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Meeting: 1507th meeting (September 2024) (DH)

Communication from the authorities on the general measures (06/09/2024) concerning the cases of Bragadireanu and Rezmives and Others v. Romania (Applications No. 22088/04, 61467/12) (Bragadireanu group) (appendices in Romanian are available at the Secretariat upon request).

Information made available under Rule 8.2a of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1507^e réunion (septembre 2024) (DH)

Communication des autorités sur les mesures générales (06/09/2024) relative aux affaires Bragadireanu et Rezmives et autres c. Roumanie (requêtes n° 22088/04, 61467/12) (groupe Bragadireanu) (des annexes en roumain sont disponibles auprès du Secrétariat sur demande) **[anglais uniquement]**.

Informations mises à disposition en vertu de la Règle 8.2a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

L / 4870 / September 6th 2024

627 R/AG/ 229

4468 R/AG/ 195



Information Note on General Measures in the pilot judgment of *Rezmives and others. v. Romania* and the *Bragadireanu* group of cases

I. Introductory summary of the cases

The abovementioned cases concern the issue of prison overcrowding and inadequate conditions of detention in prisons and police arrest and detention centres, and also the lack of an effective remedy in this regard, which have led the Court to establish the existence of a breach of article 3 of the Convention.

II. 1. General measures

In response to the Department for the Execution of Judgments' letter dated 28th of May 2024, which pertained to the request for supplementary information in order to implement the general measures in this group of cases, the relevant authorities (namely, the Ministry of Justice, the National Probation Directorate, the General Inspectorate of the Romanian Police and the National Prison Administration) have provided updated information.

II.A. Information on the progress at the level of the Ministry of Justice (the MJ)

Concerning the modification of the legislation in order to manage prison overcrowding, the MJ recalled that an important step in this regard was the legislative reform from 2014, and, subsequently the reform regulating the compensatory appeal (Article 55 of Law No. 254/2013 on the execution of sentences and deprivation of liberty measures ordered by judicial bodies during the trial, as amended by Law no. 169/2017, now repealed).

MJ mentions that an analysis of all criminal legislation, including by taking into account the provisions of the White Paper on Prison Overcrowding, has led to the following effects of the penal reform:

- The issue of the decriminalisation of those offences that do not reach the social danger required for criminal sanctions and, at the same time, cause prison overcrowding – this action was carried out on the occasion of the review of all the offences included in the Romanian regulations at the time of the drafting of the new Criminal Code, as well as of all the special laws regulating criminal offences.

- The aim of providing sufficient instruments for individualised sentencing – this action has been achieved by reviewing the entire general part of the Criminal Code, the system of aggravating and mitigating circumstances, and by introducing, in addition to the suspension of the execution of the sentence under supervision, two other institutions: the waiver of the sentence (*renunțarea la aplicarea pedepsei*) and the deferment of the sentence (*amânarea aplicării pedepsei*).
- The promotion of means to avoid incarceration in the prison system, including by means of institutions such as the suspension of the execution of the sentence under supervision – this measure has been maintained in the Criminal Code and regulated to make it more effective. Furthermore, the use of the waiver of prosecution and the admission of guilt (newly regulated institutions in the criminal procedure) has been encouraged as well.
- Concerning the inclusion of alternatives to pre-trial detention - house arrest was regulated in the Criminal Procedure Code and the institutions of judicial control and judicial control on bail were streamlined.
- With regard of the replacement the imprisonment with alternative sanctions in some cases and the regulation of a sufficient number of alternative measures - the entire Criminal Code has been reoriented in this direction, including substantial changes in order to encourage the use of alternative sanctions to deprivation of liberty.
- In addition, the institution of the waiver of prosecution was introduced in the new Criminal Procedure Code and can be ordered in the case of offences for which the law provides for a fine or imprisonment of up to 7 years, if it is established that there is no public interest in prosecuting the offence.
- The extension of the possibility of conditional release – this measure has been achieved indirectly, by reducing, in practice, the period required for the application of the institution, which was established through Law No. 169/2017 amending and supplementing Law No. 254/2013 on the execution of sentences and measures of deprivation of liberty ordered by judicial bodies during the trial (hereinafter Law No. 254/2013).
- As regards the punishment of minors, their deprivation of liberty has become an absolute exception, as the Criminal Code includes 4 non-custodial educational measures: civic training (*stagiu de formare civică*), supervision (*supraveghere*), end-of-week sanctions (*consemnare la sfârșit de săptămână*), daily attendance (*asistare zilnică*), as opposed to the previous 2 custodial measures - placement in an educational centre and placement in a detention centre. Furthermore, the ordering of an educational measure involving the deprivation of liberty is subsequent to the imposition of a non-custodial measure, namely the accused (a)

has already committed a previous offence in respect of which an educational measure has been imposed and executed or the execution of which has begun before the commission of the offence for which he is being prosecuted and (b) where the punishment prescribed by law for the criminal offence is imprisonment of 7 years or more or life imprisonment.

- Concerning the alternatives to imprisonment, the MJ underlines the provisions of the Criminal Code concerning the waiver and deferment of the execution of sentences and the new institutions, such as the suspension of the execution of the sentence under supervision, criminal fines and release, which allow for a better individualisation of the sentence and offer a viable alternative to imprisonment.

The MJ stresses that the provisions of Sections 3 to 6 (Waiver of sentence; Deferment of sentence; Suspension of sentence under supervision; Probation; Conditional release) of the Criminal Code have been drafted taking into consideration the United Nations Minimum Rules for Non-custodial Measures (Tokyo Rules) and the instruments of the Council of Europe, which have consistently recommended and supported the introduction of non-custodial measures, which allow for a better individualisation of punishment and are a viable alternative to imprisonment.

The MJ notes that currently, following the repeal of Article 55 of Law No. 254/2013 (the compensatory remedy introduced by Law no. 169/2017), the number of convicted persons held in prisons is on an upward trend, **but stresses the fact that, at the same time, the shortage of detention places has decreased.**

Thus, as can be seen, **although the number of inmates has been on a moderate upward trend, the increase is not alarming according to the MJ, as the shortfall in the number of prison places has decreased from 14,000** (the number observed in 2012), to 4,300 (the estimated need in 2017) and then to approximately 2,437 (the estimated need in 2023, compared to 2,888 - the shortfall in accommodation in 2022). Therefore, although the prison population has fluctuated upward over the past few years, the degree of overcrowding is kept within manageable limits thanks to the administrative measures taken by the ANP to constantly increase the need for accommodation places to 4 sq. m./per prisoner. There is therefore no need for legislative intervention in this respect, concludes the MJ.

At the same time, as a result of the same far-reaching criminal law reform, the number of cases under probation supervision increased approximately fivefold (full-year flow data), from 20,000 cases in 2012 to a total of 104,000 cases in 2024.

In 2024, this reflects the emphasis placed by the new penal legislation on non-custodial measures in the community, as a result of the change in the way sentences are enforced: the application and enforcement of non-custodial measures is now the rule, with custodial measures being the exception for serious crimes or for persons with criminal behaviour (e.g. multiple offences, relapse).

The trend towards places of accommodation with a surface area of 4 sq. m. /per prisoner has been increasing recently, as a result of the ANP's commitment to improving prison conditions by investing in the physical infrastructure of the prison system (modernising existing accommodation, carrying out works to convert existing accommodation into new places of detention through intervention works, creating new places of detention through new investments), as well as due to the work dedicated to improving food, hygiene and medical care standards, and balancing the number of prisoners by redeploying them within the prison system or within the same place of detention.

Another important element is the intensification of efforts to improve social reintegration programmes (optimisation and innovation), which will support persons deprived of liberty in order to achieve the process of reintegration into the community as quickly and efficiently as possible, including by facilitating conditional release, but cumulated with other objectives related to prison life and with some interventions in the penal enforcement legislation, will create the conditions for achieving the objective of improving the material conditions of detention in the long term.

The MJ stresses that the legislative measures mentioned in the 2020-2025 Action Plan, on which the Committee of Ministers of the Council of Europe has requested additional information, are essentially aimed at taking into account the conventional human rights standards, the recommendations of international institutions (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Subcommittee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment), as well as the reports and recommendations of the Ombudsman and the reports of non-governmental organisations working in this field, like the Subcommittee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment), by identifying aspects and making specific changes that will contribute to the overall improvement of detention conditions.

Choosing the best legislative solutions that will have a positive impact on persons deprived of liberty in the long term requires a thorough analysis of the entire body of legislation on the enforcement of criminal sentences in order to identify shortcomings, deficiencies and practical dysfunctions, but also the involvement of the main institutional actors, making it possible to draw on experience and knowledge in this field, while respecting the principle of loyal interinstitutional cooperation.

Thus, the legislation on the enforcement of criminal penalties has recently undergone a series of amendments and additions aimed precisely at ensuring better conditions for the enforcement of conditions of sentences, by establishing specific rules in line with international and national recommendations to facilitate social reintegration within the prisons, including the most comprehensive and integrated intervention provided for by Government Decision (HG) no. 850/2023 on adopting a Regulation for the Application of Law No. 254/2013. The main amendments and additions made by HG No. 850/2023 were as follows:

- optimisation/efficiency of the provision of health care for new entrants to the prison system;

- regulating the possibility of purchasing such cleaning and hygiene products individual and collective toiletries and hygiene products;
- change of religious denomination or affiliation and allocation of appropriate food considering only the prisoner's affidavit;
- bringing the benefits of online communication to as many prisoners as possible, to maintain a constant link and increase the chances of improving relationships with the support environment;
- regulating the possibility for prisoners to receive money in RON and by bank transfer;
- making the prison administration responsible for the obligation to present the prisoner for examination by a forensic doctor in all cases where traces of injuries are found, unless the person concerned refuses the procedure in writing;
- removing self-harm and attempted suicide from the list of behaviours subject to disciplinary sanctions in prisons;
- creating the legal framework for the presence of a prisoner at the funeral of a spouse, child, parent, brother or sister or grandparent;
- making the conditions for granting the right to telephone calls more flexible and increasing the duration of a telephone call from 10-30 minutes to 30-60 minutes for persons in pre-trial detention;
- allowing visits to minor children of persons deprived of liberty in detention and remand centres under conditions similar to those in places of detention of the ANP.

Also, specific amendments to Law no. 254/2013 with the same objective were made by Law no. 200/2023, Law no. 362/2023 and Law no. 59/2024.

For example, **Law No. 362/2023** introduced in Law No. 254/2013 a basis for which allows the ANP to develop, in collaboration with other authorities or institutions public authorities or other legal persons governed by public law, governmental and non-governmental organisations, **programmes of national interest aimed at facilitating access to sentenced persons and persons placed in educational and detention centres who have been subject to custodial educational measures, to educational, psychological and social services**. The aim was to find new ways of increasing and diversifying vocational training courses for people in prison. According to Law No. 362/2023, programmes of national interest shall be financed or co-financed from the State budget, from the following sources: reimbursable and non-reimbursable external funds; donations, sponsorship, public-private partnerships or other resources, under the conditions established by law.

The MJ mentions that they are preparing a draft in order to complete Law No. 76/2002 on the Unemployment Insurance System and Employment Incentives with a text according to which

persons deprived of liberty will be able to benefit from free of charge, once only, for the duration of their imprisonment the assessment and certification of professional skills acquired by means other than formal, financed from the unemployment insurance budget.

The MJ informs that tertiary legislation is subject to a continuous process of observation and analysis of its effects on the practice of prison administrations, with the ANP formulating, within the limits of its competence, proposals for the improvement of the regulatory framework in force, with the aim not only of streamlining the administrative procedures relating to the management of persons sentenced to deprivation of liberty, but also of eliminating the shortcomings, but also to remedy the shortcomings and malfunctions encountered in practice and to provide persons deprived of liberty with an improved framework, for example, in terms of social reintegration activities, educational, cultural, therapeutic, school and vocational training, medical, psychological and social care.

Thus, the MJ underlines that the legislative changes in the criminal legislation, which were made in order to increase the degree of social reintegration of persons deprived of liberty, **have an indirect positive effect on the relapse rate of offenders, which, then, has an impact on the degree of overcrowding.**

Moreover, **with regard to the possibilities for individualising the execution of sentences, which are generous in relation to the existing rules, including effective alternatives to imprisonment, the current data show a significant decrease in the number of cases in which custodial sentences are imposed, compared with the number of cases in which the same courts opt for non-custodial measures or sentences of deprivation of liberty.**

As a result, **the MJ is of the opinion that promoting legislative changes that would further significantly relax the sanctions regime in criminal matters would likely lead to inefficiencies in the national criminal system by applying formal sanctions without any real consequences for the offender. The MJ marks that it is necessary to support the current regulations on the enforcement of sentences, which, as can be seen, are already producing significant results, since it is clear that the focus of the penal system has already shifted from the prison system to the probation system.**

II.B. Information on the progress in the implementation of the Action Plan at the level of the National Probation Directorate (the DNP)

As far as the Probation service is concerned, the target set in 2020, when the Action Plan for 2020-2025 was drawn up, namely to increase the staffing of the system by 611 people, has been partially achieved with the actual employment of 342 people so far, as provided in the information submitted by the MJ.

As of August 14th, 2024, the Probation service has a total of 876 employees (725 probation officers probation officers (counsellors and supervisors), 85 contract staff (secretaries and drivers), as well as 66 employees in the central structure.

In terms of the number of files handled by the probation system, the system has held, over the last two months, a constant number of 64,715 files concerning persons under the supervision of probation services for the execution of non-custodial measures and sanctions.

With regard to the process of filling positions in the DNP, the authority provided detailed data such as:

- Concerning the measure of financing and gradual filling of 254 posts (150 probation counsellors, 84 contractual staff, 20 employees in the central structure: 10 probation inspectors and 10 civil servants), **this was filled in 2021 as follows:** 158 probation counsellor positions, 82 contractual staff (filled in 2020-2022), 15 employees in the central structure: 8 probation inspectors and 7 civil servants.
- Concerning the financing and gradual filling of existing vacancies in the establishment plan - 118 posts (101 probation counsellor posts and 17 posts in the central structure), **this measure was partially met.** Thus, 61 probation counsellor posts actually were filled in 2023, 9 probation inspector posts were filled in 2022-2023 and 11 posts (civil servant, specialized legal staff assimilated to judges and prosecutors, contract staff) were filled between 2022 and 2023.
- Concerning the measure of financing another 239 posts (155 probation counsellors and 84 contractual staff), the DNP mentions that it was not fulfilled by the effects of Law 296/2023 on certain fiscal and budgetary measures for ensuring the long term financial sustainability of Romania.

As of October 2023, there were 124 funded probation counsellor vacancies in the DNP organizational structure. With the entry into force of Law no. 296/2023 (hereinafter Law no. 296/2023), 79 probation counsellor posts and 7 civil servant posts in the central structure were abolished.

In practice, according to the provisions of Article XVII paragraph (1) of Law no. 296/2023, the vacant posts in the civil service positions approved by law on the date of entry into force of the present law, with the exception of those within the administrative-territorial units and their subdivisions, shall be abolished.

In accordance with the provisions of Law no. 296/2023, both the central and the local structure were reorganized, by amending and supplementing HG no. 1079/2013 for the approval of the Regulation implementing the provisions of Law no. 252/2013 on the organisation and functioning of the probation, including in terms of the establishment plan, currently the DNP operating with a maximum total number of 949 funded posts, compared to 1035 posts as previously foreseen.

In these circumstances, due to the limitations arising from the aforementioned legal provisions, the DNP is currently unable to initiate steps to supplement the establishment plan and finance new posts within the organizational structure.

II.C. Information on progress registered at the level of the General Inspectorate of the Romanian Police (the IGPR)

In the Action plan, investment targets for 31 centres have been foreseen in a phased manner, with the proposed creation/modernization of 1426 accommodation places.

In order to meet the assumed investment objectives, the IGPR has initiated measures to increase and modernize the accommodation capacity at the level of detention and pre-trial detention centres, in compliance with the standards imposed by the ECHR, namely to guarantee the allocation of a minimum space of 4 sq. m./per person in custody.

With regard to the conditions of detention, the IGPR specifies that the fitting out and equipment of the centres is carried out in compliance with the provisions of the Regulation on the organization and functioning of detention and remand centres, as well as the measures necessary for their safety, approved by the O.M.A.I. no. 14/2018, as well as Annexes no. 1, I.A-I.I, to the Regulation, which establish both the minimum mandatory rules when drafting the documentations for new investment objectives, capital repairs, modernization, modification, transformation and extension of the buildings, based on the legal regulations in force, as well as the measures necessary for achieving the safety of detention.

The IGPR emphasizes the fact that, according to Annex no. 1 to the Regulation, the redevelopment of existing premises and the construction of new premises shall be carried out in compliance with the provisions of the legislation in force and international recommendations, in particular those of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

Thus, accommodation rooms and other rooms intended for persons deprived of liberty must have natural lighting and the necessary facilities for artificial lighting and be equipped with sanitary and hygiene facilities and installations heating.

The windows of detention rooms must be large enough so that persons deprived of liberty can read in natural daylight under normal conditions and allow ventilation, and the devices providing artificial light shall meet recognized technical standards in this field.

The holding room must be equipped in such a way as to provide prisoners conditions for sleeping, eating meals, storing goods and possessions personal effects. The storage areas for personal belongings and personal effects in the room may take the form of shelves or recesses in the wall.

Regular maintenance and cleaning of the cells and sanitary installations shall be carried out in accordance with the daily program, stipulated by hours, which shall for administrative, housekeeping, cleaning and housekeeping activities hygiene, in compliance with it and with the rules of individual and collective hygiene in the holding room and other common areas as obligations of persons deprived of liberty, provided for by Article 81 of Law No. 254/2013.

Also, according to penal enforcement legislation, each centre will be provided with access routes and properly equipped accommodation rooms for persons with disabilities.

Ensuring optimal conditions of custody for the purpose of executing deprivation of liberty pre-trial detention measures depends on the configuration buildings in which the centres operate, and the measures and means for maintaining security of the premises shall be implemented with the aim of eliminating all risks and vulnerabilities and represent the main security element to avoid the tendency of persons deprived of liberty to escape or enter unauthorized persons.

As regards the manner of spending the time of persons in custody, according to Article 122 of the Regulation, each person deprived of his liberty shall be provided, on a daily basis, with at least one hour of to take a walk.

Furthermore, the period of time allocated to the right to daily walks is determined by the rules of the centres and may progressively increase from a minimum of one hour per day, depending on the choice of the persons concerned and the occupancy of the centre.

During the walk, the person deprived of liberty may exercise, the premises intended for the exercise of the right to daily exercise shall be equipped, where appropriate, with washbasins, bicycles and exercise machines, and fixed elements for rest and relaxation.

Walking is carried out under direct visual supervision or by means of video cameras, in the walking courtyards, set up in compliance with the safety rules.

In order to ensure the exercise of the legal rights of the detained persons, at the level of the IGPR, daily registers for the exercise of the right to walk (*dreptul la plimbare zilnică*) have been created and distributed to the detention centres, in which the denial or limitation of the right to daily walk is separately indicated in special headings on any grounds whatsoever of the exercise of this right by persons deprived of their liberty.

At the same time, Article 75 of the Regulation stipulates that during recreation time, the persons deprived of liberty may read the press, listen to the radio program, watch television programs, or engage in other activities such as chess, darts, dominoes, go etc., in the holding room or in other specially designated areas within the centre, in compliance with the rules of internal order and separation criteria. The person in custody shall also have access to the library set up in the detention centre.

Other options for carrying out activities outside the holding rooms involve unpaid work in the interest of the detention centre, and, subject to the daily schedule laid down in the above-mentioned Regulation and the activities in which they are involved, the participation of persons deprived of liberty in recreational activities provided for in the Rules.

In addition, persons deprived of liberty may exercise, outside the detention rooms, their right to religious assistance and their right to psychological counselling.

Concerning the appropriateness and possibility of transfers of detainees in custody from remand and preventive arrest centres subordinated to the MAI/Romanian Police to penitentiary units, IGPR has initiated a correspondence with the ANP, in order to analyse the appropriateness of initiating a legislative approach having this object regulation, including from the perspective of the dynamics of persons deprived of liberty held in custody in

penitentiary establishments, taking into account that the execution of measures deprivation of liberty in centres subordinated to the Romanian Police for a period of maximum period of 60 days has an impact on the work of penitentiary units and is influenced by the development of the ANP's infrastructure.

Having regard to these issues and in the context of the visit of the CPT delegation to Romania, held in May 2021, representatives of the Ministry Justice in cooperation with the Ministry of Internal Affairs and the Prosecutor's Office attached to the High Court of Cassation and Justice is examining whether or not and under what kind of conditions they can achieve the transfer persons deprived of liberty to the ANP after 30, 60 or 90 days, by taking into account both the issue of overcrowding, but also the need to adequately carry out the criminal investigations.

II.D. Information on the progress at the level of the National Prison Administration (the ANP)

1. Update on progress towards the 7.849 new places of accommodation

For the period 2020-2025, according to the Action Plan, the improvement of material conditions in prisons is achieved through investments in their physical infrastructure, namely by creating 7.849 new accommodation places and modernizing 946 existing accommodation places.

For these objectives, in the period 2021-2023, at the level of the prison system, 2003 new accommodation places were created for detainees and 218 places were modernized.

Considering the fact that in the implementation of the investment objectives, the penitentiary system faced various objective causes that delayed the beginning, such as the non-participation of economic operators in the awarding procedures, or legislative changes involving the updating of the documentation and the re-approval of the technical and economic indicators, it was necessary to adopt complementary solutions to ensure the achievement of the number of seats assumed.

The detailed situation of the 2003 new places created both according to the memorandum and by implementing alternative solutions can be found in annexes (**available only in Romanian**).

As for 2024, the estimate shows that at the end of 2024, 1.782 new places will be put into use, continuing with another 1.810 places as of March 31th 2025, 482 places as of June 30th 2025, and another 520 places to be completed by the end of 2025.

Faced with the initial estimate at the beginning of this year, namely 3.200 new places, it is noted that delays ranging from 1 to 3 months for a number of 1.418 are predicted. However, ANP points out that up to March 31th 2025 in addition to the above-mentioned 2024 backlog, an additional 392 seats are expected to be completed, thus reaching a consolidated total of 3.592 for the period January 1th 2024 – March 31th 2025.

2. Arrangements which have been initiated or are to be initiated in response to the Committee of Ministers' recommendations to take additional and specific measures to remedy prison conditions, other than those that can be addressed by repair, maintenance or modernization of premises

ANP is constantly carrying out activities to improve the conditions of detention regarding individual and collective hygiene rights, access to hot water, provision of adequate food and products, bed linen and combating infestation with parasites, according to the standards, at this moment, steps are being initiated to amend and complete the legislation regulating these activities.

Thus, the last values of the food norms for persons deprived of liberty were updated in February 2023, by the Order of the Minister of Justice no. 254/C/2023 for the approval of the updated financial values of the food norms for persons deprived of liberty, published in the Official Gazette no. 147 of February 21th, 2023.

Also, in order to maintain and promote a favourable climate for the execution of deprivation of liberty sentences, by adopting alternative measures to support persons deprived of liberty, with positive effects in preventing possible negative events in the penitentiary administration system, the ANP management also deemed it appropriate to increase the financial value of the supplement on the occasion of Easter (first and second day) and Christmas (December 25).

The updating of the financial values of the maintenance rules for persons deprived of liberty was carried out in accordance with the provisions of Art. 51 para. (1) and para. (2) of Government Ordinance no. 26/1994 on the food entitlements, in peacetime, of the personnel of the national defense, public order and national security sector and of persons deprived of liberty:

- for minors, from 8,93 RON per day to 9,82 RON per day (excluding VAT);
- for convicted prisoners, from 6,91 RON per day to 7,60 RON per day (excluding VAT);
- for sick persons, from 8,04 RON per day to 8,84 RON per day (excluding VAT).

At the same time, on May 13th, 2022, in the Official Gazette of Romania, Part I, Law no. 133/2022 for amending and supplementing Law no. 95/2006 on health reform was published, which established the minimum amount of the food allowance in public health units, namely 22 RON/day hospitalization. Subsequently, on May 31th, 2022, in the Official Gazette of Romania, Part I, the Order of the Minister of Health no. 1488/2022 was published. The order concerns the establishment of the amount of the food allowance in public health units, which established the amounts of the food allowance in public health units, by categories of patients or their companions.

In accordance with the aforementioned legal provisions and taking into account the fact that the ANP also operates penitentiary-hospitals, and that the persons deprived of liberty in their custody benefit from hospital medical services in continuous hospitalization, they must benefit from a food allowance amount that cannot be less than 22 RON per day of hospitalization.

With regard to equipping the units with the necessary gear, in order to increase efficiency and expand the capacity to prepare hot meals for prisoners in the penitentiary system, within the framework of the Norwegian-funded project "Correctional", 25 electric cooking stoves were purchased for 11 penitentiary units.

With regard to ensuring hygiene, in the context of the increase in the number of persons deprived of liberty / inmates held in custody at the level of penitentiary units subordinated to the ANP and considering the current technological progress, in 2024 the laundry rooms were equipped with washing machines and industrial laundry dryers, in order to expand the capacity of washing, drying and maintenance of bed linen and equipment of persons deprived of liberty.

3. Information on the problem of understaffing in the medical system in prisons, including the steps taken in this regard

In the context of the shortage of medical personnel identified at the national level, the attention paid to increasing the access of persons deprived of liberty to health services is supported by the constant efforts undertaken by the ANP to attract medical personnel, either by hiring or by concluding contracts for the provision of medical services.

Thus, the need to formulate legislative proposals has been identified, in relation to the national legislative regulations regarding the methodological norms for the approval of the service packages and the framework contract regulating the conditions for the provision of medical assistance, medicines and medical devices within the social health insurance system in Romania.

For the purpose of formulating the proposals for amending the Framework Agreement/National Norms, from which derives its Rules for the application of the provisions for the approval of service packages and the Framework Agreement which regulates the conditions for the provision of healthcare, medicines and medical devices, and, within the social health insurance system, adapted to the specifics of the organization of healthcare in the health network of ministries and institutions in the field of defense, public order, national security and judicial authority, and, applicable in contractual relations between the Defense Health Insurance House, the Public Order, the National Safety and the Judicial Authority and the medical services and medicines providers belonging to this network, the, **the ANP analyzed the proposals made at this moment, for the year 2024, by the Romanian College of Physicians.**

Some of the proposals were also identified at the level of the ANP health network as solutions that could be adapted to the penitentiary system, such as:

- make medical work more flexible by splitting medical work norms to less than 7 hours, with the possibility of up to 1 and ½ norms;
- eliminating the obligation to provide medical activities under contract with only one medical service provider, i.e. only with a county health insurance fund (liberalization of the medical profession);

- abolishing the fixed working hours of doctors in pre-hospital specialized outpatient clinics, without affecting the quality of medical care, given that their payment is based on the number of consultations and services provided.

All the aspects presented above are already being analysed by the National Health Insurance House, in order to be taken up as directions for action or as amendments to the provisions of the Co Ca/Norms relevant norms, as a result of negotiations with the representatives of the Romanian College of Physicians.

ANP has submitted for institutional analysis to the National Health Insurance House proposals for regulations regarding primary, dental and specialist healthcare provided in penitentiary units, in the sense of allowing the possibility of concluding two contracts by family doctors from the civil network, both with the county National Health Insurance House and with the Health Insurance House of Defense, Public Order, National Security and Judiciary Authority, at least half-time for the medical activity provided to persons deprived of their liberty in the medical cabinets organized within the penitentiary units.

Another solution considered by ANP was to extend the possibility of reporting / billing of medical services provided to persons deprived of their liberty, as a result of the contracts concluded with the Health Insurance House of Defense, Public Order, National Security and Judiciary Authority, depending on the number of calendar days. This requirement was motivated by the fact that, at the present date, there are situations in which a family doctor serves two penitentiary units, and the possibility of providing medical services also on Saturdays/Sundays would be in correlation with the number of requests and with the increase in accessibility, but also in accordance with the proposals made by the Romanian College of Physicians to make medical activity more flexible, by splitting the medical norm and eliminating the obligation to provide medical activities under contract with only one medical service provider, namely only with a county health insurance fund.

Due to the specific nature of providing medical services in the penitentiary environment, correlated with aspects regulated by the penal-execution legislation, which in some situations requires transfer between penitentiary units with the loss of appointments, ANP considers that reducing the time of appointment for specialized outpatient services is an important aspect. In this context, in order to facilitate access to medical services for persons deprived of their liberty, ANP has submitted a proposal to the National Health Insurance House, to pay attention to a legislative regulation that provides for prioritizing appointments for prisoners.

The ANP is constantly striving to recruit staff in the medical sector (doctors and nurses). In this regard, 351 posts for doctors and 162 posts for nurses, various specialties, were put out to competition in 2023 and 2024. The situation of the posts put out to competition between 2023 and 2024 can be found in the Annexes (**available only in Romanian**).

In another vein, the ANP informs that the reasons for the lack of doctors' posts are common to those of the public health system, in the sense that there are no specialists in the field, which also affects the prison police.

From the perspective of working conditions, the working environment in prisons is challenging due to the specific prison population and security measures. Moreover, medical staff are subject to the rigors of specific security procedures and have a limited channel of communication with the outside environment, as access to the detention sector is forbidden with cell phones.

In 2024, the situation of the posts concerned is as follows:

- Doctor: 352 posts planned, 185 filled, 167 vacant, 52,55% filled;
- Nurses: 765 planned 765. 628 occupied, 137 vacant, 82,09% occupied.

In conclusion, the ANP continues the process of filling, through competition, the posts of doctor and medical assistant, within the limits imposed by the legislative framework, represented by Article VII of the Government Emergency Ordinance no. 115/2023 on some fiscal-budgetary measures in the field of public spending, for fiscal consolidation, combating tax evasion, amending and supplementing some normative acts, as well as for the extension of some deadlines, with subsequent amendments and additions, namely "(1) In the year 2024 the filling of vacant or temporarily vacant posts through competitive examination or examination is suspended, except for single posts".

4. With reference to the information whether the relevant authorities are currently in the process of equipping the medical services in each prison with basic emergency medical equipment

Medical equipment of the type of defibrillators were distributed at the level of all penitentiary units (the last two units in which it was distributed being the Education Centre Târgu Ocna and the Galați Penitentiary). At this moment, 42 reports of training of the employed/medical and non-medical staff in the penitentiaries were submitted to the Medical Supervision Directorate, regarding the first aid measures/basic first aid and use of the defibrillator, training carried out by the specialized company.

Training on the use of these defibrillators and on first aid measures, by the medical staff of prisons, as well as by the non-medical staff, have been carried out in 2023 and 2024 and will continue throughout this year.

5. On the existence of cases of refusals from public hospitals to allow detainees for treatment

On June 7th, 2024, information was requested from all penitentiaries on this issue. Thus, 35 prison units (92,10 %) reported that there are no problems in this respect and that detainees are not refused to be admitted for treatment by public hospitals.

Among the other prison units that encountered difficulties on this line are:

- Bucharest-Rahova Penitentiary – it was specified that the refusals of internment were formulated only in cases where detainees could be redirected to hospital-penitentiaries.

- Gherla Penitentiary – confirmed that they had no cases of refusal of admission, but had cases of refusal of consultation from Gherla Municipal Hospital (neurology department, neurology department, balneology) and the Dej Municipal Hospital (diabetes and Nutrition Diseases section), which is why they present detainees at consultations in units at a greater distance, especially at the Military Hospital Cluj-Napoca.
 - The educational centre Buziaş – was informed that there are no difficulties or refusals from medical units regarding the admission of minors in hospitals in the public health network, but the lack/delay or even refusal of legal guardians' consent leads to the impossibility of hospitalization or surgical interventions both in the public health network and in hospital prisons.
6. Updated information on the status of discussions between the IGPR and the ANP on a possible joint legislative action regulating the transfer of pre-trial detainees from remand centres to penitentiaries

On July 15th 2024, a total of 24.586 persons are detained at the level of the penitentiary system, of which 3.187 persons are remanded in custody. Of these, 2.803 are adults, plus 283 young people and 101 underage people.

Also, at present, at the level of the penitentiary system there are 1.774 accommodation places at 4 sq. m. /per person dedicated to the custody of adult men who are remanded in custody, with an occupancy rate of about 141%.

On the enforcement of preventive measures involving deprivation of liberty in detention and remand centres, and in order to facilitate the transfer of detainees and regulation of certain aspects related to the clarification of the moment when the transfer from detention and remand centres in places of detention is operational, a draft order on the establishment of penitentiaries, educational centres and detention centres in whose constituency the detention and remand centres operate was drafted. This document was created by a joint working group attended by IGPR and ANP representatives. The project was approved at the level of both ministries and published in the Official Gazette of Romania no. 126/14.02.2024.

In order to continue the steps regarding the takeover of persons remanded in custody during the criminal investigation, a multidisciplinary working group, consisting of representatives from IGPR and ANP, will be established, in order to analyse possible actions, both from the perspective of the number of accommodation places needed to be allocated to this category, as well as the additional human and material resources necessary to take over the persons remanded in custody during the criminal investigation by ANP.

In a first stage, at the level of the working group, the situation of inmates who have executed more than 180 days of preventive arrest in detention and remand centres will be taken into account.

ANP specifies that, at the moment, there is a good collaboration between hospital prison administrations and detention and remand centres regarding the transfer of persons remanded in

custody during criminal prosecution in the prison system, in order to carry out a forensic psychiatric expertise or in the situation where they suffer from a condition that requires admission and can be treated in the health network of ANP, as stipulated in Article 260 (1) of HG no. 157/2016 on the Regulation approving Law no. 254/2013.

7. Implementation of the steps according to Memorandum no. 12/7134/13.02.2024 and Memorandum no. 16815/07.03.2024 on the Relocation of some penitentiaries outside urban areas

On April 24th 2024, the appointed committee prepared the Calendar of actions, defining the steps to be followed to identify solutions on this issue.

Thus, the 11 units concerned started the formation of working groups in order to perform the analysis of the areas necessary for the construction of new prisons.

At the same time, the penitentiary units started the procedures regarding the correspondence with the territorial administrative units, as follows:

- Oradea Penitentiary: the penitentiary unit addressed the Bihor County Council on the theme of memorandum and no response has been received to these requests until the date of this. At the same time, based on the report no. 400346/19.12.2017, the Decision of the Local Council of Oradea Municipality was issued, through which it allowed to support the steps for the construction of a new penitentiary in a different location from the current one.
- Satu Mare Penitentiary: The official addresses have been drawn up, and are currently following approval procedures.
- Târgu Mureș Penitentiary: the penitentiary unit addressed the Mureș County Council on the theme of memorandum and the County Council responded to the request by mentioning that, following the analysis carried out, no available buildings were identified that corresponded to the needs of the Targu Mures Prison.
- Iași Penitentiary: The official addresses have been drawn up, and are currently following approval procedures.
- Penitentiary Ploiești: The official addresses were drawn up, and are currently following approval procedures.
- Timisoara Penitentiary: the penitentiary unit addressed the City Hall of Timișoara, the Prefect Institution of Timiș County and Timiș County Council on the theme of memoranda. The City Hall of Timișoara proposed to the penitentiary unit for analysis two sites covering 328.160,00 sqm and 114.620 sqm. The penitentiary unit responded to the two proposals by mentioning that the sites do not lend themselves to the construction of a new penitentiary, also requesting the identification of other lands. At the same time, the Timiș County Council expressed its support by mentioning that they will allocate resources from the state budget fund in order to build the new penitentiary.

- Gherla Penitentiary: the penitentiary unit was addressed to the City Hall of Cluj - Napoca and the institution responded to the prison unit by mentioning that the local authority does not have buildings that meet the requirements. The prison unit addressed the Cluj County Council on the same theme. By letter no. 9365/26.03.2024 the Cluj County Council responded to the penitentiary unit, noting that the administrative territorial unit of Cluj County does not own a building that meets the requirements.

The penitentiary unit addressed the Zalău City Hall on the theme and the institution responded by mentioning that they do not have available land for building such constructions. The penitentiary unit also addressed the Sălaj County Council, which responded to the penitentiary unit by mentioning that Sălaj County does not own a building that meets the requirements.

- Craiova Penitentiary: The official addresses have been drawn up, and are currently following approval procedures.
- Târgu Jiu Penitentiary: the penitentiary unit addressed Gorj County Council on the theme and no response has been received to this request until this date.
- Brăila Penitentiary: the penitentiary unit addressed to Brăila County Council, which responded by mentioning that it does not own premises corresponding to the relocation of the prison unit.

Also, in order to develop a standard concept of the penitentiary model, the appointed commission has analysed until the date of the present the necessary buildings for the proper functioning of the prison unit and for some of them were calculated required area in this respect. Following the analysis, the calculation of the necessary areas for all buildings will be completed, following their positioning in a site plan that is adequate in relation to the sectors of activity within the prison unit and their operations.

III. Conclusions

The Government kindly ask the Committee to note the progress achieved so far and inform that it will keep the Committee updated on any relevant evolution with regard to the execution of the cases quoted above.