



**Written submission by the Mental Disability Advocacy
Center
To the Universal Periodic Review Working Group,
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With respect to BULGARIA**

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1. Introduction

Interest and expertise of the author. The Mental Disability Advocacy Center (hereinafter "MDAC"), is an international NGO based in Budapest that advances the human rights of children and adults with actual or perceived intellectual disabilities or psycho-social (mental health) disabilities, and has been working in Bulgaria extensively since 2005, laying emphasis on the rights of children and adults with disabilities living in segregated institutions. MDAC respectfully submits the following written comments concerning Bulgaria for consideration by the Human Rights Council (hereinafter "the Council") at its 9th Session of Universal Periodic Review.

Definitions. In this report we use the terms mental health disability (or psychiatric disorder) and intellectual disability (or developmental disability, mental retardation). We sometimes use the umbrella term mental disability, recognising that the two different 'groups' are not homogenous.

Summary of the report. This report provides the Council with information about the human rights situation of some of the most vulnerable and marginalised people in Bulgaria, namely, children and adults with mental health disabilities and those with intellectual disabilities. **Part I** will lay out anomalies in the legal and institutional framework, and **Part II** will focus on human rights on the ground covering: **(a)** deprivation of legal capacity and placement under guardianship; **(b)** the right to live in the community, pointing out that the Bulgarian system is overly reliant on mental health and social care institutions; **(c)** the right to education of children with intellectual disabilities. **Appendix 1** contains a list of recommendations which the Human Rights Council may like to ask the Bulgarian government; and **Appendix 2** contains the details of the case of Mr Rusi Stanev whose case is pending before the European Court of Human Rights.

I. Legal and institutional framework in the promotion and protection of human rights

2. **Deprivation of legal capacity:** Under present legislation, guardianship has proven to be an instrument which facilitates the institutionalisation of persons with mental disabilities and renders them vulnerable to ill-treatment and exploitation that threaten their health, material wellbeing and personal integrity. Instead of offering protection or empowerment, the legal capacity system in Bulgaria contributes to corruption, diminishing of the rule of law, and a decrease in protection of civil and political rights as well as economic, social and cultural rights. Guardianship law is located in the Family Code, Code of Civil Procedure, and Law on Individuals and Family. These laws do not meet binding human rights standards because:¹
- i. The default position of the laws is that persons with disabilities are incapable. Therefore regimes of substituted decision-making and removal of legal capacity are the sole options. There are no provisions which protect & enhance one's autonomy by providing measures of support in exercising legal capacity;
 - ii. People deprived of their legal capacity are legally prohibited from making their own decisions and are prevented from exercising basic human rights, including the rights to marry, vote, work, and take legal action and seek judicial remedies. Deprivation of a person's legal capacity also impedes their rights to a fair trial, property ownership, and respect for their personal and family life. In short, guardianship constitutes 'civil death'.
 - iii. There are no procedural safeguards and no recourse to appeal against the judicial decision based on the mere existence of a psychiatric diagnosis to deprive an individual of their legal capacity, as well as against the decision to institutionalise the individual which often follows legal incapacitation. The individual cannot access a court to seek restoration of their legal capacity and there is no automatic or regular review of the measure meaning that they are indefinitely incapacitated.

¹ The UN HRC identified breaches arising from deprivation of legal capacity in their Concluding Observations on Russia, whose laws on the matter are similar to those of Bulgaria, see para 19, CCPR/C/RUS/CO/6,24 Nov 2009

- iv. Law fails to enumerate a guardian's responsibilities. There is no mechanism to effectively monitor guardians acts and omissions. This leads to cases of manifest conflict of interest such as where the director of an institution is the guardian of a resident. This practice is even encouraged; the Ministry of Labour and Social Policy issued an instruction in 1999, still in effect today, obliging directors of social care homes to file applications to have all residents who did not already have a guardian to be placed under their guardianship. This practice was heavily criticised by the CPT.²
3. **Right to live in the community:**
- i. According to Bulgarian legislation, placement in a social care institution outside the community can be effected after all opportunities for receiving social services in the community are exhausted.³ However, given the lack of guidance on the meaning of "*exhaustion of opportunities*", coupled with the fact that there are virtually no social services or support in the community, the practice is that institutionalisation is automatic and direct for adults with mental disabilities.
 - ii. Bulgarian mental health law and practice relies in psychiatric institutions, and fails to establish less-restrictive and more modern alternatives to involuntary hospitalisation.
4. **Right to education for children with disabilities:** Bulgarian law as set out in the Public Education Act and Regulation no 1/2009⁴ fails to uphold the right to education of children with disabilities because:
- i. There is no law which ensures that schools and curricula are adaptable and accessible to all children without discrimination (both the Bulgarian Constitution -at Article 6(2) which is exhaustive- and Law on Public Education do not include disability amongst the specified prohibited grounds of discrimination);
 - ii. Institutionalised children with medium or profound intellectual disabilities continue to be discriminated against in their right to education by being deprived of education in a mainstream school. Their only options remain attending special schools or schooling within the institution;
 - iii. There is no formal monitoring system of children's institutions which closely examines the right to education of children with disabilities, hence no mechanism to ensure that children are educated;
 - iv. Children attending special schools are not allowed to repeat a school year even if they have not fulfilled the requirements of the curricula, and their schooling comes to a mandatory end at Grade 8. Given that children in mainstream schools are allowed (and at times required) to repeat a year if they need to, current Bulgarian law prescribes an inferior standard of education to this group of children & provides no adjustments tailored to their individual learning needs with respect to the duration of their education;
 - v. Allocation of resources and funding to schools and resource centres, including provision of teaching and educational materials, favours the integration of children with sensory or physical disabilities in mainstream schools. Children with intellectual disabilities, however, are still subject to resource allocations which target their attendance in special schools, thus denying them equal access to mainstream schools.

II. The promotion and protection of human rights on the ground

² In 2008, the CPT was alerted to the concern that directors of institutions are habitually named as guardians of incapacitated persons residing in institutions which the former manage. The CPT concluded that this practice amounted to a conflict of interest. CPT/Inf (2008) 11, para 179.

³ See Article 36(4) from Regulation for the Implementation of the Law on Social Assistance

⁴ As set out in the Law on Public Education, and Regulation No 1/2009 for the Education of Children and Pupils with Special Educational Needs and/or Chronic Diseases, adopted on 23 January 2009

a. Deprivation of legal capacity

5. In Bulgaria, an estimated several thousands of adults have been stripped by courts of their legal capacity.⁵ These are usually adults with a diagnosis of either a mental health disability or an intellectual disability. The legal capacity regime exists to provide protection for vulnerable adults. However, extensive research has shown that the system itself is in violation of human rights, and the system allows other violations to take place unchecked. Once a court has stripped a person of legal capacity the person is placed under the guardianship of another person called the guardian. The guardian is usually the director of a residential institution or a family member (both these scenarios can cause conflicts of interest).
6. While failing to ensure any actual support or assistance in exercising rights, deprivation of legal capacity leads to a sweeping withdrawal of the person's decision-making powers in respect of all important aspects of their life. Yet, despite such levels of interference with an individual's autonomy and freedom, the corresponding procedural and substantive safeguards envisaged in Bulgarian law are exceptionally weak.
7. MDAC wishes to draw the Committee's attention to a particularly worrisome aspect of legal incapacitation, namely, the **mutually reinforcing link that exists between incapacitation and deprivation of liberty (especially, life-long institutionalisation)**.⁶ In most cases, persons with mental disabilities who are placed under guardianship in Bulgaria are forced to live in large remote residential institutions for the rest of their lives. Moreover, placement in an institution is not a procedure ordered by a court, and persons with disabilities who have been institutionalised following a guardianship order are unable to access a court to contest their placement which amounts to *de facto* detention.⁷
8. As a direct result of their legal capacity being deprived, people under guardianship are deprived from enjoying several of their rights guaranteed by the UN treaties to which Bulgaria is a party, notably:
 - i. **Right to a fair trial:** When Bulgarian courts adjudicate on legal capacity matters very often the adult in question is not notified and/or is prevented from presenting or challenging evidence, prevented State-funded legal aid, and denied appellate rights and denied reasonable accommodation in the judicial system on account of any disability.
 - ii. **Right to an effective remedy:** Persons deprived of legal capacity have no legal standing before courts on any matters arising out of violation of their rights. This places people in an alarming situation of having their rights taken away and being prohibited from doing anything about it.

⁵ No official data on the total number of legally incapacitated people is made publicly available by the Bulgarian government. However, it can be safely assumed that the total number of persons deprived of legal capacity is considerable and that once the measure is implemented there is no automatic review for the continued need of the measure, and most likely it will last for the rest of the individual's life. Data collected by MDAC and the Bulgarian Helsinki Committee (BHC), from 21 regional courts (i.e. the courts which are responsible for reviewing incapacity) from 2002 to 2009, revealed that of the 3494 cases in total related to proceedings of legal capacity, 3387 of them were applications for deprivation of legal capacity, whereas only 107 of the cases were applications to restore one's legal capacity, i.e. only 3.06% of the total.

⁶ As highlighted in a 2008 report by the UN Special Rapporteur on Torture, "persons with disabilities often find themselves in such situations [situations of powerlessness], for instance when they are deprived of their liberty in prisons or other places, or when they are under the control of their caregivers or legal guardians... it is often circumstances external to the individual that render them 'powerless', such as when one's exercise of decision-making and legal capacity is taken away by discriminatory laws or practices and given to others". Report of the Special Rapporteur on Torture, A/63/175, 28 July 2008, para 50

⁷ See Report of European Committee for the Prevention of Torture (CPT) on Bulgaria, CPT/Inf (2004) 21, para. 52.

- iii. **Right to equal recognition as a person before the law:** Depriving someone of legal capacity strikes at the heart of one's legal personhood, as it deprives a person of their ability to make independent decisions on important aspects of their life and puts this power in the hands of a third party who need have no training, is not selected by the person concerned, and not required to heed their wishes, feelings and opinions.
- iv. **Right to freedom of movement, right to privacy:** People under guardianship⁸ can be sent out of their own homes and into large remote residential institutions for the rest of their lives.⁹ (Institutionalisation is covered in section b, below.) Placement into an institution is not sanctioned by a court, and once institutionalised, people are unable to access a court to contest their placement, despite the fact that they are de facto detained in locked units and far away from urban centres.¹⁰
- v. **Freedom from cruel, inhuman and degrading treatment or punishment:** People deprived of legal capacity can be subjected to psychiatric treatment (normally accompanied by compulsory confinement) without their consent: only their guardian's consent is relevant. Lacking legal standing before court, persons deprived of legal capacity have no effective legal recourse against abusive actions of the staff of institutions they are confined to. MDAC and BHC represented the daughter of a woman, VM, who was under the guardianship of a social care institution and subjected to ill-treatment as evidenced by a broken collarbone, bruising on her body and the shaving of her head and eyebrows, and eventually died in the institution. Despite complaints lodged regarding ill-treatment before VM's death, and efforts to determine the circumstances and cause of her death, there was no effective investigation (see case study at appendix 2). The CPT has found that the conditions of such institutions amounts to inhuman and degrading treatment (see section b).
- vi. **Right to liberty:** Persons deprived of legal capacity are arbitrarily institutionalised for an indefinite period of time by a simple administrative procedure which does not involve the individual in question. Such detention does not fall under the mental health legislation and indeed is not sanctioned by any law: it is therefore arbitrary as it is carried out by individuals (guardians) without any court order or review of the necessity of detention. Once detained in a social care institution the director of the institution becomes the guardian, resulting in a manifest conflict of interest.¹¹ (see case study at appendix 2).
- vii. **Freedom of movement and deciding on place of residence:** Persons deprived of legal capacity have no right to decide independently on their place of residence.¹² MDAC and

⁸ Articles 120(2) & 122(3) of the Family Code prescribe that if ever the adult changes their place of living without the consent of the guardian, the guardian can approach the regional court in order to obtain a court order for their return.

⁹ As highlighted in a 2008 report by the UN Special Rapporteur on Torture, "persons with disabilities often find themselves in such situations [situations of powerlessness], for instance when they are deprived of their liberty in prisons or other places, or when they are under the control of their caregivers or legal guardians... it is often circumstances external to the individual that render them 'powerless', such as when one's exercise of decision-making and legal capacity is taken away by discriminatory laws or practices and given to others". Report of the Special Rapporteur on Torture, A/63/175, 28 July 2008, para 50

¹⁰ See Report of European Committee for the Prevention of Torture (CPT) on Bulgaria, CPT/Inf (2004) 21, para. 52.

¹¹ The CPT has criticised the refusal of Bulgarian law in acknowledging placement into a social care institution as detention, it found that "in practice residents were discharged only on their relatives' or guardians' request, [...] this meant that residents were de facto deprived of their liberty for an indefinite period." See Report of CPT on Bulgaria, CPT/Inf (2004) 21, para. 50

¹² In the event that the adult under guardianship moves residence without the consent of the guardian, the guardian can approach the regional court in order to obtain a court order for the person's forcible return. See Articles 120(2) and 122(3) of the Family Code.

its partner NGO the Bulgarian Helsinki Committee (BHC) are currently struggling to gain access to their client SC who is detained in a social care institution. Upon discovering that he had been in contact with a lawyer, his guardian (who is his ex-wife) instructed the social care institution director to prohibit contact with outside visitors, in particular his lawyer. In another case, MDAC and BHC's client Mr Mitev was placed under the guardianship of his daughter; to remove him from his home and transfer him to an institution.¹³

b. Right to live in the community

9. **Reliance on institutions:** Bulgarian psychiatric and social care institutions are heavily criticised for their inhuman conditions and the absence of therapeutic care aimed at a return to community living. The law allows placement into social care institutions after exhausting opportunities for social services in the community,¹⁴ but given their absence, institutions are the first and automatic option for many people.
10. **No exculpatory criteria into compulsion:** The only criterion which needs to be fulfilled before someone can be placed into an institutionalised setting is that their relatives cannot assure their care at home.¹⁵ MDAC/BHC's cases have shown that people are institutionalised because families oppose their disabled relative's return,¹⁶ rendering the right to liberty contingent on the good will of the family.
11. Institutionalisation continues to be sustained by inappropriate funding mechanisms, lack of community-based services, and low political will. Despite successive governments' repeated commitments to deinstitutionalisation and the creation of community based alternatives,¹⁷ persons with disabilities are socially excluded in institutions and when someone dies, their bed is quickly filled. In 2004, Mr RS had been identified by the Pastra institution for adults with mental disorders as an appropriate candidate to be transferred into a protected home which was to be built in the community.¹⁸ This was at a time when the Pastra institution was to be closed down following the CPT's finding of inhuman and degrading conditions.¹⁹ In 2010, the institution is still open and there are no plans for closure. There have not been any material improvements, no protected homes have been built, and Mr RS, along with hundreds of other residents, continues to suffer indignity and breaches of his basic rights.
12. **Involuntary hospitalisation:** In institutions there are few safeguards to ensure that people are provided with the opportunity to consent to or to refuse treatments. There have been a string of cases brought against Bulgaria before the ECtHR on this issue, resulting in violations

¹³ *Mitev v. Bulgaria*, no 42758/07, decision pending.

¹⁴ See Article 36(4) from Regulation for the Implementation of the Law on Social Assistance

¹⁵ Article 27 of the Ordinance states that "persons with sensory disabilities and or/mental deficiencies are placed in institutions for social services when their relatives cannot ensure specific care for their health condition in their usual home environment".

¹⁶ See case of Rusi Stanev in appendix 2.

¹⁷ See Report on the Joint Inclusion Memorandum submitted by the Ministry of Labour & Social Policy to the European Commission, 30 May 2006, p.30 http://www.mlsp.government.bg/en/docs/REPORT_JIM_IMPLEMENTATION_EN.doc; Responses of the Bulgarian Government to the Report of the CPT, CPT/Inf (2008) 12,§1 which lists improvement of living conditions, care quality for accommodated adults, deinstitutionalisation & services in the community as "operative targets".

¹⁸ See case study in Appendix 2.

¹⁹ See also CPT Report to the Bulgarian Government on the visit to Bulgaria carried out by the CPT from 16 to 22 December 2003, CPT/Inf(2004) 23, published on 24 June 2004, para 11; and Report of the Bulgarian Government in response to the CPT's report on its visit to Bulgaria, CPT/Inf (2004) 24, p. 8

of Article 5 of the ECHR (right to liberty).²⁰ MDAC and BHC have cases pending addressing the shortcomings in involuntary detention procedures: e.g. where involuntary hospitalisation was ordered by a court regardless of 5 psychiatrists testifying against it; or where a woman was subjected to involuntary hospitalisation on the basis of her religious beliefs.

13. **Un-investigated deaths in institutions:** Bulgarian authorities fail to provide independent and effective investigations into deaths and ill-treatment in institutions.²¹ Of note, in 2005 a young man died in Karlukovo Psychiatric Hospital after being subjected to both chemical (anti-psychotic medication) & physical restraints (being tied to a bed) and isolation for extended periods.²² The hospital's files did not provide accurate recording of the restraint measures taken and no autopsy was performed following the hospital's misrepresentation to the man's family that they had to cover the costs for it. Despite the anomalies in record-keeping, breaches of the law on the use of physical restraints, and the visible signs of violence on his body, the authorities closed the case. Such ill-treatment is not prevented if it is not investigated.

d. Lack of equal educational opportunities for children with intellectual disabilities

14. Thousands of children with intellectual disabilities are denied their right to education due to disability-based discrimination. This applies to children who live in institutions, as well as those living with their families.
15. In 2007, MDAC and BHC lodged a 'collective complaint' against Bulgaria to the European Committee of Social Rights (ECSR) of the Council of Europe. The complaint argued that children with moderate, severe or profound disabilities, living in "Homes for Mentally Disabled Children" (HMDC) in Bulgaria, receive no education on account of their disabilities. On 10 June 2008, the ECSR adjudicated in the case and found a violation of the right to education alone and in conjunction with the right to non-discrimination.²³
16. In April 2008, the Sofia City Court upheld a decision which recognised that the Ministry of Education failed in its duty to provide a supportive environment for the integration of children with special educational needs.²⁴ This was echoed in a decision issued on 3 November 2010 by the Bulgarian equality body, which found that the Ministry of Education had unlawfully discriminated against children with intellectual disabilities and violated their right to education as protected under international law.²⁵

²⁰ *Kepererov* (Application no 39269/98, 31 July 2003), *Kayadjieva* (Application No 56272/00, 28 September 2006), *Krushev* (Application No 66535/01, 3 July 2008), and *Getzov* (Application No 30105/03, 4 March 2010)

²¹ *Dodov v. Bulgaria*, Application No. 59548/00, 17 January 2008, paras 98, 103

²² For more on this case and restraint measures in Karlukovo Psychiatric Hospital, see CPT/Inf (2008) 11, §157

²³ MDAC and BHC held two roundtables on the subject of education of children with disabilities in October 2008 and November 2009, gathering government officials, educational experts, civil society organisations and families of children with disabilities. In November 2009, MDAC and BHC published a Progress Report on the Bulgarian government's progress in complying with the ECSR's decision, it is available at <http://www.mdac.info/2009-11-17%20Progress%20report.pdf>

²⁴ Civil case no 2585/07, Sofia City Court, appeal section, 7 April 2008

²⁵ This case was brought by MDAC and BHC on behalf of a group of mothers of children with intellectual disabilities. The decision is currently being appealed by the Ministry of Education before the Supreme Administrative Court.

Appendix 1 - Recommendations

In light of the above, MDAC would like to assist the UPR Working Group by suggesting that it makes the following recommendations to the Bulgarian Government to enable the Government to take appropriate measures, in full consultation with people with disabilities and their respective organisations, to bring law, policy and practice in line with the requirements of the UN body of human rights law and standards:

- i. Introduce changes to the law governing legal capacity proceedings and the guardianship system as a whole, to ensure that adults retain their legal capacity, including capacity to act, on an equal basis with others. Develop less restrictive alternatives to guardianship in the law which provide support for exercising one's autonomy, such as supported decision-making.
- ii. Abolish the automatic deprivation of persons without full legal capacity of the right to family life and marriage, choice of residence, access to courts, association, and voting.
- iii. Ensure that guardianship legislation prevents conflicts of interest arising between an adult and their guardian. Abolish the policy of appointing as their guardian the institution (or staff members thereof).
- iv. Provide sufficient guarantees of the right of adults under guardianship to meaningful participation in the guardianship process from the beginning and for as long as the adult is under guardianship; in particular, ensure full participation of a person in court proceedings in which their capacity is decided on (including the right to be present at the court hearing, to be heard by the court and to present and challenge evidence), and to be provided with state-funded effective legal representation.
- v. Amend legislation to ensure that a person deprived of legal capacity has the right to apply to court for the restoration of their legal capacity, and ensure that courts automatically and periodically review the continued need for guardianship measures.
- vi. Develop and enhance community-based care services and community living to support the deinstitutionalisation process, and to ensure that persons with mental disabilities exercise their individual right to live in the community, to choose their place of residence, and freedom of movement.
- vii. Develop meaningful individualised programmes of psycho-social rehabilitation aiming at deinstitutionalization for all residents in the social care institutions.
- viii. Ensure that institutions are regularly monitored by independent bodies and that signs of ill-treatment, neglect, and death occurring within institutions are properly and effectively investigated.
- ix. Ensure that, regardless of their legal capacity status, adult's fundamental rights are upheld in psychiatric hospitals and social care institutions. Adults deprived of legal capacity must be fully informed about the treatment which is intended to be prescribed, and given the opportunity to consent to or refuse treatment.
- x. Amend the law to ensure that placement into a social care institution is based on a compulsory initial court order (with a possibility for appeal). Amend the legislation on mental health detention to ensure that persons deprived of legal capacity enjoy the same safeguards on compulsory admission as other patients.
- xi. Ensure that courts have alternatives when considering involuntary hospitalisation so that the measures is one of last resort after less restrictive measures have been considered; ensure

these measures are not grounded on past medical history or family or other conflicts, but based on an individual's current clinical need.

- xii. Include disability as a prohibited ground for discrimination in the Constitution the Law on Public Education.
- xiii. Adopt a timetabled plan to eliminate segregated school practices altogether and ensure that schools and curricula are adaptable and accessible to children with special education needs; provide all children with equal educational opportunities, both in terms of the quality and duration of education.
- xiv. Develop an action plan to prioritise inclusive education for all children (including institutionalised children) in mainstream educational settings, involving development of tools and training for teachers and school staff, and the appropriate allocation of resources.

Appendix II - Case of Mr Rusi Stanev²⁶

Rusi Stanev is a man with a psycho-social disability (mental illness) who was partially deprived of his legal capacity in 2000. In 2002, upon the initiative of his guardian, he was involuntarily placed into a social care institution where he continues to live today. A contract for his placement was signed by his guardian and the director of the Pastra Home for an unspecified duration. On 2 February 2005, the director of the Pastra Home was appointed his new guardian by Rila Municipality, he was not consulted nor informed about this decision.

In 2003, the European Committee for the Prevention of Torture (CPT), the Council of Europe body monitoring places of detention, visited the Pastra Home and concluded that conditions in the institution amounted to inhuman and degrading treatment on account of the poor material conditions, lack of heating and neglect of residents. The CPT strongly recommended closing the institution, and in 2004 the Bulgarian government devised a plan to close it and move the residents to smaller protected homes in the community. Mr Stanev was identified as an ideal candidate for transfer. However, no steps have been taken in the past six years and Mr Stanev resides in the same inhuman and degrading conditions.

Several attempts were made by the institution to reunite Mr Stanev with his family for his return home, however due to his family's refusal, the only alternative for him available in law was for him to remain in the institution. It was not on account of his health or need for institutional care that he remained confined, but the lack of support by his family impeded any chance for him to exercise his right to return to community living.

Mr Stanev has been detained in the Pastra Home for over seven years, enduring ill treatment, arbitrary detention, lack of private life, denial of his right to live in the community, and numerous other violations of his rights. Moreover, he has suffered the harmful effects intrinsic to institutionalisation including the loss of social skills; the absence of any form of rehabilitation or therapy directed at return to community living. During these seven years, Mr Stanev has attempted to have his guardianship reviewed by a court. Given that he is not entitled to lodge an application with the court directly for revocation of his guardianship, Mr Stanev has approached his guardian, both guardianship authorities in two different Municipalities, and the Prosecutor's Office in order to gain access to court. All attempts failed. In particular, his guardian, the director of the institution, has refrained from taking any active steps in supporting Mr Stanev's attempts to restore his legal capacity and to leave the institution. As guardian, he should act in the best interests of Mr Stanev, however, as director of the institution, his employment and income is directly dependent on the number of residents in the institution, therefore presenting a blatant

²⁶ *Stanev v. Bulgaria*, no 36760/06, is currently pending before the European Court of Human Rights in which are alleged violations of Articles 3, 5, 6, 8, and 13 of the Convention. On 10 November 2009, the European Court held a hearing of Mr Stanev's case jointly with another MDAC case on similar issues of violations arising out of deprivation of legal capacity, *Mitev v. Buglaria*, no 42758/07.

conflict of interest which, although prohibited in law,²⁷ is a widespread practice across Bulgaria.²⁸

Mr Stanev's case is one of several MDAC/BHC cases against Bulgaria pending before the ECtHR on the subject of violations arising out of deprivation of legal capacity. His case was granted priority treatment due to the severity of his situation and the continuing nature of the violations to which he is subjected.

²⁷ Article 116 of the Family Code prohibits appointing as a guardian a person "*who because of... conflict of interest with the interest of the ward, or because of other reasons cannot perform the duties of a guardian council member*"

²⁸ The Ministry of Labour and Social Policy issued an instruction in 1999, still in effect today, obliging directors of social care homes to file applications to have all residents who did not already have a guardian to be placed under their guardianship.