

# Mental health legislation in Bulgaria – a brief overview

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**Bulgaria has never had a separate law on mental health. Issues such as mandatory treatment, guardianship and legal capacity were regulated in the People's Health Act, which was in force until 2005, when it was replaced by a new Health Act. That Act has a chapter relating specifically to mental health, and this article describes its provisions.**

Discussion about Bulgarian legislation in the field of mental health started in 2001, along with the process of accession to the European Union (EU). One of the key requirements to join the EU concerned Bulgaria's procedure for involuntary treatment. It was debated whether to have a separate law on mental health or not. The country has never had a separate law on mental health and issues such as mandatory treatment, guardianship and legal capacity were regulated in the People's Health Act, which was in force until 2005, when it was replaced by a new Health Act. While some experts perceived that a separate law would be a form of discrimination against persons with mental disorders, others insisted on having clear regulations in this field of care. In fact, the legislative system lacked the capacity to elaborate a separate law at that time and the decision was made to have a specific chapter in the new Health Act relating to mental health.

The Health Act has been in force since 1 January 2005 and governs many of the public health issues that were not covered by other recently adopted Acts, on medical facilities and health insurance. Mental health is regulated in Chapter 5 of the Act, which has two sections, one on the protection of mental health and one on involuntary commitment and treatment.

## Protection of mental health

Article 145 describes the institutions and organisations that have responsibilities to protect mental health. Article 146 defines persons with mental disorders who are in need of special care: persons with severe mental disorders and severe personality disorders; and individuals with 'developmental retardation' and/or intellectual deficit due to degenerative changes in the brain. In a special paragraph it is noted that these persons are entitled to treatment and care equal to those available to patients with other conditions.

Article 147, paragraph 2, states that the assessment of the presence of a mental disorder cannot be based on family or professional conflicts, or information regarding a mental disorder in the past.

This text is more important in terms of the following article (in force since 2009), which states that the Ministry of Health is to maintain a register for persons with mental disorders. The register will be used in assessing fitness to carry a weapon or to handle hazardous materials. A separate ordinance to detail this requirement and limit any possible abuse and violation of privacy rights of patients is foreseen.

The next few articles in this section govern the basic principles in the treatment of persons with mental disorders, deinstitutionalisation, resocialisation, combating stigma, and the involvement of civil society. Services and facilities responsible for the treatment of these persons, the forms and methods of treatment, occupational therapy and other forms of psychosocial rehabilitation and restrictive measures are also defined. The last two articles in this section describe emergency psychiatric care and the terms for temporary treatment in emergencies (no more than 24 hours, but with some exceptions allowing up to 72 hours).

## Compulsory treatment

The second section is devoted to the procedures for compulsory treatment. It starts with a description of the persons subject to compulsory treatment: those with severe mental and/or personality disorders or severe intellectual deficit who, due to their illness, may commit an offence, endanger the health of their relatives or neighbours or society and/or their own health (article 155 of the Health Act). The placement of such persons shall be decided by the district court and can be in all types of psychiatric hospital as well as medical establishments for specialist out-patient psychiatric care.

A request for placement for compulsory treatment can be made by a public prosecutor or by the head of the local psychiatric hospital (usually a psychiatrist) in cases of emergency admission (article 154(3)). The person has the right to object within 7 days, except in an emergency. In all stages of the procedure the participation of a defence lawyer, a psychiatrist and a public prosecutor is obligatory (article 158(4)). The court has to arrange for a forensic psychiatric examination to take place within 14 days (exceptionally 24 days). The court may dismiss the case if there is no evidence of an emergency or because a psychiatrist finds absence of a mental disorder. The main differences from the procedure before 2005 are: the decree for forensic expertise is made by the court and not by a public prosecutor; the ability to have a defence lawyer involved at every stage of the process; and the ability to appeal.

Paragraph 1 of article 160 explicitly states that during the conduct of the examination no treatment should be administered except in cases of emergency or after obtaining informed consent from the person. In cases when this capacity is lacking, a patient's representative is invited to give consent, which is another difference from the legislation before 2005. The court shall determine the form of compulsory treatment (in-patient or out-patient) and its duration. The medical treatment is decided by the psychiatrist in the hospital. Compulsory out-patient treatment is used less frequently, for various reasons, often related to the poor living conditions of these persons and the difficulties for relatives (if any) during the crisis. Every 3 months, the court shall, on the basis of a forensic psychiatric expertise of the medical facility where the person is placed, decide on suspension or continuation of the treatment.

The proportion of the total number of hospitalised patients who are placed on compulsory treatment in psychiatric hospitals is 3–5%, according to various reports from human rights organisations. There has been a trend for that rate to increase slightly (Bulgarian Helsinki Committee, 2001). The number of persons admitted to psychiatric in-patient clinics in 2012 was around 30 000, or 428 per 100 000 population. The number of people reported as having mental and behavioural disorders (ICD-10) in psychiatric hospitals, out-patient departments and wards was 144 310 in 2012, or 1981 per 100 000 population (National Centre for Public Health and Analysis, 2013).

### Social offences

Where individuals have committed social offences (criminal acts) in a state of insanity because of a mental disorder (but not a personality disorder) or because of some form of dependence (articles 89 and 92 of the Penal Code), the court may order compulsory treatment in an ordinary psychiatric hospital or a specialist hospital, with increased oversight. In these cases, the proposed application of compulsory measures of treatment is made by a public prosecutor, after expert consultation and investigation (article 427 of the Criminal Procedure Code). The subsequent procedure is identical to that for compulsory treatment, but the difference is in the term – 6 months in the case of compulsory treatment, after which the court may suspend or replace the form of the treatment with another measure. In cases of a crime due to some kind of substance dependence (including alcohol misuse), the court may order compulsory treatment in parallel with the criminal term, and the two terms do not necessarily match. In such cases, involuntary treatment is carried out over the period for which the punishment is served.

### Partial and full guardianship

Under article 5 of the Law of Persons and the Family, full or partial guardianship is arranged for persons with mental disorders or intellectual

deficits who cannot care for their affairs and are incapacitated. The procedure for placing a person under full or partial guardianship is described in the Code of Civil Procedure (articles 336–340). The procedure for the appointment of a guardian is set out in the Family Code (articles 153–174).

According to the 'Population' national database, at 1 June 2012 in Bulgaria 7040 persons were under guardianship orders: 6249 full guardianship and 791 partial guardianship. Data from the Agency for Social Assistance show that 3679 of these individuals used social services – residential care for children and adults.

### Discussion

The future of mental health reform in Bulgaria is connected with improvement of the existing legislation in combination with human rights protection, psychiatric emergency care, deinstitutionalisation and quality of care. Some steps in the right direction give hope that reform will happen in the coming years. An example is the recent decision regarding the ending of guardianship for people with disabilities, in line with article 12 of the United Nations Convention on the Rights of Persons with Disabilities (Legal World, 2013).

### References

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