

**The findings of the Romanian NPM,
in the exercise of its mandate, regarding the implementation of the Convention against
Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment in
Romania**
(regarding the CAT List of problems)

Regarding paragraph 7 of the list of problems

National Preventive Mechanism

The People's Advocate Institution, through the Department for the prevention of torture and other cruel, inhuman or degrading punishments or treatments in places of detention (the Department for the prevention of torture in places of detention), fulfills the specific duties of the National Preventive Mechanism, within the meaning of the Optional Protocol, adopted in New York on December 18, 2002, at The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in New York on December 10, 1984, ratified by Law no. 109/2009 (art. 2 para. (2) of Law no. 35/1997 on the organization and operation of the People's Advocate institution, republished).

The People's Advocate institution is the only national structure designated to exercise the powers provided by The Optional Protocol (Art. 33 par. (1) of Law no. 35/1997, republished).

NPM staff. The multidisciplinary of the visiting team.

According to Art. 36 para. (1) and (2) of Law no. 35/1997, republished, NPM is organized in the central structure, which also includes the Bucharest Zonal Center and the territorial structure, consisting of 3 territorial centers (Alba, Bacău and Craiova Zonal Centers).

In terms of personnel, the same law provides for a total number of 23 employees, distributed as follows:

- for the Bucharest Zonal Center, a total number of 11 employees, of which: 4 specialized personnel with legal studies, 3 specialists - doctors, psychologists, social workers, sociologists or any other professions necessary to carry out the specific activity and 4 financial personnel, payroll, human and administrative resources (Art. 37 paragraph 4);

- for the 3 zonal centers in the territorial structure of NPM, a total number of 12 employees, 4 employees for each zonal center: one specialized personal employee with legal studies, 2 specialists - doctors, psychologists, social workers, sociologists or any other professions necessary for carrying out the specific activity and an employee - administrative staff (Art. 38 paragraph 3).

Currently, the personnel scheme is as follows:

- for the Bucharest Regional Center, 6 employees: 4 legal professionals, 1 doctor and 1 driver;

- for the Alba Regional Center, 4 employees: 1 legal professional, 1 doctor, 1 psychologist and 1 driver;
- for the Bacău Regional Center, 4 employees: 1 legal professional, 1 doctor, 1 social worker and 1 driver; - for the Bacău Regional Center, 4 employees: 1 legal professional, 1 doctor, 1 psychologist and 1 driver.

For the selection, by competition, of the NPM staff, a series of competitions were organized, following the last competition, organized in May 2023, where 2 doctors were hired, for the Bucharest and Bacău Regional Centers.

External collaborators are co-opted to carry out NPM activities, based on service contracts. External collaborators are selected by the People's Advocate, based on proposals received from the Romanian College of Physicians, the Romanian College of Psychologists, the Society of Sociologists in Romania, the National College of Social Workers or from other professional associations of which they belong.

Periodically, NPM reevaluates the lists of external collaborators. For this purpose, at the beginning of each year, an announcement is posted on the website of the People's Advocate institution regarding the conditions necessary to participate in the selection for external collaborators. Following the sustained efforts carried out at the beginning of this year, it was possible to attract an increased number of external collaborators compared to previous years, as follows: 12 doctors, 13 social workers and 42 psychologists.

In accordance with Art. 36 para. (4) of Law no. 35/1997, republished, visiting teams must include representatives of non-governmental organizations active in the field of human rights protection, selected based on their activity, by the People's Advocate. Currently, 41 collaboration protocols with non-governmental organizations are concluded.

The NPM regularly organizes meetings with NGO representatives, at the level of all 4 regional centers of the NPM, in order to improve collaboration and make the activity of monitoring places of detention more efficient. On these occasions, they expressed their intention to continue collaborating with the People's Advocate institution, but stated that, due to the reduced number of staff within the non-governmental organizations and their involvement in various projects, there is a possibility that they may not comply with all requests for to attend visits. Consequently, NPM has taken sustained steps for increasing the number of collaborating non-governmental organizations, since the beginning of 2023 and up to now, 14 new collaboration protocols have been concluded.

The last meeting with the representatives of 14 NGOs with which the Bucharest Zonal Center collaborates took place on May 30, 2023, on the occasion of which there was also a professional training for them, regarding the role of the NGO in the visiting team.

Regarding the visiting teams, they are multidisciplinary, generally comprising: a legal professional, a doctor, a psychologist, a social worker and an NGO representative. Law no. 35/1997 regarding the organization and functioning of the People's Advocate institution,

republished (Art. 39 para. 2), stipulates that the visiting team must include a doctor and a representative of non-governmental organizations.

Among the external collaborators of the NPM are psychiatrists, who participated in the visits to psychiatric units and residential centers for adults with psychosocial disabilities.

The NPM budget

According to art. 51 from Law no. 35/1997 regarding the organization and operation of the People's Advocate institution, republished, the financing of current and capital expenses of the activity of preventing torture and cruel, inhuman or degrading treatment is provided from the state budget, and the funds allocated for it are part of the budget of the People's Advocate institution.

NPM visits

In accordance with Law no. 35/1997, republished, visits are carried out ex officio, based on an annual visit plan and are announced or unannounced visits. When drawing up the annual visit plan, at least the following criteria are taken into account: a) types of existing places of detention; b) the geographical distribution of places of detention; c) reports received on the existence of a situation of torture or cruel, inhuman or degrading treatment; d) the known vulnerability of certain types of detention facilities; e) the previous reports of the NPM and of the other departments within the People's Advocate institution.

As a rule, NPM visits are unannounced. Announced visits were carried out, in the context of the coronavirus epidemic. The NPM was guided by the "*do no harm*" principle, as a result, the monitoring activity was carried out through classic visits, but also through alternative means, when the existing epidemiological situation required visits.

In the period January 1, 2019 – June 12, 2023, NPM made 352 visits.

Publication of NPM reports and follow-up of implementation of recommendations

The findings resulting from the NPM visits are contained in a visit report which, in cases where irregularities are noticed, is accompanied by recommendations in order to improve the treatment and conditions for persons deprived of liberty and to prevent torture and inhuman or degrading punishments or treatments.

The visited institution has the obligation to submit within 30 days a reasoned response regarding the proposals and recommendations contained in the visit report, indicating the point of view regarding the findings, the reasoned term in which measures will be taken to comply with their content or, if applicable, the reasons why it cannot comply. If it deems necessary, after receiving the answer, NPM requests additional details, and in situations where deadlines are indicated for the implementation of the recommendations, NPM periodically requests information and supporting documents.

The visit reports, as well as the answers of the visited institutions, are public and can be accessed on the website of the People's Advocate institution - <https://avp.ro/index.php/rapoarte-mnp/>.

If the concerned institution does not comply, the Ombudsperson or, as the case may be, the Deputy Ombudsperson for the NPM informs the hierarchically superior authority or the authority of the local or central public administration that issued the operating authorization, in the case of private detention places, on this matter. In these situations, the hierarchically superior authorities can order their own verification activities in the respective units and inform the NPM about the steps taken and their conclusions.

Also, the NPM carries out follow-up visits, in some situations more than one visit, to ensure that all necessary diligence is done to implement the recommendations.

Deficiencies found during the monitoring visits, especially those encountered systemically, are mentioned, for each type of detention place, in the annual activity report of the NPM, part of the annual activity report of the People's Advocate. The latter is submitted to the Parliament by February 1 of the following year and is subject to debate in the joint session of the two Chambers. The report is public. The annual reports of the NPM can be viewed by accessing the link: <https://avp.ro/index.php/rapoarte-mnp-2/>.

Also, the findings of the NPM and the recommendations made in the visit reports are requested by public, national and international authorities, for example: the National Authority for the Rights of Persons with Disabilities, Children and Adoptions, in 2020, regarding the observance of the rights of persons with disabilities , information necessary for the development of the National Strategy for the Rights of Persons with Disabilities, 2021-2027; The Special Rapporteur on human rights for migrants, regarding the issue of migrants; The Governmental Agent for the ECHR, regarding the situation in psychiatric hospitals and residential centers for adults with mental problems or intellectual disabilities , considering the execution of ECHR judgments in cases against Romania.

Another way in which the NPM submits the findings during the monitoring activity, as well as its recommendations/proposals, to public attention and to the authorities responsible in the matter, is the elaboration of special reports, such as: « The report on psychological assistance in detention centers and pre-trial detention - Extract from the findings of the 51 visits of the National Prevention Mechanism 2015-2020 » (2021), which was presented to the Commission for human rights, equal opportunities, religions and minorities of the Romanian Senate ([https:// avp.ro/wp-content/uploads/2021/06/rezumat-Rap-Special-CRAP-ENG.pdf](https://avp.ro/wp-content/uploads/2021/06/rezumat-Rap-Special-CRAP-ENG.pdf)).

The functioning of the department regarding the prevention of torture in the context of the national prevention mechanism

The NPM 's activity consists, mainly, in: • making periodic visits, announced or unannounced, to places of detention; • carrying out joint unannounced control visits, ex officio or upon request, with the representatives of the Child Advocate, to the educational or detention centers where minors are serving custodial measures, to the persons in charge of supervising and guiding minors in the execution of non-custodial measures , at placement centers, family-type homes, foster care and family placement where the minor is placed as a special protection measure, at the extended family, as well as at pediatric hospitals; • resolving ex officio petitions or referrals regarding acts of torture, cruel, inhuman or degrading treatment in places of detention, jointly with the other areas

of the People's Advocate institution, exceptionally; • formulating recommendations to the management of the places visited and hierarchically superior authorities; • the formulation of legislative amendment proposals; • activities to mediate the NPM mandate; • the professional training of the personnel who work in places of detention; • professional training of NPM members; • maintaining contact with the Subcommittee for the Prevention of Torture in Places of Detention (SPT) .

As previously stated, in the period January 1, 2019 - June 12, 2023, the National Ministry of Health made 352 visits.

Including in year 2020, in the context of the coronavirus epidemic and the restrictive measures adopted by the authorities, during the entire period of the state of emergency and, subsequently, in the state of alert, the National Ministry of Health has made every effort to maintain contact with the places where people are or could be deprived of liberty. In fulfilling its mission to verify the respect of the fundamental rights of these persons and their protection against ill-treatment, the NPM monitored all types of places of detention which, according to art. 4 of the OPCAT falls within its sphere of competence, including the places of institutionalized quarantine and the COVID-19 hospitals, new places of detention that appeared as a reaction of the Romanian authorities to the epidemiological situation existing at the time.

Since the beginning of the state of emergency, the National Ministry of Health has monitored the implementation of the measures ordered by the public authorities, as well as their consequences, information being requested (within approximately 880 addresses) regarding the measures to respect the fundamental rights of persons deprived of liberty , in the conditions in which the exercise of certain rights has been restricted/suspended, and the measures taken to protect persons deprived of liberty (and staff) against contamination with the coronavirus .

Also, the NPM addressed other institutions/organizations/associations involved in monitoring the treatment applied to persons deprived of liberty: non-governmental organizations and the bars within the National Union of Bars of Romania (in order to inform the NPM about human rights violations and ill-treatment in the case of persons deprived of liberty, which they become aware of during the performance of the activity); The Courts of Appeal in Romania (requesting information regarding the involuntary internment procedure: the trial on the merits and the appeal of the involuntary internment measure, ensuring the participation and hearing of the patient at the court session , as well as ensuring the defense of the patient, ex officio, if not has a chosen defender).

The entire activity undertaken by the NPM in 2020 is included in the " Report on the monitoring activity carried out by the National Prevention Mechanism in the state of emergency and the state of alert - 2020" (2021) (https://avp.ro/wp-content/uploads/2021/07/Report-monitorizare-MNP-stare-urgenta_alerta_2020.pdf).

Following the visits, recommendations were issued to the managements of the places visited and the hierarchically superior authorities , for the visits carried out until January 1, 2023, with 2749 recommendations being issued. In the vast majority, the recommendations were implemented, in the case of the recommendations remaining unimplemented, the reasons being, in general,

justified. In the case of recommendations under implementation, the units visited they specified implementation deadlines.

Legislative amendment proposals.

Through the annual reports, the NPM formulated a series of legislative amendment/completion proposals, for example: • amendment/completion of Law no. 487/2002 of mental health and the protection of people with mental disorders, republished and of the Norm of application (aspects presented in the psychiatric hospital chapter); • modification Law no. 254/2013 regarding the execution of punishments and custodial measures ordered by judicial bodies during the criminal process (in the sense of harmonizing the legal provisions, according to which acts of self-harm represent serious disciplinary violations and are sanctioned, with the recommendation of the CPT to approach such acts more therapeutic rather than punitive); • the establishment, within detention centers and pretrial detention, of their own medical offices (as in penitentiaries); • increasing the amount of the food allowance granted to the beneficiaries of the residential centers, to a value that ensures menus with quality products and that also respects the conditions of diversity and caloric ration recommended for the beneficiaries; • modification of the Regulation regarding the organization and operation of detention and pretrial detention centers, as well as the necessary measures for their safety, in the sense of introducing, explicitly, the legal provisions according to which the person deprived of liberty has the possibility to benefit, for a fee, from an examination carried out by a doctor, at her choice, etc.

The NPM 's collaboration with the other departments of activity and territorial offices within the People's Advocate institution (investigations, working groups)

In the period between January 1, 2019 and June 12, 2023, the National Ministry of National Statistics participated in the conduct of 24 investigations (in collaboration with the Domain of family rights, young people, pensioners, disabled persons; Domain of human rights, equal opportunities between men and women, cults religious and national minorities; Child Advocate; Territorial Offices Braşov, Alba, Suceava, etc.), as a result of petitions or ex officio notification of the People's Advocate institution regarding possible ill-treatment of persons deprived of liberty.

Part of the investigations in 2019 were carried out in order to prepare the Special Report on the situation of respect for human rights in psychiatric hospitals in Romania, published in November 2019.

NPM coordinated the working group established on February 24, 2022, from representatives of the 6 areas within the People's Advocate institution , in order to monitor the respect of the rights of refugees from Ukraine (in the context of the increased flow of people who took refuge in Romania from Ukraine, after the outbreak of the armed conflict) , and met weekly. In exercising their assigned duties, starting on February 28, the members of the group centralized the entire activity undertaken by the representatives of the People's Advocate institution regarding the refugee situation: information requests to the authorities; investigations at border points and refugee centres; visits to regional procedure centers and accommodation of asylum seekers.

The information regarding the actions taken by the representatives of the People's Advocate institution can be viewed on the institution's website, where a special section has been established, by accessing the links: <https://avp.ro/index.php/2022/05/25/monitoring-of-respecting-the-rights->

of-refugees-from-Ukraine/ (in Romanian); <https://avp.ro/index.php/en/2022/05/25/monitoring-the-observance-of-rights-of-the-refugees-from-ukraine/> (in English). The reports of the visits made by the NPM can be viewed in full by accessing the link: <https://avp.ro/index.php/centru-pentru-migranti-2022/>.

Currently, NPM representatives are part of the Working Group on the situation of involuntary admissions of people with disabilities/mental conditions in Romania, in order to respect human rights and improve the legal framework and administrative procedures (coordinated by the the rights of the family, young people, pensioners, persons with disabilities), which monitors the implementation of the ECHR rulings under this aspect.

Media activities

When setting the annual activities, the NPM takes into account the SPT's recommendation to focus not only on visits, but also on other prevention activities, such as media actions (awareness actions regarding the prevention of torture).

Consequently, in order to increase the degree of awareness regarding the prevention of torture and ill-treatment, the National Ministry of National Defense has carried out, every year, extensive media activities addressed both to persons deprived of their freedom, as well as to the staff in places of detention and to the authorities that have units subject to NPM monitoring. For example, in the period 2020–2022, approximately 400 media activities were carried out, to: the Ministry of Labor and Social Solidarity, the National Administration of Penitentiaries, the General Inspectorate for Immigration, the Romanian Border Police, general directorates of social assistance and child protection, non-governmental organizations, faculties of law and medicine, centers for adults with disabilities, psychiatric hospitals, regional centers for accommodation and procedures for asylum seekers, homes for the elderly, residential centers for minors, detention and pre-trial detention centers, etc.

Participation in conferences, webinars, meetings, national and international symposia.

NPM members attend such events frequently, with a monthly or even weekly frequency in certain periods (2020-2022) organized both physically and online, nationally and internationally.

It is worth emphasizing the series of meetings with representatives/experts of the Council of Europe, the purpose of which was to improve the treatment provided to people with mental disorders in prisons, psychiatric hospitals and neuropsychiatric recovery and rehabilitation centers in Romania (their situation being considered worrying by the representatives CoE), as well as the identification of the reasons that prevented compliance with ECtHR judgments against Romania (Țicu against Romania, Parascineti against Romania, Case N. against Romania, etc.) and the solutions necessary to implement them. E.g:

- working meeting on the execution of judgments handed down by the European Court of Human Rights (ECHR) in cases against Romania, in which violations of the rights of people suffering from psychiatric conditions or intellectual disabilities were found, organized by the Department for the Execution of ECHR Judgments of the Council Europe;
- meeting with co-rapporteurs from the Commission for compliance with the obligations and commitments undertaken by the member states of the Council of Europe within the Parliamentary Assembly of the Council of Europe (Monitoring Commission);
- meeting with the Rapporteur of the Commission for legal affairs and human rights within the PACE;

- meetings with experts of the Council of Europe, within the project "Consolidation of medical and mental health services in Romanian prisons", a project financed by the Human Rights Fund of the Council of Europe and launched in March 2022, on the following topics: elaboration of the Strategy/document of policy in the field of human resources to attract medical personnel to work in the penitentiary system; legal analysis of legislation in the field of mental health services; the specific problem of psychiatric medical care.

Professional training of NPM members.

During the reference period, NPM members participated in professional training activities both at the international level (a relevant activity in this sense is the one organized by the Association for the Prevention of Torture - APT, presented below), and at the domestic level, within the People's Advocate institution, with topics such as: the qualities needed for the coordinator of a NPM visit; the rights of persons deprived of liberty; children in the social protection system; issues regarding the legislation in the field of migration and asylum in Romania; techniques for interviewing persons deprived of liberty during NPM visits; traumatic skin injuries - medico-legal assessment ; elements of relevance regarding the process of social reintegration of persons deprived of liberty; The Mendez Principles; knowledge and promotion of human rights in social assistance activity; aspects concerning the tolerance of foreigners who do not have the right of residence and who, for objective reasons, do not leave the territory of Romania, etc., to stay on the territory of Romania.

In 2022, NPM carried out a professional training activity for all its members, in Slănic Moldova, on the topic "Guarantees of national prevention mechanisms (according to OPCAT) and Procedure for making visits. Strengthening the monitoring skills of NPM Romania staff by conducting a practical visit to the Târgu-Ocna Educational Center, Bacău County . The event, through the participation of the entire NPM in the same monitoring visit, made the exchange of experience between its members, specialists in different fields: legal, medical, psychological and social, more efficient. Also, in the same year, NPM participated in the second professional training session of the People's Advocate institution, organized in Albac commune, Alba county, during which the activity of NPM was presented and solutions for collaboration were identified, in optimal conditions, with the other departments within the institution.

Periodically, the NPM periodically conducts professional training activities with external collaborators (doctors, psychologists and social workers), on professional topics (national and international legislation regarding the prohibition and prevention of torture, aspects found in the visits of the NPM regarding the provision of medical/psychological assistance/ social, drawing up visit reports, presenting the annual report of the NPM, etc.).

Professional training of staff in places of detention.

NPM members carried out activities to educate and train staff from units under the NPM 's monitoring competence, especially from residential centers for adults with disabilities, penitentiaries, detention centers and pre-trial detention, homes for the elderly, in order to prevent torture and of cruel, inhuman or degrading treatment.

Collaboration with SPT and other international partners (CPT, APT, National Prevention Mechanisms - SEE NPM Network, etc.)

Throughout this period, NPM kept in touch with SPT, especially regarding the invitation of the Subcommittee to the National Preventive Mechanisms to provide information for the elaboration of a general comment on art. 4 of the OPCAT, namely, the exact scope of this article .

NPM collaborated with the representatives of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), on the occasion of the ad hoc visits carried out by CPT in Romania, in the years 2021 and 2022, for the purpose of examining the treatment applied to persons deprived of their liberty in penitentiaries and detention centers and preventive detention (2021 visit) and psychiatric hospitals and neuropsychiatric recovery and rehabilitation centers (2021 visit 2022).

NPM maintained contact with the Association for the Prevention of Torture (APT) and participated in the events organized by this association. It should be highlighted the project carried out by APT with the theme "Strengthening the capacities of the NPM (from Romania) to monitor psychiatric institutions" (financed by the OPCAT Special Fund), which included 4 activities: a workshop on the monitoring of psychiatric institutions; advocacy and awareness-raising meeting with relevant Romanian authorities in the protection of the rights of persons with disabilities; exchange of experience with the French counterpart of the Romanian NPM - Contrôleur general des lieux de privation de liberté, during which an NPM representative participated in a monitoring visit of a hospital psychiatry (Centre Hospitalier de Montfavet in Avignon, France); production of a leaflet on the prevention of torture and ill-treatment in psychiatric institutions.

NPM Romania kept in constant contact with other NPMs and participated, both physically and online, in meetings/training sessions organized by them.
Since 2016, NPM Romania is part of the Network of National Prevention Mechanisms in South-Eastern Europe.

*Details regarding the activity of NPM Romania in the period 2019-2022 are contained in the NPM Reports for the years 2019-2022, attached, which can also be viewed by accessing the link: <https://avp.ro/index.php/rapoarte-mnp-2/>

Regarding paragraph 2 of the list of problems

The findings of the NPM during the visits made to Detention and Preventive Arrest Centers

► *accommodation conditions* : • the location of the centers on the ground floor of the buildings , which generates deficiencies such as the lack of natural light , insufficient ventilation, dampness and dampness in the holding rooms;

Regarding this aspect; Since 2015, the NPM has proposed, through the Special Report on the conditions of detention in penitentiaries and detention and preventive arrest centers, determining factors in respecting human dignity and the rights of persons deprived of liberty: "the identification of some locations that could be taken over in the *administration detention centers and preventive detention, and, last but not least, the construction of new centers to replace the current "cellars", so that they correspond to European standards in terms of surface area, volume, ventilation,*

satisfying physiological needs in privacy, by allocating adequate budgetary resources and accessing significant European funds" .

- lack of at least one detention room adapted for persons with disabilities, as well as access ways for persons with disabilities, in accordance with the provisions of art. 12, paragraph (15) of the Order of the Minister of Internal Affairs no. 14/2018, stipulating that each center will have access ways for people with disabilities;
- failure to provide hot water at least twice a week, which would allow persons deprived of their liberty the opportunity to take a bath with hot water;
- lack of natural light and artificial lighting, poor hygiene, walking yards without facilities);
- in the rooms, a space of at least 4 sqm/person was not provided;
- the sanitary group was not isolated, being separated from the rest of the room only by a curtain, which did not fully ensure the privacy of persons deprived of liberty;
- insufficient furniture in the holding rooms - in the Galati Detention and Preventive Arrest Center (2020 visit), the rooms were not equipped with shelves for storing food products, tables and chairs for serving the meal; of the 13 rooms, only 8 were equipped with televisions and there was no other space for recreational activities equipped with a television;
- the lack of female agents to ensure the guarding, supervision and, if necessary, the transfer of female prisoners.

In some centers no *the separation criteria* were respected when assigning persons deprived of their liberty to detention rooms (in the Dolj Detention and Preventive Arrest Center - visit 2021, a convicted person was housed together with arrested persons). In the Detention and Preventive Arrest Center within the Dâmbovița County Police Inspectorate (visit 2022), the national and international legal provisions regarding the principle of age separation, respectively the accommodation of minors separately from adults, were not respected, considering that on the date of the visit, in detention rooms, there were 4 minors staying with adults.

► *respect for the rights of persons deprived of liberty* : • lack of a space designed to ensure the right to online communications; • lack of a space designed to provide psychological assistance; • a Collaboration Protocol was not concluded with a translator who can communicate with a person deprived of liberty in custody who does not speak or understand the Romanian language, whenever necessary; • psychological assistance was not provided continuously, i.e. in cases where the psychologist was absent, he was not replaced; the response of the unit to the requests of persons deprived of liberty, for the provision of psychological assistance, exceeded the legal term of 72 hours.

Regarding the right of the person deprived of his liberty to have access to a doctor outside the place of detention, the NPM proposed:

amendment of the Regulation regarding the organization and operation of detention and pretrial detention centers, as well as the necessary measures for their safety , approved by MAI Order no. 14/2018 , by:

a) *the explicit introduction of the provisions of art. 71 para. (6) from Law no. 254/2013 , in the sense that the person deprived of his liberty has the possibility to benefit, for a fee, from an examination performed by a doctor, at his choice* ,

both in the typed Minutes and in the extract that is displayed on the cell doors (in which the rights and obligations of the incarcerated persons during their detention are listed) and

b) *elimination of the phrase "with the opinion of the doctor who provides medical assistance at the level of the center "*, provided for in art. 136 para. (5) of the Regulation, which adds an additional condition (doctor's approval), which is not established by law.

In this sense, the NPM notified the Ministry of Internal Affairs, which, through the leadership of the General Inspectorate of the Romanian Police (IGPR) and the Medical Directorate, communicated the following:

"... the implementation of these aspects requires the introduction of some legislative changes to the Regulation approved by O.MAI no. 14/2018, which implies taking steps at an institutional level. ... At the level of the Detention Centers and Preventive Arrest Coordination Service, activities are already underway to modify and complete the provisions of the approved Regulation O.MAI no. 14/2018, the recommended aspects will be taken into account and materialized within these steps.

... measures were ordered to amend and complete the internal order regulations of the centers and, implicitly, of the extracts displayed on the doors of the detention rooms , so that they also contain the mentions regarding the possibility of the person deprived of liberty to benefit from the center, for a fee, following a written request, for medical assistance from a requested doctor therefore, with the opinion of the doctor who provides medical assistance at the level of the center and informing the head of the center."

With regard to medical assistance, the NPM also found: • the working schedule of the medical staff was not adapted so that the distribution of medicines was carried out by him or in his presence; • the permanence of medical assistance was not ensured; • persons deprived of liberty were presented to the recommended medical consultations, with delays compared to the scheduled date.

In some centers missing **the special** register for traumatic marks , provided in art. 162 para. (1) related to art. 158 para. (8) from the Implementing Regulation of Law no. 254/2013 regarding the execution of punishments and custodial measures ordered by judicial bodies during the criminal process).

Identifying, recording and reporting traumatic marks is an important guarantee against ill-treatment in places of detention . The presence of this register made it possible for the NPM to identify (during a visit made in 2018 to the Constanța Detention and Preventive Arrest Center) the situations in which persons deprived of their liberty in custody presented traumatic injuries (escortions, bruises, hematomas, swellings, wound) as well as, subsequently, the NPM's follow-up of the settlement of criminal complaints filed by the persons in custody.

As a result of the NPM's approaches to the Prosecutor's Office attached to the Constanța Court, it was communicated that *no criminal complaints were filed by the persons deprived of their liberty, and the indictments did not order the referral to court for the injuries presented by them* . To clarify the situation, the NPM continued its efforts in 2019, through an address to the Prosecutor's

Office attached to the High Court of Cassation and Justice. According to the answer, two criminal files were registered at the Prosecutor's Office attached to the Constanța Court, with the object of committing the crime of abusive behavior and abuse of office, respectively the commission of the crime of abusive behavior, and in another case, the traumatic note drawn up as a result of the medical examination, upon being placed in the Preventive Detention Center, she was sent to the Internal Control Office of the Constanța County Police Inspectorate, to be checked on how the traumatic marks were produced. The results of the verification were sent to the Directorate of Internal Control within the IGPR for further verification regarding the causes of the traumatic marks.

► *minors*

Regarding the treatment provided to minors deprived of liberty: • in the Brașov Detention and Preventive Arrest Center (visit 2020) there were minors who belonged to the social centers of DGAPC Brașov and who had not benefited from support from the institution (clothing, package, etc.) , under the conditions that the administration of the center immediately informs the DGASPC representatives for the provision of goods (clothes, shoes, food, sums of money, etc.) and the provision of the necessary socio-legal assistance; • there were detention and pretrial detention centers, such as the one within the Mureș County Police Inspectorate (visit 2022) , where psychological assistance was not provided to all minors placed in the center with the measure of preventive arrest, although the rt. 17 para. (2) from Law no. 254/2013, with subsequent amendments, provides: *During the execution of the preventive arrest, the minor is given psychological assistance, [...] in order to reduce the negative effects of deprivation of liberty on his physical, mental or moral development* ; in the same center the right of minors to be granted visits without separation devices was not respected.

Within the Special Report on psychological assistance in detention centers and pretrial detention – Extract from the findings of the 51 visits of the National Prevention Mechanism 2015-2020 (2021), the National Ministry of Health formulated the following proposals: • ensuring psychological assistance to all minors in custody in the center, by immediately informing the psychological officers and taking immediate steps to the DGASPC in the case of minors who belong to the social centers of these institutions, to be visited, supported, to receive goods (clothes, shoes, respectively additional food) and socio-legal assistance from the institution; • strengthening the right of minors to have visits without separation devices in order to reduce the negative effects of deprivation of liberty on physical, mental or moral development, also in the situation of the minor visitor .

Regarding paragraph 17 of the list of issues

NPM findings during visits to psychiatric hospitals

► *overcrowding* encountered in some of the hospitals visited: • in the Voila Psychiatric Hospital (visit 2019), there were 7 beds in the intermediate rooms, some of which were stuck together; • in the Grajduri Psychiatry and Safety Measures Hospital (visit 2019), the capacity of the hospital was 240 beds and 384 patients were hospitalized, not being provided with a surface of 7 m² and 20 m³ of air, according to the legal provisions in the matter ; • in the Sapoca Psychiatry and Security

Hospital (visit 2020), in the Psychiatry Wards III art. 110 Chronic CP and V, the accommodation capacity was exceeded (in Ward III there were 64 patients on 58 beds, and in Ward V, 120 patients on 111 beds), which means that they were also sleeping two to a bed.

Overcrowding constituted an additional stress factor for patients, in the incident book of Section III art. 110 of the Civil Code, recording the case of a patient who "jumped into bed and broke it, stating that the salon is very crowded and tripping over the beds", for which he was placed in isolation.

There were a number of factors that contributed to the existence of overcrowding in these sections, as follows:

- hospitalization of people with mental disorders in a psychiatric hospital and for safety measures, based on a criminal sentence, is done immediately; the hospital could not refuse the patients, who were brought by the police, so that, among the patients hospitalized with the safety measure art. 110 Cp there were also patients from other counties than the ones arrondissement of the hospital: Argeş, Harghita and Sălaj. Exceeding the existing number of beds also determined additional expenses, insured by the hospital, these not being settled by the Buzău County Health Insurance House (services are financed by the number of beds, not by the number of admissions);

- patients were admitted to the hospital under the security measure of medical hospitalization (art. 109 or 110 of the Civil Code) or chronic patients admitted voluntarily, who represented social cases.

► *lack of personalization of the salons* although, according to the CPT Norms, special attention must be paid to the decoration of both the rooms and the recreation spaces, in order to visually stimulate the patients;

► in the Voila Psychiatric Hospital (visit 2019) there were *surveillance/security rooms in which voluntarily admitted patients were accommodated, spaces that were locked* and in which the patients' right to privacy was not respected (the rooms had, in principle, the characteristics of rooms of isolation, but did not meet the specific conditions for the arrangement of the protected premises);

*Regarding the accommodation and supervision of patients admitted voluntarily and those admitted involuntarily in psychiatric institutions, the NPM formulated the following legislative proposal in the 2019 Activity Report:

clarification in the mental health legislation of the aspects related to the accommodation and supervision of patients admitted voluntarily and those admitted involuntarily in psychiatric institutions,

given that the freedom of movement of patients admitted voluntarily to surveillance/security rooms was restricted and these patients were permanently supervised, under the conditions in which, art. 6 para. (4) from the Norm for the application of Law no. 487/2002, republished, provides that *the supervision of voluntarily hospitalized persons is carried out at variable intervals, respecting the privacy of the person* and they could not move freely through the hospital.

The provisions of art. 3 paragraph (1) and art. 6 para. (4) from the Norm for the application of Law no. 487/2002, republished, as they are formulated ¹, it is up to the psychiatric institutions to interpret the legal provisions regarding the supervision of people hospitalized (voluntarily or involuntarily) in psychiatric hospitals, an interpretation that can be influenced by economic aspects, by the professional training of the staff in the matter of the rights of persons with disabilities (dignity, non-discrimination, autonomy, privacy, freedom, safety). There is thus a high risk that patients with mental disorders will be subjected to bad treatments.

► *patients were required to wear pajamas during the day*, although the CPT, in the Report drawn up following the visit to Romania in 2014 (when they found this situation at the Sapoca Psychiatric and Security Hospital), mentioned that "patients in the Sapoca hospital (and, in similar cases, also in other psychiatric hospitals in Romania) must be encouraged to wear clothing other than pajamas or nightgowns during the day and not be prevented by the staff from doing so", recommending the Romanian state to put an end to such practices (paragraph 124 of the Report).

*Regarding this aspect, in 2019, the NPM carried out a series of approaches to the Ministry of Health and the Ministry of Internal Affairs - General Directorate for Relations with the Prefect's Institutions, in order to harmonize the Organization and Operation Regulations of psychiatric hospitals under the Ministry of Health and the local Councils of the Municipality of Bucharest/County Councils, with the CPT Norms.

The general direction of medical assistance and public health within the Ministry of Health communicated the fact that in the case of patients admitted to hospital, therefore including in psychiatric hospitals, it is necessary to ensure appropriate hygiene standards by reprocessing clothing, however, considering the specifics of the psychiatric unit, the management of these units may have a more permissive attitude in the sense of allowing patients to wear clothing other than pajamas or a nightgown during the day and not be prevented from doing so by staff.

The General Directorate for Relations with the Prefect's Institutions within the Ministry of Internal Affairs informed us that circular no. 685663/July 24, 2019 to all the prefect's institutions, in order to disseminate information to local public administration authorities (Local Councils of the Municipality of Bucharest, County Councils). Following these steps, several psychiatric hospitals subordinated to the Administration of Hospitals and Medical Services Bucharest (ASSMB) and the County Councils have amended and completed their Organization and Operation Regulations and Hospitalization Regulations, thus allowing patients to wear other clothes in daytime instead of pajamas.

Following this approach, during the visit to the Sapoca Psychiatry and Security Hospital, in 2020, the NPM found that the patients admitted to the legal wards were dressed identically, with green pants and a black T-shirt, in order to be identified if they try to run.

¹the mandatory minimum facilities in a psychiatric structure are: a) beds distributed in the rooms, including continuous supervision of men and women, in compliance with the rules provided by the legislation in force and during voluntary hospitalization, patients will be supervised according to the current medical indication and in accordance with the internal regulation of the health unit

*neither the psychiatric unit nor the Ministry of Health (referred to as a hierarchically superior unit) have communicated a response to the NPM's recommendation to stop using such practices.

► in some hospitals, *the legal provisions regarding the composition of the involuntary hospitalization Commission were not respected* ²: • in the Voila Psychiatric Hospital (visit 2019), the Commission was made up of three psychiatrists; • in the Săpoca Psychiatric and Security Hospital (visit 2020), The Involuntary Internment Commission did not have a precise structure and the personnel categories provided for by Law no. 487/2002, republished; the commissions established in the period 2016-2020 were made up of: 2, 3 or even 4 psychiatrists, a doctor from another specialty (laboratory doctor or internal medicine doctor) and a social worker; in the last provision of the interim manager, dated July 1, 2020, a legal advisor was also mentioned within the commission; both the social worker and the legal advisor, who are not medical personnel, as members of the commission thus participated in the psychiatric evaluation of the persons for whom involuntary hospitalization/termination of involuntary hospitalization is requested and signed the adopted decisions.

NPM notified the Ministry of Health in order to analyze, evaluate the situations and identify solutions so that all psychiatric hospitals that carry out involuntary admissions can comply with the legal provisions.

► during the monitoring of the Sapoca Psychiatric and Security Hospital (visit 2020), an aspect that concerned the NPM team was the long period since a patient was involuntarily hospitalized, namely 4 years.

*Regarding this aspect, NPM formulated the following legislative proposal in the NPM Activity Report for 2020:

introduction in Law no. 487/2002, republished, of the mandatory periodic verification of involuntary admissions (with the establishment of a maximum term of 3 months), by the court ,

considering that the legislation on mental health does not provide for a periodic control by the court in the case of involuntary hospitalization ³, as it happens in the case of the safety measure of medical hospitalization.

► *admission consent forms were not signed by patients* (although admissions were considered voluntary) or were not completely filled out (for example: the patient's name was missing, the date the form was filled in, the department where the admission took place or the doctor's signature and initials did not appear)), which suggests a purely formal approach to the medical staff's obligation to present patients with the consent form upon admission, an ignorance/misunderstanding of the importance of respecting the patient's right to accept or refuse admission, in full knowledge of the case; this attitude was all the more serious, given that, in the case of some patients who had not

² Law no. 487/2002 , republished provides for its composition of 2 psychiatrists and a doctor from another specialty or a representative of civil society, appointed by the hospital manager

³Law no. 487/2002, republished, provides for referral to the court to confirm the decision of involuntary medical hospitalization/termination of the measure; Decisions of the Commission, which re-examines patients monthly or whenever necessary, are not subject to court review.

signed the consent to admission and were not in the involuntary admission procedure, measures were applied to restrict freedom of movement (mechanical restraint/isolation), in some situations repeatedly;

- in the Săpoca Hospital for Psychiatry and Safety Measures (visit 2020), in the observation sheets (FOCG) of the voluntarily hospitalized persons, the Form *regarding the patient's consent to treatment (or investigations)* was not found, as it was not found in the case of patients involuntarily hospitalized or under protective measures; in some FOCG, the patient's refusal to receive treatment was recorded, which was taken into account, but in order to state that the patient accepted/refused the treatment in full knowledge of the case, there must be a special form, which must be filled in properly, after an information complete, adapted to the patient's level of understanding;

- in the Săpunari Psychiatric Hospital (visit 2020), the only existing consent at the FOCG was the <Informed patient consent to the performance of medical documents>, signed by the patient, but in which the medical document for which consent was requested was not mentioned in all cases;

Also in this hospital, according to the "Patient Restraint" procedure drawn up in the hospital (hospital where only involuntary admissions are made), patients were required to sign a form of <Consent to the application of the restraint measure>, the procedure not explicitly indicating the moment in which form is completed. The representatives of the hospital could not specify to the NPM team when this form is presented to the patient and in none of the FOCGs, randomly checked, consent to the application of restraint was found.

► *restraint measures were applied without complying with the relevant legislation* (there were repeated restraints in the case of the same patient, restraints applied in salons, in the presence of other patients or applied for the purpose of punishment); the registers regarding the application of measures restricting the freedom of movement (containment and isolation) were not filled in properly: it was not clear who was carrying out the containment, in the register for containment there was no column to this effect; the registry also lacked the column regarding the degree of restriction (partial or total) in the case of containment, and the column regarding the monitoring of vital functions did not specify the values of vital functions in the case of each monitoring visit;

► there were no isolation rooms set up according to the legal provisions in force or the patients were isolated in spaces that had a different destination;

► *patients were not informed about their rights, the complaints procedure*; in the patients' observation sheets, a list of the patients' obligations was found, signed by the patients, but not a list of their rights;

► a procedure was not drawn up regarding complaints/notifications and there was no register in which they were recorded;

► in some psychiatric units, the obligation to inform about rights was considered fulfilled, if they were displayed in a visible place; in the files of voluntarily hospitalized patients, staying at the surveillance rooms monitored by the NPM team during the visit to the Voila Psychiatric Hospital, no documents were found regarding informing the patients strictly about their rights or the involuntary hospitalization procedure.

The NPM appreciates that the display of rights does not replace the verbal information of patients by the hospital staff, considering that patients must be informed in a form and in a language they can understand, and the rights and the means to exercise them must also be explained.

Consequently, regarding the legal counseling of patients, the NPM formulated the following legislative proposal in the Activity Report for 2019:

completing the legislation in the field of mental health in the sense of ensuring the legal advice of patients hospitalized in psychiatric institutions, during the entire period of hospitalization, by lawyers from the Judicial Assistance Services of the Bar Associations ,

considering that:

- information on rights, the complaints procedure and the involuntary detention procedure are essential guarantees against torture and ill-treatment;
- the national legislation in the field of mental health does not offer the possibility for patients to benefit from free legal assistance during hospitalization, which will be provided by a person independent of the hospital (the legislation only provides for the obligation to defend the patient - defense that will be exercised ex officio, if he does not have a chosen defender - in the case of court actions within the involuntary internment procedure); informing about the rights is the responsibility of the staff of the psychiatric institution.

► *lack of staff and their continuing inadequate professional training*

A systematically encountered deficiency was the lack of staff compared to the actual needs of the respective units, the causes being various (under-dimensioning of the staffing scheme - in psychiatric hospitals, rationing is carried out according to the number of beds and not according to the number of patients; lack of candidates to fill vacant positions put out to competition, etc.).

- in the NPM report drawn up after the visit to the Pădureni Grajduri Psychiatry and Safety Measures Hospital (visit 2019), it was noted that the lack of staff represents a major risk in the management of all situations, from inadequate supervision of persons deprived of liberty, to aggression towards staff;

- in the Săpoca Psychiatry and Security Hospital (visit 2020), out of the total number of 915 positions, in June 2020, 133 positions were vacant; the representatives of the hospital informed the NPM team that the shortage of personnel was mainly caused by the established personnel regulations, when adopting which the specific conditions of the psychiatric hospital and for safety measures were not taken into account, but the sanitary unit was taken into account of monospeciality (psychiatry hospital); positions for supervisory personnel (workers supervising dangerous patients and nurses/instructors) were insufficient ; for example, in the legal wards, nighttime supervision was provided by 1 nurse and 1 supervisory worker.

The need to supplement this category of personnel was evident in the case of an incident that happened in December 2019 when a patient, who was under the safety measure of medical admission, scaled the fence in the inner courtyard of pavilion X in the Ojasca location (pavilion

where patients are accommodated with somatic and psychiatric conditions that present serious behavioral disorders), being later found dead in the outskirts of Unguriu Commune.

- in the case of the Titan Psychiatric Hospital "Dr. Constantin Gorgos" (visit 2021), although the organizational chart provided for additional positions of medical and nursing staff, psychologists, social workers, physiotherapists, speech therapists, etc., these positions were vacant, not being put out to competition for their occupation ;

- in the Poroschia Psychiatric Hospital (visit 2021), the organizational chart did not provide for positions such as social worker, occupational therapist/ergotherapy instructor, these activities being established as the responsibilities of the jurist or medical assistants; consequently, the patients were not involved in occupational therapy or ergotherapy activities, individual or group recreational activities;

- another deficiency encountered, almost constantly, by the NPM teams in the monitoring visits is the lack of adequate training of the employees through the organization of periodic trainings (for example, in order to make them responsible towards the rights/needs of the patients, the application of measures to restrict freedom of movement) or their participation in continuing professional training courses (regarding the management of crisis situations, regarding the provisions of the Convention on the Rights of Persons with Disabilities, in the sense of increasing the degree of awareness regarding human rights, dignity, autonomy and the needs of persons with disabilities disabilities etc.).

► *patients - social cases* , situations found in many psychiatric hospitals and psychiatric hospitals and for safety measures

Patients - social cases could not be discharged, although there were no longer medical reasons to stay in hospital, for most cases there were no effective solutions for discharge at home or transfer to a neuropsychiatric recovery and rehabilitation center/home for the elderly/housing protected.

In the Săpoca Psychiatry and Safety Measures Hospital (visit 2020), the staff had to transfer to the Chronic Wards, patients - social cases for which it was ordered to replace the safety measure of medical hospitalization (art. 110 Criminal Code), with the measure of safety of the obligation to medical treatment (art. 109 Criminal Code).

In this hospital, the social workers in the hospital undertook numerous steps for the family and community integration of these patients, during March-June 2020, some patients were transferred to the Center for the Recovery and Rehabilitation of Adults with Handicap Buzau, the Buzau Emergency Center, in modular housing in Râmnicu Sărat or discharge at home.

However, most patients could not be discharged. The representatives of the hospital notified the NPM team of the poor relationship, which has persisted for years, with the Public Social Assistance Services within the City Halls and the General Directorates of Social Assistance and Child Protection, appreciating that they, through the answers communicated, discriminate and stigmatize people with mental disabilities (they do not have social services in the community, they have all the places occupied, they are in the process of restructuring or they do not accept admission to residential centers of people with a criminal history).

► *Concerning the legal protection of persons institutionalized in centers for adults with psychosocial disabilities*

Already in 2017, through the Annual Activity Report, NPM formulated the following legislative amendment/completion proposals:

- supplementing the legislation in the field with the obligation to submit to judicial control, the admission decision and the results of the re-evaluation of the beneficiaries, considering: • the lack of adequate legal protection of the beneficiaries in some centers; • the application for admission to the center can be signed by the legal representative, and the service provision contract can be concluded between the center/its supplier and the legal representative; • the large number of beneficiaries lacking discernment due to the psychiatric conditions they suffered from, who did not have a designated legal/conventional representative; • the lack of involvement of the general directions of social assistance and the projection of the child regarding the legal protection of the beneficiaries;
- the periodic judicial review of decisions to ban indiscriminate persons, taking into account the provisions of the UN Convention on the Rights of Persons with Disabilities, art. 12, point 4: *the measures related to the exercise of legal capacity provide for adequate and effective protection to prevent abuses, according to international human rights legislation. Such protection will guarantee that measures related to the exercise of legal capacity respect the person's rights, will and preferences, do not present a conflict of interest and do not have an undue influence, are proportionate and adapted to the person's situation, are applied for the shortest possible period and are subject to periodic review by a competent, independent and impartial authority or by a legal body .*

In the context in which the Constitutional Court declared as unconstitutional (by Decision no. 601/2020) the provisions of art. 164 para. (1) Civil Code, which established that the person who does not have the necessary discernment to take care of his interests, due to alienation or mental debility, was to be placed under judicial prohibition, Law no. 140/2022 regarding some protection measures for people with intellectual and psychosocial disabilities and the modification and completion of some normative acts. This provides that the measures to protect the adult are ordered in the shortest possible time, only in case of necessity and are proportional and individualized depending on the degree of alteration of the mental faculties, as well as the needs of the protected person and the circumstances in which he finds himself , as well as the periods for the establishment of protective measures: the establishment of judicial counseling is ordered for a period that cannot exceed 3 years; the institution of special guardianship is ordered for a period that cannot exceed 5 years; if the damage to the protected person's mental faculties is permanent, the court may order the extension of the special guardianship measure for a longer period, which cannot exceed 15 years.

The same law provides that the courts, ex officio or upon request, will re-examine all injunction measures, and the ex officio re-examination of injunction measures shall be carried out within 3 years from the date of entry into force of this law .

During the monitoring visits in 2023, the NPM found that there were situations where the special measure was ordered based on Law no. 140/2022. Also, there were cases of ex officio re-examination, by the courts, of the measures of placing under judicial prohibition.

During the visits carried out in residential centers for adults with disabilities, the NPM also found the following situations: legal representatives were not appointed in the case of beneficiaries who did not have discernment, as a result of the serious psychiatric conditions they suffered from, which affected the protection of their rights and interests to them; there were banned beneficiaries who did not have guardianship measures in place, so they were not represented when decisions concerning them were made.

Regarding paragraphs 12 – 13 of the list of issues

The findings of the NPM during the visits carried out in penitentiaries

► *overcrowding* : • in the Pelendava Penitentiary (visit 2019) , in some rooms 2.36 square meters/detainee were provided, and in the penitentiary the degree of occupancy was 119, 20%; • in many of the penitentiaries visited in 2021, overcrowding of the sections/detention rooms was found (the degree of occupancy varied between 130%-160%; in the E2 Section of the Slobozia Penitentiary, for example, the percentage of overcrowding was 156.81%) ; • in Vaslui Penitentiary (visit 2022) there were detention sections where overcrowding was evident: E6 – 196.43%, E3 – 187.93% and E1 173.68%, a situation that can be the source of serious problems in the field of treatment, health, safety and rehabilitation

A solution to reduce overcrowding, adopted by the authorities, was the transfer of persons deprived of liberty to units with a lower degree of overcrowding. Regarding the transfers of prisoners, the NPM found that, for example, at the Găesti Penitentiary there were many transfers of people from the Moldova region which, due to the number of people and the time of custody (the periods of custody exceeded 12-18 months) had become a rule, which significantly affect the maintenance of the connection with the family and socio-familial reintegration.

The Ministry of Justice and the National Penitentiary Administration claimed that they are proceeding with the transfer of some people to other places of detention, at relatively large distances from the support environment, since the number of prisoners, grouped by areas of origin, does not cover the entire territory of the country, in the sense that the counties register different levels of criminality (the North East area registering a high level of criminality). Also, transfers are made to fulfill the obligation to ensure the minimum accommodation conditions. In order to mediate the relationship with the support environment, at the level of the penitentiary system, the aim was to maximize the use of the right to online conversations.

However, considering the repeated transfers of some detainees, the NPM emphasizes that these can be assimilated to ill-treatment, according to the CPT Norms.

► *improper accommodation conditions* : • in Găesti Penitentiary (visit 2019) , the rooms located on the ground floor of the detention sections were very cold, in some rooms, where there were

bunk beds on two levels, the space between the two beds was very small, the furniture was insufficient and degraded; the presence of harmful insects was found; the privacy of the detainees was not ensured in some sanitary groups; the walking yards had no canopy, the personal hygiene products were of poor quality; • in the Slobozia Penitentiary (visit 2021) , the accommodation conditions were inadequate (lack of furniture necessary to store personal belongings, poor hygiene, the presence of harmful insects, etc.) and at least one accommodation room with a properly equipped sanitary unit was not arranged for the persons with disabilities;

► *the lack of staff compared to the real needs of the penitentiary units* : • in Mărgineni Penitentiary (visit 2020) a shortage of medical personnel was noted with a negative impact on the activity of the medical department (out of the 7 positions provided for doctors, 4 positions of doctors were vacant, respectively : 1 dental primary physician position, 2 family medicine primary physician positions, 1 psychiatry primary physician position), as well as a staff shortage of psychological specialists (out of the 5 positions provided for psychologists, 3 positions were vacant, in the conditions in which recommends the minimum employment of one psychologist for every 100 persons deprived of liberty); • in the Bacău Penitentiary, the activity was ensured by a number of 252 employees, but in the staff there were 80 vacant positions (16 officer positions and 64 agent positions), the greatest lack of personnel being registered in the field medical, at the Psychosocial Intervention Directorate and in the operative sector; • in the Slobozia Penitentiary (visit 2021) , the organizational chart of the penitentiary unit provided for a number of 279 positions, of which, on the date of the visit, 94 positions were vacant (29 for officers and 65 for agents); also, the social assistance activity was provided by a single social worker, given that the penitentiary had 361 custodial persons; it was thus necessary to supplement the organization chart with at least one social assistant position, so that as many people deprived of liberty as possible could benefit from specialized counseling and support, as well as social and educational programs, in order to increase the premises of psychosocial reintegration , after the execution of the sentence;

► *shortage of doctors* : • in the Tichilești Detention Center (visit 2019), the positions of doctor and dentist were vacant, medical assistance being provided only by medical assistants; • in Târgu Ocna Penitentiary-Hospital (visit 2020) , the greatest lack of staff was registered in the medical field (10 officer positions and 4 agent positions), a situation also encountered in Botoșani Penitentiary (2020 visit), where however two were employed doctors (general medicine and dentistry);

► *shortage of psychiatrists* : most penitentiaries did not employ psychiatrists, sometimes there were contracts with various companies in this regard; • in the Iași Penitentiary (visit 2021) , 4 doctors were employed, including a psychiatrist , who had a 7-hour daily work schedule, between 8am and 3pm; at the time of the visit, 150 persons deprived of liberty were diagnosed with psychiatric conditions, of which a number of 115 cases of detainees were receiving daily supervised psychiatric treatment; a number of 23 people had serious mental illnesses: schizophrenia, dementia, bipolar disorders, delusional disorders, of which 7 people were registered as requiring medical treatment; there were also former drug users in the penitentiary: ethnobotanicals, marijuana, heroin, for these inmates there was no substitute treatment;

► *identification and recording of traumatic injuries* : the NPM found that there were procedures in this regard, at the level of all penitentiaries.

In the Iași Penitentiary (visit 2021) , a number of 131 cases were recorded in the Register of traumatic injuries and self-harm in 2020, and in 2021, until the date of the visit, a number of 20 assaults were recorded. The register did not have a standardized format, but each case of aggression was recorded separately, with information on: the identity of the person attacked, the manner of occurrence of the respective event, a clinical examination containing the anatomical description of any injuries, the treatment received, as well as the notification emergency service 112 in case of more serious injuries.

Also , the right of persons deprived of liberty to request the performance of a medico-legal expertise was ensured, in this case it was necessary to formulate a request to the management of the penitentiary.

In the Slobozia Penitentiary (visit 2021) , at the level of the medical department, the nurses were trained on how to record, in the Nurses' Shift Change Process, as well as in the Register of Traumatic Injuries, cases of self-harm, absence/presence suicidal intent. This activity was to be monitored by the day staff on the unit, respectively the shift leader on duty, on the occasion of the presentation of the person deprived of liberty who resorted to acts of self-harm; he was to make the appropriate entries in the incident file, as the case may be, entries that may determine the inclusion of the respective person in the monitoring of the multidisciplinary team for the management of aggressive/heteroaggressive behaviors.

Regarding the provision of medical assistance, in 2021, after checking the internal procedures during the visit to the Iași Penitentiary , the NPM recommended the National Administration of Penitentiaries (ANP) to undertake the legal measures required to develop unitary system procedures, which can be applied in all penitentiary units and to facilitate the access of persons deprived of liberty to specialized medical investigations. According to the ANP's response, a joint project of the Minister of Justice and the Minister of Health regarding the provision of medical assistance, treatment and care to persons deprived of liberty in detention facilities subordinated to the ANP was being developed.

► *aggressive behaviors* : in the Bistrita Penitentiary (visit 2020) disciplinary sanctions were practiced (even repeatedly of the same persons), in the case of self-aggressive behaviors (for example, a person who cut himself around the neck on two different days in the year 2019, two disciplinary sanctions were applied to him, suspending the right to work and to receive goods and make purchases), some of the sanctioned persons presenting a psychiatric diagnosis; cases of persons deprived of their liberty were also found to be disciplined as a result of suicide attempts.

Under this aspect, the NPM recommended to the ANP, as early as 2019, the notification of the Ministry of Justice regarding the examination of the provisions of art. 82 lit. t) and art. 100 para. (2) from Law no. 254/2013 regarding the execution of punishments and custodial measures ordered by the judicial bodies during the criminal process, with subsequent amendments and additions, regarding the prohibition of acts of self-aggression, considered serious and sanctioned

disciplinary violations, in terms of harmonizing them with the CPT's recommendation to no longer penalize acts of self-harm.

Following the recommendation, the ANP submitted to the Ministry of Justice a draft Law for the amendment and completion of Law no. 254/2013 (revised form following the analysis of the recommendations involving legislative interventions formulated by the CPT following the visit carried out in February 2018, as well as the proposals from the judges overseeing the deprivation of liberty), in which it was provided: in art. . 101, after paragraph (3), a new paragraph, paragraph (31), is inserted, with the following content:

"(31) Convicted persons diagnosed with serious mental disorders cannot be sanctioned for non-compliance with the prohibition provided for in art. 82 lit. Ț)" – legislative amendment that has not been carried out until this moment .

► *minors*

In Târgșorul Nou Ploiești Women's Penitentiary (visit 2021) , within the "Mother and Child" Community, three mothers were detained between July 2020 and February 2021, all of whom were informed by the prison staff about the possibility of requesting the suspension of execution prison term. Also, all three inmates benefited from social counseling in order to develop parenting skills, an activity carried out face to face. Other activities carried out with the inmates of the Mother and Child Community were: The preparation program for release; The social activity organized on the basis of the "ABC of family relations" activity project.

The situation of one of the mothers was analyzed in the proposal committee for parole and she was set free, another mother was set free by suspending the execution of the sentence, and for the third mother approaches were made to the Directorate General Social Assistance and Child Protection Vâlcea, as a result of the detained mother's request to establish the placement of the child in the extended family or with a foster carer, due to the lack of moral and material support from the family. In this sense, through a collaboration protocol, it was established as the responsibility of the National Authority for the Rights of Persons with Disabilities, Children and Adoptions to facilitate the collaboration of penitentiary units with the DGASPC in order to assist children in the special protection system, whose parents or legal representatives executes a sentence or a custodial measure.

During the 2022 visit to the Târgu Ocna Educational Center, Bacău county , it was noted that there was no sports field, outdoor sports activities being carried out in the inner courtyard of the center; sometimes, according to the information provided by the staff of the center, based on a request, the minors/young detainees used the sports field of the Târgu Ocna National Penitentiary Training School, located near the center; During interviews, several detainees stated that they did not have access to sports materials and items, with only one soccer ball available in the entire center (there was a gym inside, but it was only equipped with a table of tennis and a trellis for gymnastics).

► *other vulnerable people :*

In 2020 , at the level of the Bistrita Penitentiary, it was found that foreign custodial persons were signing forms written in Romanian, without ensuring a translation into their native language. Following the visit and recommendations of the NPM, the prison administration communicated the fact that a proposal was submitted to the ANP to transfer the person deprived of liberty of

foreign citizenship, to another penitentiary where communication in a language known to him can be ensured.

Mărgineni Penitentiary , starting from April 6, 2020, custody of persons deprived of their liberty vulnerable from a medico-social point of view (HIV-AIDS). In accordance with the legal provisions ⁴, these people benefit from monthly food allowances. The methodology for granting the monthly food allowance due to adults and children infected with HIV or suffering from AIDS and for controlling the use of it by those entitled to it, however, does not provide provisions regarding the situation of transferring a person from one address to another, the beneficiary's obligation being only that of announcing within 5 days any change in the situation that was the basis for granting the right to the allowance.

Although the penitentiary authority where the persons deprived of their liberty were located announced the change made regarding the new address, the previously cited Methodology does not provide for the automatic transfer of the right to the new address, the documents necessary to establish the right to the new address being requested again. The reopening of the right to the allowance is done according to art. 5 of the mentioned normative act, which stipulates that "the monthly food allowance is established with the month following the registration of the request", thus creating a gap in payment.

Following the NPM's recommendation, the penitentiary unit informed the ANP about the need to complete/modify the respective Methodology, with the provision of keeping the beneficiary of the right to allowance in payment and paying this right as soon as possible.

It should be mentioned that the people deprived of their liberty address the institution of the People's Advocate, in increasing numbers, requesting the communication of the reports drawn up by the NPM, following the visits made to the penitentiaries where they are serving their sentences

Consequently, the People's Advocate institution requested the National Administration of Penitentiaries to display the visit reports (sent to the visited penitentiary units and the ANP, if applicable) on the information kiosks of the penitentiaries, in order to be accessible to all interested persons deprived of liberty.

Bucharest, June 15, 2023

⁴ Law no. 584/2002 on measures to prevent the spread of AIDS in Romania and to protect people infected with HIV or suffering from AIDS