).

I find it strange that although such methods have been developed and standardized in our country, no one showed interest in them because of the poor connections between the psychologists’ communities and the Ministry of Education. Although the Bulgarian Psychology Society (which has worldwide recognition and unites proven professional psychologists) had, on several occasions, offered expert and methodological aid to the Ministry of Education and Science free of charge, the Ministry has never turned to us.

**Second** – timely identification of children with educational difficulties (dyspraxia, dyslexia, hyperactivity) in the mainstream school. The data provided by Prof. Rachev (1986) show that 8–12% of the Bulgarian children who enter the first grade experience a kind of similar difficulties but have totally preserved intellect. These children are not usually recognized by the teachers; they are labeled as “poor students” and very often they become problematic students and drop-outs. The only actions that are taken concern the children with obvious speech disorders who are referred to a speech therapist but such a specialist is available only at a few schools, which is very insufficient.

To this day, the pedagogical schools do not train the primary school teachers to recognize, refer or work with children with educational difficulties. There are no standardized methodologies for this. The only one exception is Prof. Angushev's methodology for school preparedness but it is narrowly specialized and fails to assess the overall development of the child.

Another major problem is the lack of **psychological service** in education. Except for a few ones, the Bulgarian schools lack qualified psychologists. The so-called "pedagogical counselors" (appointed by the principle "one per 500 children") are neither well trained nor have, in the majority of the cases, the required psychological education. They serve various roles without actually meeting the psychological needs of the children.

The major role of the school psychologist is to help create an educational environment which complies with the provisions laid down in the Convention on the Rights of the Child. This includes creation of an educational environment aimed at the development of the child's personality, his/her talents, mental and physical skills; preparation of the child to live responsibly in a free society, in a spirit of agreement, tolerance and equality among people, different ethnic and religious groups and people of different origin; helping the children with special educational needs, assisting their social integration and personal development (I'm quoting the Standard for Psychological Service of Educational Sector prepared by the Bulgarian Psychology Society).

The lack of school psychology in Bulgaria means that our educational system breaches some basic rights of the child, as laid down in the Convention. Immediate measures must be taken to fill these gaps, especially when there is a general agreement in the professional community on the activities and functions of the school psychology. We have prepared standards, educational programs and supervision programs. Ivan Igov stressed the fact that the only problem was that no one showed an interest in these matters. Ivan Igov informed the participants in the expert workshop that a qualified psychologist, member of the Bulgarian Psychology Society, had defended a Ph.D. dissertation on the issue of standardized methodology for assessment of the development of children with development difficulties.

The workshop participants of the State Agency for Child Protection (SACP) and Ministry of Education and Science undertook to bring this to the attention of the working group in the Ministry which currently considers the legislative amendments in the field of development of children with special educational needs. BHC undertook to mediate among the responsible institutions and the Bulgarian Psychology Society.

## **2. Anet Marinova, pedagogical counselor in the school, participant in the workshop organized within the project**

A brief presentation of the experience gained by Frederick Joliot Curie 23<sup>rd</sup> Secondary Comprehensive School, 21, Sitnyakovo Blvd, Sofia 1505, tel. +359 2 944-35-88, +359 2 944-27-81, in the field of integrated education of children with special educational needs.

*The school has a track record of continuous efforts in its development as a supportive environment for diseased and vulnerable children. The integration process dates back to 1999–2000 school year when a child with a chronic disease (epilepsy) was admitted. Another child with the same disease was admitted the next year. The first child made it possible to reach the required number of children to form a first-grade class while the other child was admitted with the teacher's consent to teach a child "like this". The parents of both children are members of the Foundation of Parents of Epileptic Children. The same organization then won and now works on the Integration of Epileptic Children in the Mainstream School project. This is the first project of the kind in Bulgaria and deals with this issue from the perspective of the role of the supportive environment for the education of diseased children. The partner school is the 126<sup>th</sup> Primary School in Sofia. These ideas and values were later continued by the 23<sup>rd</sup> Secondary Comprehensive School.*

The amendments to the Rules on Enforcement of the Public Education Act (published in State Gazette No 99, November 2003) which regulate the integrated education of children with special educational needs

provide an opportunity to create a program that aims at ensuring a supportive environment through the school team.

Initially, the school team was set up voluntarily and consisted by a parent, teacher, deputy director, social worker and speech therapist. The program became an integrated part of the school curriculum. Other four children with learning difficulties were identified in the process of work. An individual program was prepared for each child based on their particular needs.

The supportive work is assisted by some external partners: two psychologists of the Psychology Institute of the Bulgarian Academy of Science (BAS), a resource teacher of the School for Children with Visual Difficulties, two specialized teachers of the Center for Children with Learning Difficulties under the direction of the Pokrov Foundation, a child neuropsychologist, a physician of the Youth Center of Mental Health, and two specialized teachers of the 6<sup>th</sup> Rehabilitation School.

The school team actively sends propositions to the Ministry of Education and Science for amendments to the legal framework regarding the integrated education. In 2003, the school became a partner to the *Special Friends* project implemented by the School of Children with Impaired Sight.

In 2003–2004 and 2004–2005 school years the school naturally joined the group of four Bulgarian schools that embraced the idea of inclusive education. The *Index for Inclusion* project is implemented by Save the Children Alliance and Center for Independent Living and supported by the Ministry of Education and Science, Ministry of Labor and Social Policy and the State Agency for Child Protection. The four schools in Sofia are: the 23<sup>rd</sup>, 28<sup>th</sup>, 73<sup>rd</sup>, 141<sup>st</sup> Secondary Comprehensive Schools. They become pilot schools in the education of children with special educational needs. An Advisory Council participated by representatives of government institutions was set up within this project. The basic goal of the Council's meetings is to unite the institutions on the basis of the common principles of integration and development of the inclusive school practices, policies and culture.

School teams are set up in the specified schools with the aim to assess the obstacles posed to the education of different children from the perspective of the education practice, the policy of the particular school and the culture of accepting the difference; the teams also plan and take action to eliminate these obstacles. The project is a kind of method for **managing the school through enabling the participation because "an inclusive school is a thing which is always on the road"** ("Index for Inclusion").

*"... Inclusion in education involves: valuing all students and staff equally; increasing the participation of students in, and reducing their exclusion from, the cultures, curricula and communities of local schools; restructuring the cultures, policies and practices in schools so that respond to the diversity of students in the locality; reducing barriers to learning and participation for all students, not only those with impairments or those who are categorised as "having special educational needs"; viewing the difference between students as resources to support learning, rather than problems to be overcome; acknowledging the right of students to an education in their locality; improving schools for staff as well as for students; emphasising the role of schools in building community and developing values, as well as in increasing achievements; recognising that inclusion in education is one aspect of inclusion in society..."*

*"Index for Inclusion"*

The total of 21 children with special educational needs are currently educated at the 23<sup>rd</sup> Secondary Comprehensive School, ranging from 6 to 17 years old. The school has gathered and learned from its experience even after the end of the *Index for Inclusion* project through descriptions in various texts and documents which are complementary to the current legal framework. The school team presented the more important elements of their experience at training seminars they had attended.

The partnership with the Foundation of Parents of Epileptic Children and the everyday contact with these children (who understand best the value of such an integration) currently contribute to maintain the focus

on the supportive environment at school.

According to the psychologist Anet Marinova and her colleagues, the Bulgarian educational system had lost a lot from the discontinuance of the position of the school psychologist back in 2002. The Bulgarian schools have thus denied values such as:

- Each child is entitled to enjoy the opportunities provided to develop himself/herself as a dignified person;
- Each child has potential to learn new things;
- The individual approach must comply with the needs of each child;
- The school team members must share responsibility;
- The involvement of all parties at stake in the educational and training process is an important part of the development of school as children's environment;
- The integrated education is not a merely relocation of the child but preparation and adjustment of the established system to value the uniqueness of each child;
- The parents are partners in the educational process, including the integration;
- An important role in the child's progress also plays the progress of his/her environment.
- 

### **3. Prof. Meglena Achkova – Child Psychiatrist, member of the National Council of the Higher Attestation Commission in Neurology and Psychiatry**

There is no such thing as "uneducable children". Education is almost unattainable only in the highest stages of mental retardation. With an individual approach, all other stages can answer the questions: What are the potentialities of the particular child? What can be expected? How can we achieve this? Where will the child be educated? The integrated education must be set as a standard – "entering at the same door". Placed in a single environment, the different children also get different support by specialists – extra individual classes, development stimulation, supportive environment.

Is the retardation in mental development a disease? By this term we usually indicate a deficiency compared to the generally accepted standards and average values attributable to the population of the respective age.

The answers to the following questions must precede the approach undertaken in any retardation case: Why did such retardation occur? What is the retardation stage? What can be anticipated in development? What is the most appropriate form of rehabilitation and education? All these problems can be resolved after a standardized complex examination by an interdisciplinary team. Practically, a standardized methodology of this kind is not followed in Bulgaria.

An accurate diagnostics made early is one of the things we lack as regards the cares for disabled children in Bulgaria.

### **4. Information provided by Darina Yankova, Director of the Child Protection Unit at the Ministry of Labor and Social Policy, workshop participant:**

Recently, there are increasing efforts put to prevent further lagging behind in the "parent-home" relations. In implementation of the municipal strategies for alternative social services, we observe a better coordination in the actions taken by the Child Protection Departments (CPD) and Homes for Medical and Social Cares for Children (HMSSC).

- As of 31 December 2004: total number of prevention cases – 4,227
- As of 31 December 2005: total number of new prevention cases – 5,615
- As of 30 September 2006: total number of new prevention cases – 2,932

Regarding the activities for regulation of institution output and headcount reduction in these institutions, the CPD representatives explore the opportunities for children's reintegration in biological families in compliance with the Ordinance on the terms and procedure regarding enforcement of measures aiming at prevention of children's abandonment in institutions.

- As of 31 December 2004: total number of cases of reintegration into biological families – 4,162
- As of 31 December 2005: total number of cases of reintegration into biological families – 3,731
- As of 30 September 2006: total number of cases of reintegration into biological families – 2,074

The placement in families of friends and relatives is a protection measure which is very effective and applicable in the Bulgarian conditions.

- ◆ As of 31 December 2004: total number of children placed in friends' and relatives' families – 3,755
- ◆ As of 31 December 2005: total number of new cases of children placed in friends' and relatives' families – 1,620
- ◆ As of 30 September 2006: total number of new cases of children placed in friends' and relatives' families – 983

Foster care: As of 31 December 2005, there are 42 children placed in foster families. In the first nine months of 2006, there are additional 25 children placed in foster families and the approved families are 25. These data show a tendency towards long-term foster care. The phenomenon of professional foster care is introduced in Bulgaria with the legislative change of 1 January 2007.

The update is implemented pursuant to the Family Code.

- ◆ As of 31 December 2004: total number of adopted children by virtue of effective court decisions – 613
- ◆ As of 31 December 2005: total number of adopted children by virtue of effective court decisions – 642
- ◆ As of 30 September 2006: total number of adopted children by virtue of effective court decisions – 476

The children are institutionalized when all other possibilities for raising them in a family environment are depleted.

As of 30 September 2006, there are 27 specialized institutions for disabled children and juveniles operable in Bulgaria which accommodate the total of 1,703 inmates.

- ◆ Home for Children and Juveniles with Physical Disabilities and Intact Intellect – 56 children and 13 juveniles
- ◆ Homes for Mentally Retarded Children and Juveniles – 26 with 1,169 children and 465 juveniles

Institutions for children and juveniles with intellectual disabilities closed as of September 2006:

- ◆ HMRCJ in the village of Fakia, municipality of Sredets, district of Burgas
- ◆ HMRCJ in the village of Tri Kladentsi, municipality of Vratsa, district of Vratsa
- ◆ HMRCJ in the village of Dzhurkovo, municipality of Laki, district of Plovdiv
- ◆ HMRCJ in the village of Dobromirski, municipality of Kirkovo, district of Kardzhali
- ◆

Relocation to a new building in 2005.

At the end of 2005, HMRCJ in the village of Borislav, municipality of Pordim, district of Plevna, moved to a new building located in the village of Zgalevo, municipality of Pordim, thus enabling the institution to comply with the requirements of the Ordinance on the criteria and standards for social services for children.

Restructuring of institutions.

The following institutions have been currently restructured:

- ◆ HMRCJ in the village of Vasil Drumev, municipality of Shumen, under the *Reform for enhancing the well-being of the children in Bulgaria* project – repair and reconstruction of the building, work in small groups, training the staff and enhancing the staff's qualification.
- ◆ HMRCJ in the village of Petrovo, municipality of Sandanski, district of Blagoevgrad, under a project of Care Bulgaria – training the staff, individual work with children, work in small groups with a team of experts.
- ◆

Alternative forms of social services

As of 30 September 2006:

- ◆ Under the *Assistants of People with Disabilities* Program, there are 2,218 personal assistants selected for 2,237 children.
- ◆ There are 34 Day-Care Centers for Disabled Children and Juveniles (DCMRCJ) operable in Bulgaria.
- ◆ 4 orphanages for homeless children
- ◆ 10 community support centers, 9 *Mother and Baby* units and 5 day-care centers for children on the street are opened in 2006 as delegated government activities under *Reform for enhancing the well-being of the children in Bulgaria* project.

The first crisis center opened in the village of Balvan in September 2006. In addition, two crisis centers will be later opened in Dragoman and Pazardzhik. From 2007 onwards, the centers will be managed by the municipalities.

Future trends in child care:

- ◆ Optimization of the capacity of the CPD workers by means of regular training sessions
- ◆ Development of the social services in the community
- ◆ Legal regulation of specialized institutions to provide social services
- ◆ Partnership between the state and the NGOs

## **5. Asen Petrov, Head of Directorate at the Ministry of Education and Science**

The inclusive education is a national priority in the education sector and the Ministry of Education and Science will continue its work in this aspect. From 1 January 2007, legislative changes are planned to support the process of decentralization of the Homes for Children Deprived of Parental Care (HCDPC) and subordinating them to the respective municipality. We currently discuss the issue with the methodological management – the Ministry of Education and Science or the Ministry of Labor and Social Policy. Reevaluation of the status of the rehabilitation schools of boarding school type is also envisaged.

## **6. Dr. Elena Perchinska – Ministry of Health**

The agreement on principles and the decision taken at a ministerial level on the extend of HMSCC decentralization is envisaged to be implemented by the legislative amendments scheduled for 2007. The municipalities will take over the HMSCC management. The question whether the Ministry of Health would control and carry out the methodological management or HMSCC would be regarded as social institutions under the methodological management of the Ministry of Labor and Social Policy is currently under consideration.

## **7. Information provided by the Standards and Analyses Department on the BHC Assessment Report after the workshop of 5 December 2006**

◆ **Regarding the difference in the statistical data of the responsible government institutions**

As regards the difference in the statistical data furnished by the different government institutions, it is necessary to consider the difference in the methodology employed for the data collection, the difference in the reported period to which the data are applicable and the original source of information.

SACP obtained the data about the specialized institutions for children in the last two years through three information channels:

- Directly from the institutions by means of a custom-made information card containing the data as of 31 December;
- From the Child Protection Departments (biannually);
- From the assessments of the specialized institutions carried out by the interdepartmental commissions in 2004 and 2006.

The data are submitted to Social Assistance Agency through CPD/SARD.

The data of the Ministry of Education and Science cover a school year.

◆ **Regarding the number of children in Homes for Mentally Retarded Children and Juveniles (HMRCJ)/Homes for Mentally Retarded Children (HMRC)**

The juveniles placed in HMRCJ are not included in the total number of children because "child" is "every human being below the age of eighteen years", as defined in the UN Convention on the Rights of the Child and Article 2 of the Bulgarian Child Protection Act, and no protection measures can be administered to them under the Child Protection Act.

◆ **Regarding the remark that no particular recommendations are given about the institutions in Gorna Koznitsa and Medven after the assessment of specialized institutions in 2004 and that the institutions have received no feedback**

The assessment reports on the specialized institutions delivered by the interdepartmental commissions in 2004 and 2006 give specific recommendations for the future operation of each institution. Copies of all the reports were promptly provided to the respective Ministers.

◆ **Regarding the dependency (indicated in the report) between the amount of the salaries of the HMRCJ staff and the number of children raised at HMRCJ**

The amount of the salaries is not determined by the number of children. However, there is a dependency between the number of staff and the number of children.

◆ **Regarding the statement that "the HMRCJ/HMRC children remain a well-shaped group of outsiders without any prospects for social and educational integration" and there is no developed system of alternative forms of child care**

A system of alternative social services for children was developed in the last few years in Bulgaria, although it is not very well represented in all regions of the country. The social services provided in the Homes for Mentally Retarded Children and Juveniles as of year 2005 relate to the provision of weekly and daily care. In implementation of the recommendations ensuing from the assessment made in 2004, a great number of the Homes for Mentally Retarded Children and Juveniles created conditions for rehabilitation of the children placed in these institutions. Concurrently, Day-Care Centers for Disabled Children were set up, numbering 33 in March 2006, compared to 12 in 2001.

The Ordinance on the terms and procedure for application, recruitment and approval of foster families as

well as placement of children with foster families adopted on 30 November 2006 by the Council of Ministers provided greater opportunities for socialization of disabled children.

◆ **Regarding the conclusion: "The major problem of the institutionalization of children in Bulgaria is the duration of their stay"**

Truly, the duration of disabled children's accommodation at specialized institutions is the longest. This can be proven by the data of the report cards submitted to SACP as of 31 December 2005 and showing that the percentage of the children who had stayed at HMRCJ/HMRC over 3 years is 64.4%, at HCDPC – 45.5%, and at HMSCC – 15.3%.

◆ **Regarding the conclusion that there are cases of institutionalization of children in HMRCJ "based on social indicators only"**

The family status of the children placed in specialized institutions shows that the share of the children originating from large families, children of single parents or children of unemployed parents is the greatest one but this fact is not the reason for institutionalization of children.

It is important to note in the report that the placement in a specialized institution is carried out under the Child Protection Act and represents an extreme protection measure after depletion of all possibilities to place the child in a family environment. Prior to administering the measure of placing the child in a specialized institution, the CPD social worker delivers an expert opinion about the environment in which the child is being raised and assesses the extent to which the conditions may pose an immediate risk and "endanger his/her physical, mental, moral, intellectual, and social development" (Art. 25, item.4 of the Child Protection Act). The court delivers their decision on the basis of the home study prepared by CPD.

◆ **Regarding the statement made in the report that the doors to HMRCJ remained open and the number of the institutionalized children remained unchanged.**

In comparison, the children placed in Homes for Medical and Social Cares for Children (HMSCC) decreased by 19.6% in the period 2001–2005. It should not be spoken of a tendency towards an increase in the number of HMSCC children taking into account two successive years. Alarming is the fact that the children raised in institutions decreased by 508, or only 5%, in 2005, compared to 2004. The number of HMSCC children increased by 78, compared to 2004, which shows that institutionalization continues to be one of the major protection measures. The reason for the slight increase of the HMSCC children in 2005, compared to the previous year, may be sought in the increased number of prematurely born children placed in HMSCC for medical indicators as well as in the significant decrease in the adopted children. The reduction is due to the unwillingness of the Bulgarian candidates to adopt children of Romany origin and disabled children.

The SACP opinion is that the disabled HMSCC children who, for one or another reason, cannot return to a family environment must stay in the institution even after completing 3 years of age, which opportunity is provided for in the HCDPC Structure and Activities Regulation. The children with graver illnesses need specialized medical care and equipment which are at a higher level in this type of institutions.

◆ **Regarding the data provided by the staff of HCDPC Varna about "serious problematic situations of reintegration "at any cost" (based on data furnished by HCDPC Varna staff. The information has been communicated to SACP but no measures has been taken.)**

Indeed, there is such information submitted to SACP but it does not contain any particular facts and is not confirmed by other sources. Nevertheless, the issue of "reintegration at any cost" has been discussed at workshops with representatives of the Social Assistance Agency and some measures have been outlined to



prevent this practice.

◆ **Regarding the statement that the necessity of individualization of the children's care model in the institutions**

As evident from the data provided by SACP, 94% of the children who are being raised in HMRCJ/HMRC have individual care plans prepared as of 31 December 2005. The percentage of the HCDPC children with individual care plan is 86% and of the HMSCC children – 89%. The risk of formal treatment of child care individualization has been identified by SACP. In this respect, the SACP experts developed a methodology for preparation of individual care model and in the first half of 2007 this methodology will be taught to the CPD social workers and the institution staff.

◆ **Regarding the data given in the report on the CPD activities in 2007, below are given the extended and final data applicable to the first six months of 2006**

**Efficiency of the child protection system 2003–2006**

<b>Data from report cards received in SACP</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>The first 6 months of 2006</b>
<b>Placement in friends' and relatives' families</b>	<b>1897</b>	<b>1966</b>	<b>1755</b>	<b>1024</b>
<b>Placement in institutions</b>	<b>2643</b>	<b>2463</b>	<b>4004</b>	<b>1254</b>
<b>Children in foster family</b>	<b>5</b>	<b>29</b>	<b>48</b>	<b>47</b>
<b>Reintegration to biological family</b>	<b>1050</b>	<b>2032</b>	<b>2488</b>	<b>837</b>
<b>Provided with police protection</b>	<b>394</b>	<b>652</b>	<b>594</b>	<b>300</b>
<b>Protection against violence</b>	<b>1995</b>	<b>2018</b>	<b>1429</b>	<b>1002</b>
<b>Consultations provide to children and families</b>	<b>12157</b>	<b>11113</b>	<b>12397</b>	<b>10468</b>
<b>Number of successful cases of retardation prevention</b>	<b>660</b>			

◆ **To Chapter III, item 1.1. of the assessment report**

1. SACP collects data about the institutionalized children from three major sources, based on their own methodologies and report cards coordinated with the Social Assistance Agency.

- A) Through the Child Protection Departments which complete work efficiency cards every 6 months
- B) Directly from the institutions which complete the report cards given by SACP at the end of each calendar year
- C) From the assessment of all institutions made by SACP

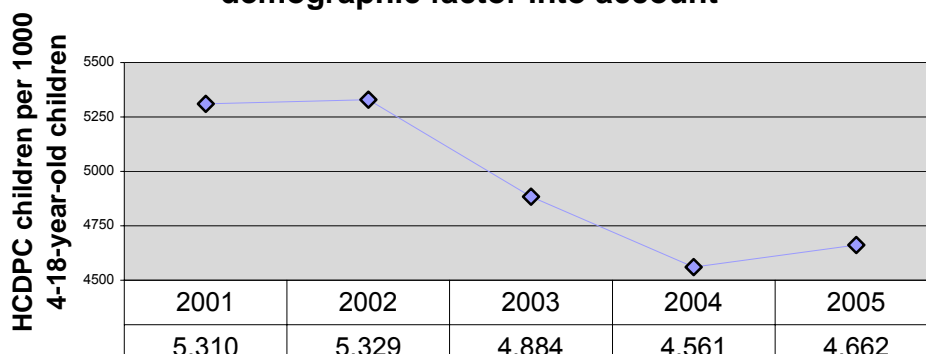
The data are officially provided by SACP after analysis and comparison of the three sources and we believe that these data are obtained from the institutions of greatest credibility and they should not be averaged.

2. The methodology employed by SACP differs from the methodology cited in the report. We use an index that:

- allows us to compare the results with the results in other countries;

- reflects the dynamics of children's change by age groups. Such an indicator is the number of children in an institution per every 1000 children for the respective year in the age group of the children reported for the given institution. **Here are a brief description of the results:**

### Dynamics of HCDPC children, taking the demographic factor into account



### Comparative trends towards decrease in HCDPC children, taking the demographic factor into account

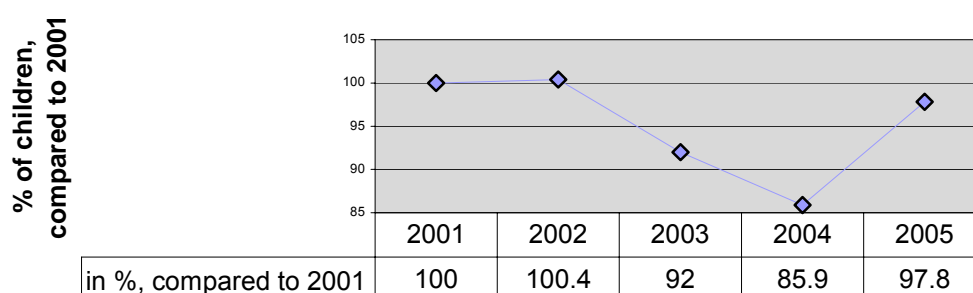
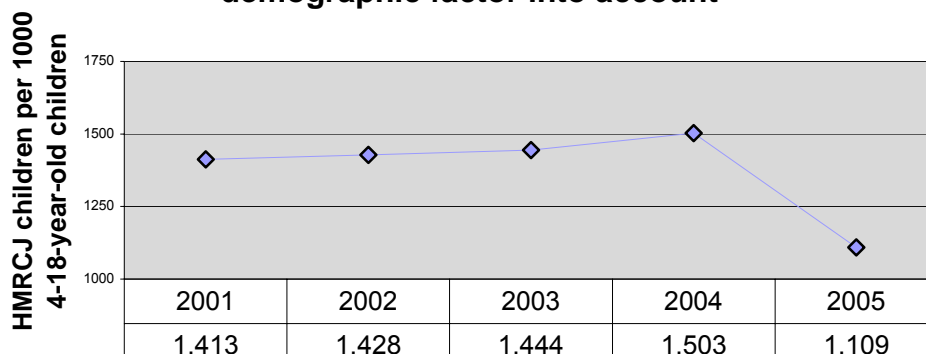


Chart 1.

In the 4–18 age group within the period 2002–2005, there is a decrease in the number of HCDPC children by 12.6%, which does **not result from the demographic trends of population reduction**. There are 5.3 children per every 1000 children in the 4–18 age group in 2001 at HCDPC and their number decreased to 4.66 in 2005.

### Dynamics of HMRCJ children, taking the demographic factor into account



### Comparative trends towards decrease in HMRCJ children, taking the demographic factor into account

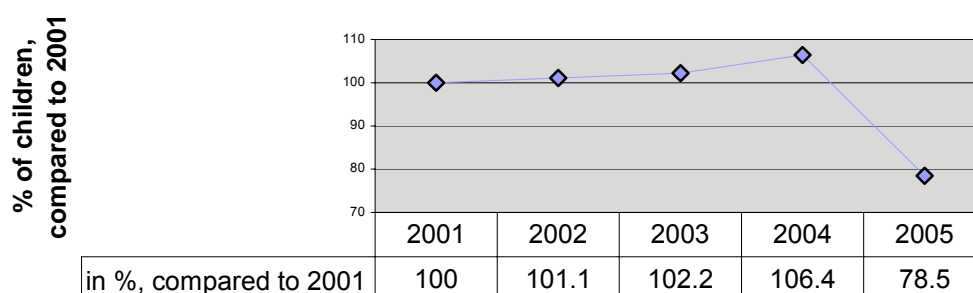
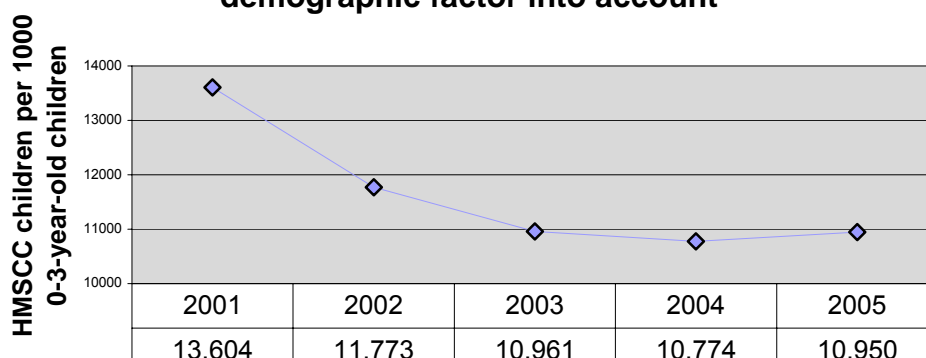


Chart 2

The same data applicable to HMRCJ are respectively 1.41 in 2001 and 1.2 in 2005, i.e. there is a decrease by 21.5%. As a result from the consistent policy in 2005, a rise of 27.9% can be observed.

### Dynamics of HMSCC children, taking the demographic factor into account



### Comparative trends towards decrease in HMSCC children, taking the demographic factor into account

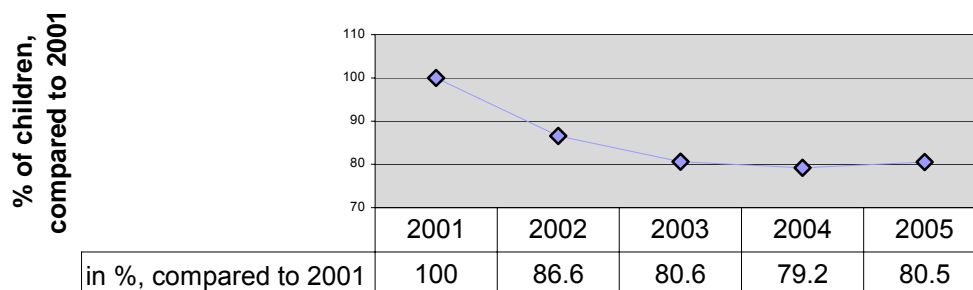
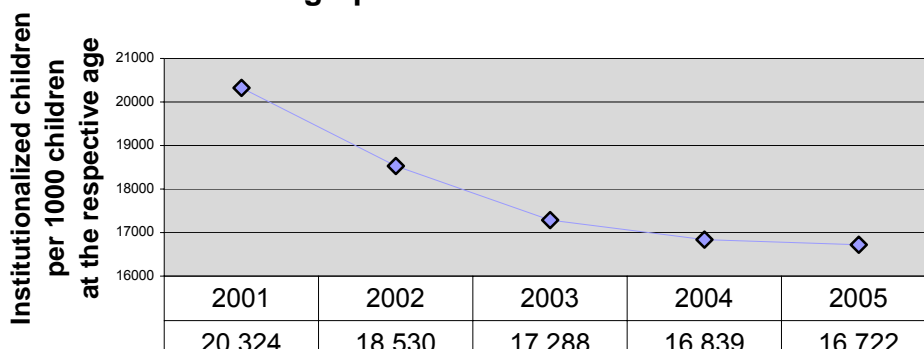


Chart 3

In 2001, there are 13.6 0–3-year-old children per 1000 placed in HMSCC while the same indicator for 2005 is 10.95, i.e. there is a decrease by 19.5%. Chart 3 shows an exponential reduction of HMSCC children for the period 2001–2005 which subsides in 2004–2005.

## TOTAL NUMBER OF CHILDREN IN INSTITUTIONS

### Dynamics of institutionalized children, taking the demographic factor into account



### Comparative trends towards decrease in institutionalized children, taking the demographic factor into account

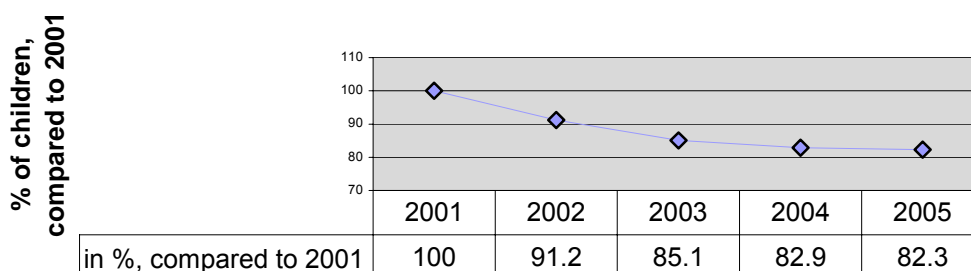


Chart 4

In 2001 there are 20.32 children per 1000 in the respective age group accommodated in an institution while their number dropped to 16.72 in 2005, i.e. by 17.7%. The general tendency here shows an exponential decrease in the number of children in institutions in the period 2002–2005. The trend is decreasing but subsided.