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## **Report**

**to the Romanian Government  
on the visit to Romania  
carried out by the European Committee  
for the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment (CPT)**

**from 7 to 19 February 2018**

The Romanian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2019) 8.

Strasbourg, 19 March 2019

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## EXECUTIVE SUMMARY

In the course of the 2018 visit, the CPT's delegation reviewed the treatment of persons deprived of their liberty by the police and the conditions of detention of remand prisoners in ten arrest detention centres throughout the country. Further, the delegation visited five prison establishments, focusing on the treatment of prisoners held in the maximum-security and closed regimes and on remand, and on the provision of health care.

On the whole, the CPT's delegation received excellent co-operation during the visit from the Romanian authorities. However, the principle of cooperation also requires that decisive action be taken to improve the situation in the light of the Committee's key recommendations. In this respect, the CPT noted the lack of action taken in respect of certain recommendations made in previous reports, in particular as regards the situation of maximum security regime prisoners, the operation of the prison intervention teams and the provision of health care in prisons and arrest detention centres.

### **Law enforcement**

The report notes that the majority of persons interviewed by the CPT's delegation stated that they had been treated correctly by police officers. Nevertheless, a large number of allegations of physical ill-treatment (many of which corroborated by medical evidence) by police officers were received from detained persons. The allegations consisted primarily of slaps, punches, kicks and baton blows inflicted by police officers against criminal suspects either at the time of the arrest or during questioning at a police station, apparently for the primary purpose of coercing a confession.

The report recommends that the Minister of the Interior and the General Inspectorate of the Romanian Police deliver a strong message that the ill-treatment of detained persons is illegal, unprofessional, and will be the subject of appropriate sanctions. Further, police investigation methods need to shift away from a confession-based approach towards obtaining accurate and reliable evidence from the professional questioning of criminal suspects. It is also essential that injuries observed by medical staff on detained persons upon their admission to an arrest detention centre are accurately recorded and that any allegations of police ill-treatment are transmitted promptly to the prosecutorial authorities. The CPT also comments on the investigation into allegations of police ill-treatment and recommends that prosecutors strictly apply the criteria of effectiveness.

In respect of safeguards against ill-treatment of persons deprived of their liberty by the police, a number of shortcomings were observed, notably in respect of access to a lawyer, including the possibility of having a confidential conversation with a lawyer, and the right of access to a doctor. Steps must also be taken to guarantee all juveniles the right of access to a lawyer and to a trusted adult as provided for in the Code of Criminal Procedure.

The report takes due note of the Romanian authorities intention to retain arrest detention centres for holding criminal suspects and remand prisoners and their plans to refurbish and to construct new establishments of this type. Nevertheless, the CPT continues to believe that detained persons are exposed to a greater risk of intimidation, pressure and even ill-treatment in police detention facilities. These concerns are accentuated by the poor material conditions, inadequate health care and impoverished regime for persons held in the arrest detention centres visited. Therefore, the CPT recommends, once again, that persons on remand should not be held in police detention facilities. Instead, the Romanian authorities should seriously consider converting arrest detention centres into proper pre-trial detention facilities and placing them under the authority of the Ministry of Justice and the National Prison Administration.

As regards the regime in these centres, the aim should be to ensure that remand prisoners are able to spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activity of a varied nature. To this end, each facility should be equipped with communal rooms. Further, all detained persons, without exception, must be offered at least one hour of outdoor exercise a day in suitably equipped facilities of an adequate size. The CPT also recommends that open visits for all persons detained on remand become the rule, with closed visits the exception.

Conditions of detention in the arrest detention centres visited, notably the un-renovated centres, remained unacceptable for stays of two months or more. Cells were generally dilapidated and in a state of disrepair, poorly ventilated, malodorous, with high levels of humidity and inadequate access to natural light. The sanitary annexes also remained in a poor state of hygiene and in most cases unpartitioned from the rest of the cell. In respect of juveniles, specific emphasis is placed on the need to provide them with decent conditions of detention and a purposeful regime. Further, every effort should be made to keep them in arrest detention centres for the shortest possible period.

The CPT notes the re-organisation of the Medical Directorate of the Ministry of Interior and the issuance of a specific Instruction in April 2016 on the provision of health care in arrest detention centres. In the light of the Committee's findings, it recommends to improve the quality of health care through *inter alia*: relieving doctors of additional duties within the Ministry of Interior; ensuring respect for confidentiality of medical examinations of detained persons; supplying all centres with basic life-saving equipment; introducing Opioid Substitution Treatment (OST) programmes for all opiate dependent inmates; and providing a comprehensive screening for transmissible diseases.

## **Prison establishments**

The CPT notes positively the efforts invested in reform of the prison system since 2014, in particular in relation to the development of a probation service, the reduction in the prison population by some 30 percent as well as the introduction of compensatory remedies for inmates held in overcrowded conditions. Prison overcrowding was not evenly spread among or within prisons, and the most serious levels were observed in closed regime, pre-trial and admission (quarantine) cells. The cramped and poor living conditions in these cells combined with little out-of-cell time and lack of activities might amount to inhuman and degrading treatment. Such conditions are also not conducive to assisting prisoners to prepare for reintegration into the community. Further, as the CPT's delegation observed, it has negative repercussions on health care provision and on levels of tension and violence within prisons. The reform agenda of the Romanian authorities should aim to ensure that all prisoners are held in decent conditions and provided with a minimum of 4m<sup>2</sup> of living space each in multiple-occupancy cells (excluding the sanitary annex).

The majority of persons met by the CPT's delegation indicated that they had been treated correctly by staff. Nevertheless, a considerable number of allegations of physical ill-treatment of prisoners by prison staff were received, notably by members of the masked intervention groups, in the prisons of Aiud, Gherla, Iași and Galați. The situation was particularly alarming at Galați Prison where a climate of fear was evident. The report details several allegations of physical ill-treatment including sexual abuse by staff, and raises serious concerns over the lack of recording of injuries by the health care service and failures to investigate allegations effectively. The CPT is equally unconvinced by the effectiveness of the post-visit inspection undertaken by the Ministry of Justice at Galați Prison. Consequently, it recommends that the Romanian authorities initiate an independent prosecutorial inquiry into allegations of ill-treatment by staff at Galați Prison.

More generally, the report stresses the need for prison staff to be held accountable for the performance of their duties, including safeguarding the physical and mental integrity of prisoners. Particular emphasis is placed on the supervisory responsibilities of senior and middle managers paying special attention to the actions of staff under their responsibility and on prison officers being trained in control and restraint techniques. Further, the management in every prison should reiterate to all prison staff that verbal abuse, notably of a racist nature, and goading of prisoners is unprofessional and not acceptable. Moreover, all prison officers, as part of their basic education, must be trained in how to interact with and offer support to prisoners with disabilities.

The CPT has long questioned the *raison d'être* and *modus operandi* of the masked intervention groups that operate in those establishments which accommodate inmates under the maximum security regime. In the light of the delegation's findings during the 2018 visit of repeated and numerous detailed allegations of ill-treatment by members of the intervention groups, the CPT believes that the time has come for the national authorities to reconsider their continued existence. Instead, a system of first-responders could be established, combined with an increase in the staffing complement on the maximum-security regime wings and the adoption of a dynamic security approach. At the same time, the CPT recognises that there may be a need for specialised intervention groups to be established at the national or regional level to manage serious prison disturbances and it outlines a number of basic precepts that should govern their functioning. In this context, the report comments on the July 2016 riots and the investigations into allegations of ill-treatment by various intervention units during these riots.

Several episodes of inter-prisoner violence are documented, notably in relation to young adult prisoners who have been severely ill-treated and sexually abused in their cells by other prisoners. The situation was particularly worrying at Bacău Prison, where the CPT's delegation had to intervene to have three vulnerable prisoners taken out of a cell where they were being severely abused. The authorities' duty of care for prisoners requires that each prison establish a clear anti-bullying strategy. To begin with, a cell-share risk assessment process must be put in place in every penitentiary establishment for each person entering prison before they are placed in an admission cell, followed by drawing up and implementing an individualised risk and needs assessment. Part of the strategy to combat inter-prisoner violence must include investing far more resources in recruiting additional staff and developing their professionalism and training, as well as offering prisoners a purposeful regime and decent conditions.

Further, the report analyses several deaths in prisons and recommends that a thorough investigation be systematically carried out into every death in prison by an authority independent of the prison system. Such investigations must ascertain, *inter alia*, the cause of death, the facts leading up to the death, including any contributing factors and whether the death might have been prevented.

In all the prisons visited, the CPT's delegation noted that efforts were being made to expand the range of activities on offer to prisoners. However, it is evident that much more needs to be done to provide prisoners with purposeful activities with a view to preparing them for reintegrating into the community. It is also important that inmates are more involved in the development of their sentence plans. The CPT is particularly critical of the regime for remand prisoners, who were confined to their cells for 21 hours or more a day; it recommends that a comprehensive regime of out-of-cell activities be put in place, including at least two hours of outdoor exercise a day in reasonably sized yards.

The CPT retains serious misgivings about the organisation and review of the maximum-security regime. It is critical of the systematic allocation of prisoners to a high-security regime based only on their sentence. Instead, the CPT advocates that placement be based on an individual risk assessment of the prisoner's behaviour and the threat posed to the safety and security of staff and other prisoners. Maximum security regime prisoners spend up to 22 hours a day locked in their cells, with little access to any purposeful activities. This poor regime, exacerbated by the lack of positive relations with staff and the presence of members of the intervention team, meant that these units often operated as a punishment additional to the sentence handed down by the courts. The authorities should review the manner in which the maximum security regime is applied.

Material conditions in all the prisons visited were generally poor (e.g. flaking walls, humid, poor access to natural light and inadequate ventilation; sanitary annexes often had mould on the ceilings and walls, rusting pipes and broken fixtures). For example, at Bacău Prison, 18 young adults in pre-trial detention were held in a single dilapidated and overcrowded cell measuring a mere 26 m<sup>2</sup>. The young men were confined to their cell for 21 to 22 hours a day for months on end. Their situation was akin to that of caged animals. A series of recommendations are made urging the authorities to provide decent living conditions for all prisoners.

As was the case during previous visits, meagre and inadequate portions of food were provided to inmates at the prison establishments visited; the absence of fruit and vegetables was striking. The quality and quantity of food provided should be improved.

The report also examines the situation of women inmates held at Bacău Prison. In the light of the lack of purposeful activities on offer, the poor material conditions and overcrowding, and given that the prison was a long distance from the homes of the women, the authorities should reconsider whether this prison is able to cater effectively to the needs of women prisoners. The CPT also recommends that the situation of female prisoners accommodated temporarily in the other prison establishments visited be improved. In particular, all staff working with women prisoners should receive training to enable them to understand and attend to their biology and gender specific needs.

The findings of the 2018 visit showed that the health care services in the prisons visited were in many instances not providing an adequate standard of care. Conflicts of interest of health care staff represented a major underlying problem which eroded the patients' trust in their clinicians. The authorities should act to ensure that clinical staff are truly independent of prison staff. To this end, serious consideration should be given to the transfer of responsibility for clinical staff to the Ministry of Health. The report also makes a series of recommendations to improve the quality of care for prisoners, including: increasing staffing levels; furnishing all prisons with basic and emergency medical equipment; guaranteeing medical confidentiality; improving the recording of injuries; ensuring comprehensive medical screening upon admission to prison; and the adoption of a comprehensive strategy to assist prisoners with drug-related problems. The lack of psychiatric input was evident in all the prisons visited and inmates suffering from a mental health illness had to cope with conditions of detention which impaired their mental and physical health. All prisons must have appropriate psychiatric input from both a psychiatrist and nurses dedicated to mental health, and the authorities should carry out a comprehensive review of the way in which psychiatric care is provided to prisoners.

Finally, the report comments on the importance of establishing proper reception procedures for newly admitted prisoners, and it recommends reinforcing custodial staffing levels and initial and in-service training for staff. As regards discipline, the CPT is critical of the fact that self-harm and attempted suicide incidents are treated as disciplinary offences; it also recommends that restrictions on visits should not be imposed as a disciplinary punishment. Further, any segregation of prisoners for security or administrative reasons should be surrounded by proper guarantees, including a review procedure. As regards contacts with the outside world, open visits for all prisoners should be the rule, with closed visits as the exception, and further efforts should be made to promote contacts between prisoners and their families.

## **I. INTRODUCTION**

### **A. The visit, the report and follow-up**

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a visit to Romania from 7 to 19 February 2018. The visit formed part of the CPT’s programme of periodic visits for 2018 and was the Committee’s eleventh visit to the country.

The list of law enforcement and prison establishments visited by the CPT’s delegation can be found in Appendix I.

2. The visit was carried out by the following members of the CPT:

- Therese Rytter (Head of the delegation)
- Régis Bergonzi
- Joan Cabeza
- Philippe Mary
- Hans Wolff.

They were supported by Hugh Chetwynd, Head of Division, and Christian Loda of the Committee's Secretariat, and assisted by Patrizio Gonnella, Chairman of the Italian Observatory of Prisons “Antigone”, Italy, Rachael Pickering, Clinical Forensic Physician and Prison Health General Practitioner, United Kingdom (experts) and Luana Audrey Chirita, Narcisa Grecu, Maria Moldovan, Mariana Petrisor and Claudia Popa (interpreters).

3. The report on the visit was adopted by the CPT at its 96<sup>th</sup> meeting, held from 2 to 6 July 2018, and transmitted to the Romanian authorities on 30 July 2018. The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests the Romanian authorities to provide within six months a response containing a full account of action taken by them to implement the Committee’s recommendations and replies to the comments and requests for information formulated in this report. As regards the recommendation in paragraph 56, the CPT wishes to receive a response within three months.

### **B. Context of the visit and cooperation encountered**

4. During the visit, the delegation held consultations with Tudorel Toader, Minister of Justice, Marieta Safta, State Secretary of the Ministry of Justice, Daniel Robert Marin, State Secretary of the Ministry of Internal Affairs and Marian Dobrică, Director General of the Penitentiary Administration as well as with senior officials from the Ministries of Health, the Interior and Justice. The delegation also met representatives of the Office of the Prosecutor attached to the High Court of Cassation and Justice.

In addition, meetings were also held with the Ombudsman, Victor Ciorbea, and members of the National Preventive Mechanism (NPM) as well as with representatives of civil society active in areas of concern to the CPT.

A list of the persons met can be found in Appendix II.

5. The co-operation provided by the national authorities in facilitating the visit was, on the whole, excellent. The delegation was granted immediate access to the detention facilities it wished to visit and to the persons it wanted to interview, and most of the information required to carry out its task was promptly provided. In particular, the delegation would like to thank the CPT liaison officers for the assistance provided during the visit.

6. The principle of cooperation set out in Article 3 of the Convention is not limited to steps taken to facilitate the task of visiting delegations. It also requires that decisive action be taken to improve the situation in the light of the Committee's key recommendations. In this respect, the CPT has noted a number of positive developments regarding the situation in both police arrest detention centres and prisons. Nevertheless, much still needs to be done to provide detained persons with decent living conditions. Moreover, the CPT is concerned to note that little or no action has been taken in respect of certain recommendations made in previous reports, in particular as regards the situation of maximum security regime prisoners, the operation of the prison intervention teams and the provision of health care in prisons and arrest detention centres.

Having regard to Articles 3 and 10, paragraph 2, of the Convention,<sup>1</sup> the CPT urges the Romanian authorities to take concrete measures to address the recommendations in this report, including as regards the specific issues highlighted above.

7. At the end of the visit, the delegation presented its preliminary findings to the Romanian authorities. At that meeting, it made an immediate observation under Article 8, paragraph 5, of the Convention establishing the CPT and requested that the central authorities carry out a comprehensive external review into ill-treatment by prison staff at Galați Prison.

By communication of 23 May 2018, the Romanian authorities provided information on the action taken in respect of the above immediate observation as well as on other matters raised by the CPT's delegation during its preliminary observations. This information has been taken into account in the relevant sections of the present report. However, the CPT wishes already to note that it is particularly worried by the response provided by the authorities in relation to the investigation into the allegations of ill-treatment by prison staff at Galați Prison and recommends that additional action is required (see paragraph 56).

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<sup>1</sup> Article 10, paragraph 2, reads as follows: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter."

### C. National Preventive Mechanism

8. Romania ratified the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in 2009 and in December 2014 the People's Advocate of Romania (Ombudsman) was designated in law as the National Preventive Mechanism. The functions of the NPM are performed by a specific department under the supervision of a Deputy Ombudsman. The NPM has 23 budgeted positions of which 15 were filled at the time of the visit (among whom were lawyers, doctors, psychologists and social workers). The NPM has established partnerships with NGOs nationwide and with various professional associations (doctors, psychologists, social workers and sociologists) which have assisted it in carrying out some 80 visits in the course of 2017 and 85 in 2016.

In summary, the CPT notes positively that the NPM is now operational and regularly conducts visits to establishments where persons are deprived of their liberty, and that it issues both regular and special reports on such visits. Nevertheless, the NPM staff remained involved in the processing of individual complaints lodged by persons deprived of their liberty and the NPM budget line was part of the People's Advocate overall budget. In line with the Guidelines adopted by the UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) in November 2010, **the CPT recommends that the functional and financial independence of the NPM is ensured.**<sup>2</sup> Further, **the vacant posts in the NPM's staffing table should be filled and it would also be preferable for staff of the NPM not to be involved in processing individual complaints.**<sup>3</sup>

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<sup>2</sup> See Article 18 of the Optional Protocol to the UN Convention against Torture.

<sup>3</sup> See also paragraph 73 of the substantive section of the [27th Annual Report of the CPT](#).

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Law enforcement agencies

#### 1. Preliminary remarks

9. The provisions governing the police custody (*reținerea*) of suspects and their placement in detention on remand (*arestarea preventivă*) in an arrest detention centre (*Centrul de Reținere și Arestare Preventivă*) have remained unchanged since the 2014 visit;<sup>4</sup> In brief, police custody may last up to 24 hours and has to be ordered by a senior judicial police officer or a prosecutor after having interviewed the person concerned in the presence of the lawyer of his or her choice or of an *ex officio* lawyer. Within that time limit, the person concerned must be brought before the competent judge for rights and liberties and a decision taken to order placement in remand detention.<sup>5</sup> Police remand detention is limited to a maximum of 30 days, which may be extended by renewable periods of 30 days up to a total of 180 days; it is enforced in the 52 arrest detention centres located throughout the country.<sup>6</sup>

Furthermore, administrative detention by the police is still possible for a period of 24 hours for the purposes of identification or preliminary investigations in the event of danger to the life of another person or public disorder, or if a person is suspected of having committed an offence and his or her identity cannot be established.<sup>7</sup> At the outset of the visit, the CPT's delegation was informed that draft legislation prepared by the Ministry of the Interior proposed to limit the period of administrative detention to a maximum of 12 hours<sup>8</sup> and that during this period the detained person would benefit from a number of safeguards including the right to be assisted by a lawyer and to have a confidential conversation with him/her.<sup>9</sup> This is a positive step forward.

10. As regards the deprivation of liberty of juveniles, the Code of Criminal Procedure (CCP) provisions applicable to adults (including those relating to its duration) also apply to juveniles.<sup>10</sup> That said, Article 243 of the CCP stipulates that the arrest and detention on remand of a juvenile may only be ordered on an exceptional basis if the effects of the deprivation of liberty are not disproportionate to the objective pursued by such a measure and its duration must be assessed in accordance with the age of the person in question.

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<sup>4</sup> See Article 23, paragraphs 3 and 4 of the Constitution and Articles 205, 209, 233 and 236 of the CCP.

<sup>5</sup> Article 209, paragraph 3, of the CCP stipulates that although the maximum period of police custody may not exceed 24 hours, the time strictly necessary to take the suspect or defendant to the premises of the judicial bodies shall not be included within the 24-hour time period.

<sup>6</sup> Pursuant to Article 236 of the CCP.

<sup>7</sup> Article 31 of Law No. 218/2002 on the organisation and functioning of the police of 23 April 2002.

<sup>8</sup> The initial period of eight hours can be extended by an additional four hours by a written reasoned decision of the police authorities in the event that the identity of the detained person cannot be established.

<sup>9</sup> A draft legislation bill was adopted on 22 February 2018 by the Government and referred to the Parliament for its adoption.

<sup>10</sup> See Article 504 of the CCP.

In addition, Article 505 of the CCP still provides that, for juveniles aged over 16, it is for the judge to decide whether the presence of the parents, legal representative or child protection services is necessary; in any case, their absence is not an impediment to the procedure. Given that all persons under 18 years of age are children and should be treated as such,<sup>11</sup> the CPT considers that the presence of a trusted person during these procedures must be obligatory (see also paragraph 29),<sup>12</sup> as should that of a lawyer.

**The CPT calls upon the Romanian authorities to ensure that all juveniles are accompanied by a trusted adult and a lawyer during all police and prosecutorial procedures; the relevant legislation should be amended accordingly.**

11. In the course of the 2018 visit, the CPT's delegation examined once again the treatment and conditions of detention of criminal suspects and remand prisoners held at arrest detention centres. To this end, it visited 10 of the 52 establishments (i.e. in Bucharest and in the counties of Bacău, Bistrița and Năsăud, Cluj, Galați and Iași).

According to the Romanian authorities, the median average period of detention in arrest detention centres is around 60 days. Statistics for 2017 show that 6% of persons were held for periods exceeding 60 days (i.e. 1,182 persons). The findings of the CPT's delegation confirmed that most persons appeared to spend around two months in the arrest detention centres but it was not uncommon to meet persons who had been held there for four or five months. Contrary to the situation found during previous visits, hardly any sentenced prisoners were held in the centres.<sup>13</sup> However, despite the reduced time periods, the findings of the 2018 visit show clearly that neither the regime nor the material conditions in the centres visited are currently appropriate for stays of more than a few days (see Section 4 below).

## 2. Ill-treatment

12. As was the case during the 2014 periodic visit, the CPT's delegation received hardly any allegations of physical ill-treatment by custodial staff at the arrest detention centres visited. On the contrary, many detained persons stressed that those staff members behaved correctly towards them. The CPT's delegation gained a generally positive impression of the professionalism of the custodial staff working in arrest detention centres and noted that they were provided with specific training and that they were hierarchically separated from ordinary police staff.<sup>14</sup> However, the delegation did receive several allegations of psychological ill-treatment and verbal abuse, including of a misogynist nature, notably at Galați and Iași arrest detention centres.

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<sup>11</sup> See Article 1 of the United Nations Convention on the Rights of the Child.

<sup>12</sup> Also see paragraph 15 of Recommendation Rec (2003) 20 of the Committee of Ministers of the Council of Europe concerning new ways of dealing with juvenile delinquency and the role of juvenile justice.

<sup>13</sup> Sentenced women prisoners continued to be held for periods up to a week at Bucharest central arrest detention centre.

<sup>14</sup> It is also positive that custodial staff at all arrest detention centres visited were now working 12-hour shifts instead of the 24-hour shift pattern observed in the past and that all arrest detention centres were adequately staffed.

Similarly, the majority of detained persons interviewed by the CPT's delegation stated that they had been treated correctly by police officers at the time of their deprivation of liberty and until the moment they were transferred to an arrest detention centre. Nevertheless, a large number of allegations of ill-treatment of detained persons by the police were received. They consisted primarily of slaps, punches, kicks and baton blows. The alleged ill-treatment occurred at the moment of arrest once the persons had been brought under control and handcuffed, during transportation and at the police station, apparently for the purpose of forcing a confession to one or more criminal offences or for informal punishment.

Further, several persons stated that they had spent many hours in police stations handcuffed to items of furniture prior to an interview or before being transferred to an arrest detention centre and that during their time in the police station they had not been offered any food and water. In addition, the delegation received one credible allegation of the use of a hand-held electro-shock device by a police officer on a detainee during the period of administrative detention for the purposes of identification spent at Bistrița central police station. Finally, the CPT's delegation also received several allegations of verbal abuse, including of a racist nature, which had been addressed to persons notably at the time of their arrest and in the course of being questioned at a police establishment.

13. The CPT considers that there is no justification for criminal suspects to be handcuffed to fixed objects in a police station prior to their interview or pending their transfer to an arrest detention centre. The Committee also considers that persons detained at police stations for several hours should have ready access to drinking water and be given food at appropriate times. **The CPT recommends that steps be taken to ensure that handcuffing of criminal suspects to objects in police stations be ended and that all persons held in police stations be offered ready access to drinking water and given food at appropriate times.**

14. In a number of cases, the delegation gathered medical evidence and other documentation which were consistent with the allegations of ill-treatment made by detained persons. The cases below are mentioned for the purposes of illustration. While some of the persons met by the delegation stated that they wanted to make a complaint about the ill-treatment,<sup>15</sup> others provided information on the condition that their names would not be divulged.

- i) A person apprehended on 13 February 2018 in his village outside Galați following a verbal altercation with a police patrol, alleged that the officers had subsequently subjected him to several punches and kicks to various parts of the body while he was immobilised on the ground. When examined by the delegation's forensic doctor a few days later, he displayed the following injuries: yellow tender bruise underneath the left eye (2 cm x 1.5 cm); bruise behind the left ear (3 cm x 4 cm); yellow tender bruise on the area of the left clavicle (3 cm x 2.5 cm); clusters of petechial haemorrhages over the shoulders and lower abdomen; and various abrasions associated with dried blood, heaped skin, scabbing and/or erythema on the left shoulder blade, the right groin, the right hand, the right knee and left shin. The injuries were assessed by the CPT's forensic doctor as being consistent with his allegations. Only a small minority of these had been even partially recorded in his medical file upon admission to the Galați arrest detention centre on 15 February 2018.<sup>16</sup>

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<sup>15</sup> In this respect, it is incumbent upon each person to lodge a complaint with the relevant authorities as providing the CPT with details of an allegation of ill-treatment does not constitute an official complaint. This was made clear to the persons met by the CPT's delegation during the visit.

<sup>16</sup> The medical file only contained the following: "*Ecchymosis on the right arm and behind the left ear*".

- ii) A young adult alleged that he was punched in the head and stomach at the time of his apprehension in Chiajna on 30 January 2018. Subsequently, at the local police station, while he was still handcuffed, two police inspectors allegedly punched him in the face and upper abdomen and, when he had fallen on the floor, allegedly kicked him in his back apparently to force him to confess to a theft. Upon admission to the Bucharest central arrest detention centre, he did not make any allegation as two police officers were present in the medical room and he had previously been warned not to complain in front of the doctor. He was re-examined by a doctor in private after complaining about stomach pains following his transfer to the Bucharest arrest detention centre No. 2, whereupon he recounted the alleged ill-treatment. The doctor recorded the following entry in his medical file on 2 February 2018: *“traumatic bruising of the left eye and of the lower lip”*.
- iii) A person apprehended on 25 January 2018 by a group of police officers alleged that they had punched him in the head and had kicked his legs several times. Further, after having been handcuffed while lying prone on the floor, he was allegedly sprayed in the face with teargas. Subsequently, while still handcuffed he alleged that he was repeatedly slapped and kicked by police officers in an interview room at Bucharest Police Station No. 8. Thereafter, he was allegedly subjected to baton blows and kicks to his head and body until he lost consciousness. Examined by the delegation’s doctor two weeks later he still displayed several injuries which were assessed as compatible with his allegations: bruising and scabbing on his left (3 cm) and right wrists (4.5 cm), laceration on his left hand (2 cm), wound on his head with three black sutures on surrounded erythema (4 cm), mild erythema on both ankles and erythema on the left side of the thorax (10 cm x 20 cm). Further, his jumper still smelled of tear gas.
- iv) A person (BP) apprehended on 3 November 2017 in Bacău, stated that when he had complained about the pain caused by the tight handcuffing of his hands behind his back in the police vehicle, the police officers stopped the van, took him out and proceeded to punch and kick him several times in the head and torso. He was allegedly denied access to medical assistance both at the police station and at the Bacău arrest detention centre in an attempt to avoid his injuries being detected. At the time of the CPT’s visit three months later, the person still displayed yellow-brown bruising (1.5 cm in diameter) on the right side of his forehead and a yellow-green faint bruise and bony tenderness around his right eye which was visible with the aid of a pen torch. This was assessed as consistent with his allegations by the CPT’s delegation doctor. The person filed a complaint with the Bacău Prosecutor on 21 December 2017 (see paragraph 23).
- v) Another person (LM) alleged that on 29 August 2016 a group of police officers in civilian clothes (some of whom had apparently smelt of alcohol) barged into his house late at night, handcuffed him and pushed him to the floor. While lying on his back on the floor he was subjected to multiple punches and kicks. At one moment, a policeman knelt down on him forcefully, with his knee impacting the person’s ribcage, and punched him in the head. Subsequently, he was taken to the police station in Tecuci and after complaining of pain and severe respiratory problems he was transferred to the Saint Andrew Hospital of Galați where the following diagnosis was established and a surgical operation performed: *“post-traumatic pneumothorax, severe respiratory insufficiency, multiple fracture of the ribs, laceration and hematoma of the lung, ecchymosis of the nasal pyramid, subcutaneous latero-thoracic emphysema”*.

A forensic medical examination of the person conducted on 23 November 2016 by the Institute of Forensic Medicine of Galați concluded that the “*serious traumatic injuries described could have been produced by an act of physical assault or being hit with a hard object*”. See also paragraph 23 on the investigation into this case.

15. The Committee is aware of the proclaimed commitment of the Ministry of the Interior and of the Romanian police to a zero tolerance approach towards any act of torture and physical ill-treatment by police staff. It has also taken note of the various training modules (both initial and on-going) in which police officers at various levels have been involved over the past years as regards the safeguards surrounding the detention of persons deprived of their liberty by the police.<sup>17</sup> Nevertheless, in the light of the delegation’s findings in the course of the 2018 periodic visit, it is incumbent on the Romanian authorities to take the necessary measures to pursue its efforts to end ill-treatment by law enforcement officials through a multifaceted approach, comprising: a competitive recruitment process of police officers based upon strict selection criteria; an educational training course for all new recruits and existing police officers with a particular emphasis on advanced methods of crime investigation (see also paragraph 16); the accountability of senior officers for their line management responsibilities; the application of appropriate sanctions (criminal and disciplinary) for the perpetrators of ill-treatment and for those who fail to prevent it; and the existence of effective and independent procedures for examining complaints and other relevant information regarding alleged ill-treatment by police officers.

In fact, the seriousness of the information gathered in the course of the 2018 visit concerning ill-treatment calls for immediate and determined action by the authorities. The Romanian authorities must recognise that the existence of ill-treatment by police officers is not the result of a few rogue officers but appears to be an accepted practice within certain police units. The authorities should vigorously explore all means to ensure that the message of zero tolerance of ill-treatment of detained persons reaches law enforcement officials at all levels; they should be made aware, through concrete action, that the government is resolved to stamp out ill-treatment of persons deprived of their liberty. Combating ill-treatment entails not only the adoption of the appropriate legal norms but also taking the necessary steps to ensure their implementation including the timely transmission of information on allegations of ill-treatment to the competent judicial and prosecutorial authorities.

**The CPT reiterates its recommendation that the Minister of the Interior and the General Inspectorate of the Romanian Police deliver a strong message that the ill-treatment of detained persons (including verbal abuse, threats and psychological) is illegal, unprofessional, and will be the subject of appropriate sanctions. This message should be reiterated at regular intervals at the level of county police directorates. Further, the relevant authorities should ensure that an effective investigation is carried out into every allegation of ill-treatment and that senior officers are held accountable for their line-management responsibilities.**

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<sup>17</sup> See in particular paragraphs 26, 27 and 28 of the Addendum Information received from Romania on follow-up to the concluding observations on the second periodic report of Romania of the United Nations Committee against Torture of 7 June 2016 under the reference CAT/C/ROU/C/2/Add.1.

16. Moreover, the Committee stresses that it is necessary for the competent authorities to promote a fundamentally different approach towards methods of police investigation. It is self-evident that a criminal justice system which places a premium on confession evidence creates incentives for officials involved in the investigation of crime to use physical or psychological coercion. First and foremost, the precise aim of questioning by the police must be made crystal clear: the aim should be to obtain accurate and reliable information in order to discover the truth about the matter under investigation, not to obtain a confession from somebody already presumed, in the eyes of the interviewing officers, to be guilty.

In addition to the measures highlighted above, such an approach must involve the adoption of detailed instructions on the proper questioning of criminal suspects. Specific training on professional interviewing techniques should be regularly provided to police operational officers and investigators. The training should place particular emphasis on an intelligence-led and physical evidence-based approach, thereby reducing reliance on information and confessions obtained during questioning for the purpose of securing convictions.

A system of ongoing monitoring of police interviewing standards and procedures should also be implemented in order to facilitate the investigation of any allegations of ill-treatment. This would require an accurate recording of police interviews which should be conducted with video recording equipment. It should also be required that a record be systematically kept of the time at which interviews start and end, of any request made by a detained person during an interview, and of the persons present during each interview.

**The CPT recommends that the Romanian authorities act to ensure that crime inspectors carry out their duties in accordance with the relevant provisions of Article 106 of the Criminal Procedure Code. To this end, professional training for these officials should be provided regularly; it should cover professional and non-coercive interview and investigation techniques, as well as the prevention of ill-treatment.**

**More generally, the CPT would like to be informed of the different elements that ensure that recruitment procedures for police officers are rigorous and consist of a competitive process based upon strict selection criteria such as aptitude for inter-personal communication and proven skills in defusing situations which could otherwise turn into violence.**

17. In its previous reports, the CPT has already emphasised the important role that health care staff can play in the prevention of ill-treatment by law enforcement agencies. In this respect, the Committee acknowledges the efforts invested by the Romanian authorities since the 2014 periodic visit, in particular in relation to the reorganisation of the health care units within the arrest detention centres. The primary aim has been to strengthen their independence and to clarify their duties through the issuance of a specific Instruction in April 2016 on the health care activities in arrest detention centres.<sup>18</sup> The Instruction prescribes, *inter alia* that doctors working in arrest detention centres are under an obligation to record traumatic injuries observed on detained persons upon their admission on a designated form, which includes body chart templates, and immediately report such observations to the competent prosecutorial authorities. Further, although some thematic training sessions on the Istanbul Protocol had been offered to health care staff of the Ministry of the Interior since 2016, none of the health care staff met by the CPT's delegation had received practical training on how to describe injuries in accordance with the protocol.

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<sup>18</sup> See in particular the Procedure of the Medical Directorate of the MoI PS-01-DM No. 4273029/25.04.2016.

**The CPT recommends that the Romanian authorities review the existing training module on the Istanbul Protocol in order to strengthen those aspects covering the accurate description of injuries observed on detained persons.**

18. The CPT's delegation noted that most persons held at an arrest detention centre underwent a medical examination by a doctor or a qualified nurse within 72 hours of their admission to an arrest detention centre.<sup>19</sup> The medical examination in question generally consisted of a visual check in order to identify signs of physical aggression from the side of law enforcement officials and a screening for signs of self-harm/suicide risks, drug addiction, mental health disorder and infectious diseases.<sup>20</sup> Further, the doctors working in the arrest detention centres were in general reporting to the judicial authorities any findings of traumatic lesions observed on detained persons during the medical examinations upon admission. These are positive steps.

Nevertheless, **the CPT recommends that the initial medical check-up should systematically take place within 24 hours of a person's admission to an arrest detention centre. Any information indicative of ill-treatment be systematically reported by health care staff to the competent prosecutorial authorities.**

19. The findings of the 2018 visit indicate that the confidentiality of medical examinations of criminal suspects upon their admission was not always respected in the arrest detention centres visited. In practice, one or two police officers were often present in the examination room. The Romanian authorities maintain, and it is confirmed by the above-mentioned Instruction, that the presence of police officers in medical rooms during the examination of criminal suspects upon their admission to an arrest detention centre takes place only upon the specific request of the medical staff for security reasons. However, in practice their presence is routine and not based upon any risk assessment. The Committee reiterates that there can be no justification for custodial staff being systematically present during such medical examinations: their presence is detrimental to the establishment of a proper doctor-patient relationship and usually unnecessary from a security point of view. Alternative solutions can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality. One possibility might be that the medical examination is attended by two members of the health care staff or alternatively the installation of an alarm system, whereby a doctor would be in a position to rapidly alert custodial officers in those exceptional cases when a detainee becomes agitated or threatening during a medical examination.

Further, it should be recalled that medical confidentiality extends to the medical files of each detainee. In the course of the visit, the CPT's delegation found that medical records were not always properly kept in locked cabinets to which police officers had no access. For example, at Galați arrest detention centre the general register on traumatic injuries was kept in an unlocked medical room to which custodial staff had access.

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<sup>19</sup> Pursuant to Article 106 of the Implementing Regulation of the Law No.254/2013.

<sup>20</sup> See Article 26 of the Regulation on the organisation and functioning of arrest detention centres which came into force in March 2018 after the CPT's visit.

**The CPT again recommends that the Romanian authorities ensure that the relevant legislation on the confidentiality of medical examinations of persons deprived of their liberty is complied with, in the light of the above remarks. That is, that all medical examinations of detained persons are conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of non-medical staff. Further, steps should be taken to guarantee the confidentiality of medical records in all arrest detention centres.**

20. The description of injuries on persons admitted to an arrest detention centre was predominantly cursory, and doctors were making little effort to assess the compatibility of the injuries with the detained persons' allegations of ill-treatment. For example, none of the 17 injury reports drawn up by the health care staff at the central arrest detention centre of Bucharest during the three months prior to the CPT's visit complied with an adequate standard of injury documentation: body map templates merely displayed an "x" on various parts of the body without any description of positive findings and their compatibility with the detained person allegations.

The record drawn up after the medical screening of a person admitted to an arrest detention centre pursuant to Articles 71-73 of the Law No. 254/2013 should contain:

- i) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment),
- ii) a full account of objective medical findings based on a thorough examination, and
- iii) the health care professional's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings.

The record should also contain the results of additional examinations carried out, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed.

Recording of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with body charts for marking traumatic injuries that will be kept in the medical file of the prisoner. Further, it would be desirable for photographs to be taken of the injuries, and the photographs should also be placed in the medical file. In addition, a special trauma register should be kept in which all types of injury observed should be recorded.

**The CPT recommends that the Romanian authorities take the necessary steps to ensure that the above-mentioned procedure be introduced and diligently followed at all arrest detention centres.**

21. As regards the effectiveness of investigations into allegations of ill-treatment by law enforcement officers, the Committee takes positive note of the adoption in October 2015 by the State Prosecutor of the Strategy on the Efficiency of the Investigations into allegations of ill-treatment by State agents” (Order No. 214/2015 of the Prosecutor’s Office attached to the High Court of Cassation and Justice). The Strategy provides for the appointment of a specialised prosecutor within each Court of Appeal who is responsible for investigating cases of ill-treatment of persons deprived of their liberty by law enforcement officials pursuant to Articles 280 (abusive conduct of criminal investigation), 281 (ill-treatment), 282 (torture) and 296 (abusive behaviour) of the Criminal Code (CC). Further, the Strategy also introduces clear monitoring and reporting guidelines within the State Prosecutor’s office in order to ensure the efficiency of those investigations.

The figures provided by the Romanian authorities to the CPT prior to the 2018 visit indicate that in the period between January 2013 and September 2017 a total of 1,782 cases of alleged misconduct of police officers vis-à-vis persons deprived of their liberty had been referred to the prosecutorial authorities which resulted in 21 indictments being served on 53 police officers.<sup>21</sup> The CPT has noted that whenever cases of alleged ill-treatment by police officers are prosecuted, the officers are indicted under Article 296 (abusive behaviour) of the CC and not under Articles 281 (ill-treatment) or 282 (torture). For example, 1,704 of the above-mentioned cases of alleged police misconduct (i.e. 95%) had been qualified by prosecutors as offences of abusive behaviour under Article 296 of the CC.

**In this context, the Committee would appreciate receiving an explanation as to the reason for the vast majority of alleged ill-treatment cases being prosecuted under Article 296 of the CC rather than under Article 281 or 282.**

22. In the course of a meeting with representatives of the Office of the Prosecutor attached to the High Court of Cassation and Justice, the CPT’s delegation questioned why such a large proportion of cases of alleged ill-treatment cases were prosecuted under Article 296 of the CC. The representatives of the Office of the Prosecutor posited that serious cases would be prosecuted under Article 296, paragraph 2, of the CC, whereby aggravated cases of grievous bodily harm by law enforcement officials could be punished with a penalty of 2 to 7 years of imprisonment if found guilty, instead of six months as provided for in paragraph 1 of Article 296. As an example, a military prosecutor made reference to a recent case of police and military gendarmes controlling a car and subsequently subjecting the occupants to physical ill-treatment before realising that it was a case of mistaken identity. The CPT understands that the officers concerned were indicted on 27 January 2018 by the Court of Appeal of the Timiș County. **The CPT would like to be informed about the outcome of this court case.**

**More generally, the CPT would like to receive information on the outcome of the 21 cases referred to above, including the Article of the Criminal Code under which the officers were indicted and, if found guilty, the sentence imposed.**

**Further, the Committee would also like to be provided with figures on the proportion of the 1,704 cases of alleged abusive behaviour referred to in paragraph 21 above which have been prosecuted under paragraph 2 of Article 296 of the CC for each calendar year. It would also like to receive information on how many of these cases resulted in a guilty sentence and the corresponding length of the sentence in these cases.**

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<sup>21</sup> The data in question concerned only officials of the State Police with the exclusion of the Gendarmerie which as a military corps is subject to military prosecutors.

23. In the course of the visit, the CPT's delegation examined two prosecutorial decisions which dismissed the criminal complaints filed by the two persons who had alleged physical ill-treatment by police officers. Both cases raise some doubts over the effectiveness of the investigations carried out (i.e. whether such investigations complied with the criteria of effectiveness<sup>22</sup>). In particular:

- the investigation into case iv) in paragraph 14 above conducted by the Prosecutor of Bacău concluded on 3 May 2018 that the alleged facts concerning the ill-treatment of the alleged victim had not taken place and the criminal complaint was rejected based on the declaration of the victim who said that he had made a false accusation under the coercion of a co-inmate. The prosecutor appeared not to take into consideration the possibility of the existence of inter-prisoner intimidation and did not interview the co-inmate in question. Further, the prosecutor did not seek to further clarify the compatibility of the medical evidence of the alleged ill-treatment, which was assessed by the CPT's doctor as consistent with his allegations and did not order a forensic medical examination of the inmate;
- the investigation into the case v) in paragraph 14 above concerning the serious injuries allegedly inflicted on a detained person in August 2016 by a group of police officers during his arrest, conducted by the Galați Prosecutor and confirmed by a senior prosecutor in the second instance, concluded on 15 March 2017 that there was no evidence to corroborate the allegations of the alleged victim. That said, both prosecutorial decisions contented themselves with accepting the statements of the police officers in question. Apparently, they did not speak with, for example, the mother of the victim who had been in the house at the time of the apprehension. They also attributed the origin of the serious injuries sustained by the victim to an accidental fall on a barrel as suggested in the testimonies of the police officers. However, the nature of the injuries were as a whole more consistent with a policeman kneeling down with force on the ribcage rather than from him falling on a barrel. Further, the CPT wishes to note that the Galați Prosecutor's mention in the decision of a verbal threat made by the alleged victim against his accomplice, as an argument to weaken the complainant's credibility, is irrelevant and has no bearing on the case of alleged ill-treatment by police officers.

24. An investigation into possible ill-treatment by public officials must comply with the criterion of thoroughness. It must be capable of leading to a determination of whether the use of force or other methods used were or were not justified under the circumstances, and to the identification and, if appropriate, the prosecution and punishment of those concerned. This is not an obligation of result, but of means. It requires that all reasonable steps be taken to secure evidence concerning the incident, including, inter alia, to identify and interview the alleged victims, suspects and eyewitnesses (e.g. police officers on duty, other detainees), to seize instruments which may have been used in ill-treatment, and to gather forensic evidence. Such investigations must also be conducted in a comprehensive manner, i.e. by ensuring that significant episodes and surrounding circumstances indicative of ill-treatment are not disregarded. As regards the two above-mentioned cases, these criteria do not appear to have been met.

**The CPT recommends that all prosecutors mandated to investigate cases of ill-treatment of persons deprived of their liberty by law enforcement officials strictly comply with the above-mentioned criteria of effectiveness, and in particular thoroughness.**

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<sup>22</sup> That is, whether the persons responsible for carrying out such an investigation are independent and impartial vis-à-vis those implicated in the events and whether the investigations are carried out promptly and thoroughly.

### 3. Safeguards against ill-treatment

25. The findings of the 2018 visit to Romania confirm once again that it is during the period immediately after someone is taken into custody that the risk of intimidation and ill-treatment is greatest. This is why the CPT attaches the highest importance to the well-established procedural safeguards from which persons should be able to benefit from the very outset of their deprivation of liberty: the right to inform a relative or a third party of their detention, the right of access to a lawyer and the right of access to a doctor. The CPT considers it just as fundamental for apprehended persons to be expressly informed without delay of all their rights, including those mentioned above.

26. The CCP now expressly provides, in Article 210, that a person has the right, as soon as he or she is arrested, to inform or to have informed of his or her deprivation of liberty a relative or a person of his or her choice. This right may only be delayed for four hours for “*well-grounded reasons which shall be recorded in a report*”.<sup>23</sup> From the information gathered during the visit it transpires that the vast majority of arrested persons had rapidly been able to inform a relative, or have a relative informed, of their situation. Nevertheless, a few persons stated that this right had been delayed for several hours by police officers without a specific reason and in some cases until the first court hearing in front of the judge for rights and liberties.

**The CPT recommends once again that the Romanian authorities ensure that all persons deprived of their liberty by the police are offered the right in practice to inform a relative or a third party of their detention from the very outset of their deprivation of liberty (i.e. with effect from the time at which they are obliged to remain with the police).** The CPT accepts that the exercise of this right could be made subject to certain exceptions designed to protect the legitimate interests of the police investigation, provided those exceptions are clearly circumscribed in law and made subject to appropriate safeguards (e.g. any delay in notification of custody to be recorded in writing with the specific reasons therefor and to require the approval of a senior police officer unconnected with the case at hand or a public prosecutor) as provided for in Article 210, paragraphs 5 and 6, of the CCP.

27. Articles 78, 83, 89 and 209 of the CCP provide for persons suspected of having committed a criminal offence and placed in police custody, arrested or charged, the right of access to a lawyer, and it requires either the body in charge of the investigation or the prosecutor to summon an officially appointed lawyer to a police station if the lawyer named by the person deprived of his or her liberty does not attend within two hours.<sup>24</sup> Further, Article 108, paragraph 3 of the CCP stipulates that criminal suspects must be informed of their right of access to a lawyer prior to the start of the first police interview and that his/her signature in the official records is necessary and the absence of any signature should be duly justified by the police.

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<sup>23</sup> Pursuant to Article 210, paragraphs 5 and 6, of the CCP.

<sup>24</sup> See Article 209(8) and (9) of the CCP.

The majority of persons apprehended by the police with whom the delegation spoke confirmed that they had been granted access to a lawyer (either one of their own choice or one appointed *ex officio*) before being questioned by officers at the police station. However, a large number of persons alleged that police officers had refused to let them contact a lawyer when first brought to the police station. Further, in numerous cases, it appeared that police officers had started to question arrested persons informally before the arrival of the – officially appointed – lawyers and that in a few cases lawyers had not been present at all during the interview. Consequently, the fact that criminal suspects must be informed of their right to a lawyer prior to the start of the first interview, in accordance with Article 108, paragraph 3 of the CCP, does not in practice constitute *per se* a sufficient safeguard. Steps need to be taken to ensure the practical application of the right of access to a lawyer from the outset of a person's deprivation of liberty.

Further, the person concerned should be entitled to have a lawyer present during any interview, whether this is before or after he/she is charged. Any exception to this principle must be justified by well-grounded reasons and must be recorded in writing in the official records pursuant to Article 209, paragraph 7, of the CCP.

In the light of the above, **the CPT recommends that the Romanian authorities ensure that whenever a detained person has made a request to have a lawyer present, police officers delay the beginning of the questioning until the arrival of the lawyer, with the exception of the situation provided for in Article 209, paragraph 7, of the CCP.**

28. In addition, Articles 78, 83, 89 and 209 of the CCP provide for the confidential nature of the conversation between a lawyer and the person suspected of having committed a criminal offence who has been placed in pre-trial detention, arrested or charged. In practice, this appeared to be the exception rather than the rule, as police officers were generally present and within earshot during such conversations, both in police stations and at police arrest detention centres.

The CPT must recall that the right of access to a lawyer must include the right to meet him or her, and to do so in the strictest confidentiality. As a safeguard against ill-treatment (and not just to guarantee a fair trial), it is quite clearly essential for the lawyer to be physically in the presence of the detainee. That is the only way of being able to make a reliable assessment of the physical and psychological state of the person concerned. If the meeting with the lawyer does not take place in private, the detainee might not feel free to reveal how he/she is being treated. Consequently, **the CPT recommends that the Romanian authorities ensure that any person deprived of his or her liberty by the police is able to talk in private to a lawyer, as provided for in law.**

29. Several juveniles of 17 years of age with whom the delegation spoke alleged that they had been questioned by the police without a lawyer in flagrant violation of the relevant provisions of the law.<sup>25</sup> Further, they also stated that they could not avail themselves of the presence of a parent, legal representative or child protection services during the interview as this was for the police to decide, in accordance with Article 505, paragraph 2, of the CCP.

**The CPT calls upon the Romanian authorities to ensure, without delay, that any juvenile taken into police custody benefits from the specific relevant safeguards for which the legislation relating to juveniles provides. Furthermore, those safeguards should apply to all juveniles under the age of 18.**

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<sup>25</sup> See in particular Article 90 of the CCP.

30. The CCP still does not contain a specific provision on the right of access to a doctor for detained persons as from the outset of their deprivation of liberty. In practice, detained persons were allowed to consult a doctor only at the time of their transfer to the arrest detention centre (i.e. after 24 hours of their deprivation of liberty), with only emergency medical assistance provided beforehand. Access to a doctor during the first hours of deprivation of liberty is still not viewed as a safeguard against ill-treatment. In this respect, the specific provisions of Article 106, paragraph 1, of the CCP<sup>26</sup> cannot be a substitute for an express right of access to a doctor from the very outset of deprivation of liberty, even when taking into consideration the specific features of the Romanian legal system.

**The CPT calls upon the Romanian authorities to adopt a legal provision which expressly guarantees the right of access to a doctor to all persons deprived of his or her liberty by the police as from the outset of his or her deprivation of liberty (i.e. from the time at which the person concerned is obliged to remain with the police), as opposed to the obligation for the police to provide medical assistance.**

31. The persons met by the delegation stated that they had been orally informed of their rights in the first few hours following their arrest in compliance with Article 210 of the CCP.

#### **4. Arrest detention centres**

##### a. introduction

32. The CPT has long been critical of the prolonged detention of remand prisoners in arrest detention centres. It continues to believe that detained persons are exposed to a greater risk of intimidation, pressure and even ill-treatment in police detention facilities. These concerns were accentuated by the poor material conditions, poor health care and impoverished regime for persons held in arrest detention centres. Even for short periods, the cumulative effect of these deficiencies may, in the CPT's view, amount to inhuman and degrading treatment.

In their response to the 2014 visit report, the Romanian authorities have reiterated their commitment to maintaining arrest detention centres for holding criminal suspects and remand prisoners in the early stages of the investigation for reasons of administration of justice. They recalled that a general programme of refurbishment of the 52 arrest detention centres was launched in 2013 and that, partially funded by the Norwegian Government, it will provide for the construction of 20 new arrest detention centres and the refurbishment of 12 in the period up to 2023. The CPT has taken note of this position. Nevertheless, **the CPT reiterates its recommendation that persons on remand should not be held in police detention facilities. It is, in the Committee's view, unacceptable for the police authorities to continue to hold detainees for months on end.**

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<sup>26</sup> Article 106, paragraph 1 of the CCP reads as follows: "*If, during the hearing of a person, this person shows visible signs of excessive fatigue or symptoms of a disease that affect their physical or psychological capacity to participate in the hearing, judicial bodies shall order cessation of the hearing and, if the case, shall procure that the person is examined by a physician*".

Over and above the material conditions and the poor regime on offer, persons held in police custody are more exposed to possible ill-treatment and coercion. **The Romanian authorities should seriously consider placing the arrest detention centres under the authority of the Ministry of Justice and the National Prison Administration. This would not prevent the police from interviewing detained persons in the arrest detention centres, whenever required for the purposes of the investigation, in the relevant interview rooms within arrest detention centres which are foreseen by the legislation.**<sup>27</sup>

33. A person remanded in custody shall upon his/her admission to an arrest detention centre undergo a series of procedures<sup>28</sup> which include the possibility to inform a third party of his/her detention and be the subject of a complete medical examination within 72 hours of admission and a full body search. These actions were normally performed promptly at all visited arrest detention centres. However, several detained persons met by the delegation (including juveniles) complained that they had not been given the possibility to inform their families of their detention for several days upon their admission to an arrest detention centre (i.e. until they were granted the possibility to make a phone call or because they did not possess any credit for a phone card). Further, with the exception of Cluj arrest detention centre, detained persons (including juveniles and young adults) were systematically completely naked when the full body searches were carried out upon their admission, and included having to squat in the presence of custodial staff.

**The CPT recommends that the Romanian authorities ensure that all persons admitted to an arrest detention centre are granted the right to notify a close relative or third party about their situation as from the very moment of their admission to an arrest detention centre (notwithstanding the recommendation in paragraph 26 above).**

**The Committee also recommends that all newly-arrived detained persons to an arrest detention centre are systematically provided with as soon as possible, and no later than 24 hours after their admission, a comprehensive medical examination by a health care professional.**

34. Further, as regards searches of detained persons upon admission to arrest detention centres, the CPT considers that every reasonable effort should be made to carry out such searches while respecting the dignity of the individual. In particular, persons who are searched should not normally be required to remove all their clothes at the same time, e.g. a person should be allowed to remove clothing above the waist and get dressed before removing further clothing. In addition, more than one officer of the same sex as the person being searched should, as a rule, be present during any strip-search as a protection for detained persons and staff alike.

**The CPT recommends that the Romanian authorities take the necessary steps to comply with the above-mentioned requirements in respect of searches.**

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<sup>27</sup> See Article 258 of the 2016 Implementing Regulation of Law No. 254/2013.

<sup>28</sup> Pursuant to Articles 109 of the Law No. 254/2013 and 219 of the Regulation on the organisation and functioning of arrest detention centres.

b. regime

35. The regime in force at arrest detention centres is regulated by Article 122 of Law No. 254/2013 on the enforcement of custodial measures and generally should consist of a minimum of one hour of outdoor exercise per day in a courtyard equipped with exercise tools and the possibility to access a library, to perform a working activity in the maintenance of the facility and to attend vocational, recreational and cultural activities. In practice, the regime on offer at all the arrest detention centres visited was impoverished and consisted merely of access to a courtyard for one hour or less a day. Detained persons spent the remaining 23 hours of the day in their cells watching television (if they had one) or listening to the radio and reading (most centres had a small library). At Cluj arrest detention centre, a community room and a gym had recently been equipped but they were not in use at the time of the visit due to a water infiltration problem. Further, there was no possibility for detained persons to attend any type of cultural, recreational and vocational activity during their detention. A few detained persons were involved in unremunerated work which consisted in the cleaning and maintenance of common areas in exchange for some benefits (such as prolonged visiting entitlements).

Exercise in the open air lasted in general for only one hour per day and took place in yards which were usually very small (ranging from 8m<sup>2</sup> at Cluj arrest detention centre to 20m<sup>2</sup> at Iași), austere and oppressive (surrounded by walls and enclosed by one or more layers of low-level metal grilles overhead) and were partially (and in Cluj entirely) covered by a plexiglas roof panel. The courtyards were generally equipped with exercise bars and in some centres with an exercise bike (at Bucharest central and No. 4, 8 and 9 arrest detention centres) and a treadmill (at Bucharest No. 2 arrest detention centre). In summary, the yards were not appropriate for daily exercise and fresh air. Further, the yards were far too small and usually inaccessible for disabled prisoners in wheelchairs. This was illustrated clearly when the CPT's delegation met a disabled prisoner in a wheelchair at Bucharest central arrest detention centre.

**The CPT calls upon the Romanian authorities to devise and implement a comprehensive regime of out-of-cell activities at all arrest detention centres nationwide. The aim should be to ensure that remand prisoners are able to spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activity of a varied nature (work, preferably with vocational value,<sup>29</sup> education, sport, recreation/association). To this end, communal rooms should be created at the level of each arrest detention facility where remand prisoners can spend an amount of time daily in purposeful activities. Additional efforts should be made to provide any juveniles held in arrest detention centres with a full programme of daily activities.**

**Further, all prisoners, without exception, must be offered at least one hour of outdoor exercise a day in suitable facilities of an adequate size (i.e. sufficient to exert themselves physically) and possessing means of rest, exercise equipment and permitting a view of the sky (the low-lying metal overhead mesh grilles should be removed from the exercise yards). Also, arrest detention centres should provide for wheelchair access within the centre and to the courtyards.**

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<sup>29</sup> It should be added, however, that, according to Rule 100.1 of the European Prison Rules, "untried prisoners shall be offered the opportunity to work but shall not be required to work".

c. conditions of detention

36. Some of the arrest detention centres visited by the CPT's delegation in the course of the 2018 visit had been recently renovated. This was the case in particular at Bucharest Central,<sup>30</sup> Cluj and Bistrița arrest detention centres where cells had been repainted, sanitary annexes totally partitioned, new mattresses and basic furniture placed in each cell, and an air-conditioning system and cell call-bells installed; also, the double metal grilles on the windows had been removed. The conditions of detention in these establishments were adequate in terms of state of repair and hygienic conditions for short periods of detention. That said, the situation at Cluj arrest detention centre remains inappropriate as none of the cells had any direct access to natural light. Further, the CPT's delegation was also informed that a newly constructed arrest detention centre was going to be inaugurated in Iași in the course of June 2018 thus replacing the existing facility and that a new establishment in Cluj was under construction and would be opened by 2020. **The Committee would like to receive updated information on the current operation of the new arrest detention centre in Iași and on the construction of new arrest detention centres in Romania, including the one in Cluj.**

37. Material conditions of detention at the un-renovated arrest detention centres visited by the CPT's delegation (i.e. Bucharest No. 2, 4, 8 and 9, Iași and Galați arrest detention centres) remained unacceptable: cells were generally dilapidated and in disrepair (walls, beds, mattresses, lighting), access to natural light was inadequate being located in basements with window sizes of 30 cm x 40 cm and triple/quadruple rows of grilles/bars in front of and behind the windows. Further, the cells were also generally poorly ventilated, levels of humidity high (in particular at Bucharest arrest detention centres No. 2, 4 and 8) and malodorous due to the non-partitioned sanitary annexes which were only separated with a makeshift curtain (in particular at Galați, Iași and Bucharest arrest detention centres Nos. 2, 4 and 8). Further, sanitary annexes remained in a poor state of hygiene and the provision of cleaning and personal hygiene products was irregular at all visited arrest detention centres. In addition, detained persons at Bucharest central and Nos. 2, 4, 8 and 9 arrest detention centres complained that they had to rely on their families in terms of the provision of bedding (i.e. pillows and bed linen). Finally, women detained at Cluj and Iași arrest detention centres complained to the delegation that they had not been provided with adequate quantities of essential hygiene products, such as sanitary towels and tampons, and at Galați, the women's washing facilities consisted of a small bucket which was filled by a tap, positioned 25 cm above the floor in a corner of the cell.

38. The Romanian authorities informed the CPT's delegation at the outset of the visit that a monitoring system of the occupancy levels in arrest detention centres had been set up providing for the transfer of detained persons to other detention facilities in order to ensure a minimum living space of 4m<sup>2</sup> in multiple-occupancy cells. That said, with the exception of Bacău, Bistrița and Cluj and Bucharest No. 9 arrest detention centres as well as the recently renovated cells of Bucharest central arrest detention centres, where all detainees were provided with more than 4m<sup>2</sup> per person, occupancy levels in the other arrest detention centres visited gave rise to concern: for example two persons in approximately 7.5m<sup>2</sup> at Bucharest arrest detention facilities Nos. 2, 4, 8, four persons in approximately 10m<sup>2</sup> at Bucharest arrest detention centre No. 4, four persons in approximately 13m<sup>2</sup>; five persons in approximately 18m<sup>2</sup> at Galați arrest detention centres.

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<sup>30</sup> The renovation of all cells was being finalised in the course of the CPT's delegation visit.

39. Every arrest detention centre now possessed a kitchen equipped with a refrigerator, microwave oven and cooking hot-plate, which was used to heat meals coming from the prisons on a daily basis<sup>31</sup> and for the storage of food purchased by detainees or received from their respective families. However, the CPT's delegation received numerous complaints at all the arrest detention centres visited about the quality and quantity of food served provided by the prisons. **See the recommendation in paragraph 96 on this matter.**

40. In the CPT's view, the conditions of detention in arrest detention centres should comply with the same *minimum* standards which are applicable to persons held in remand detention in prisons and, in particular: : 1) the minimum personal living space in such facilities should be 6m<sup>2</sup> for a single-occupancy cell and 4m<sup>2</sup> per detainee in a multiple-occupancy cell, excluding the sanitary annexe; 2) all cells should have direct access to natural light, adequate ventilation, equipped with basic furniture (such as tables, chairs, individual lockers and a TV set), kept in an acceptable state of hygiene and the sanitary annex should be fully partitioned.

In the light of the above remarks, **the CPT calls on the Romanian authorities to take the requisite measures to ensure that police arrest detention centres:**

- **offer every detained person at least 4m<sup>2</sup> of living space in multiple-occupancy cells (Bucharest arrest detention centres Nos. 2, 4 and 8 and the Iași and Galați arrest detention centres);**
- **provide sufficient access to light, natural and artificial, and adequate ventilation in each cell (Bucharest detention facilities Nos. 2, 4, 8, 9 and the Cluj, Bistrița, Iași and Galați facilities); the surplus multiple grilles/bars on the windows should be removed (and the windows enlarged);**
- **provide every detained person with clean bed linen;**
- **have fully partitioned (i.e. up to the ceiling) sanitary annexes in the cells (at Bucharest detention facilities Nos. 2, 4, 8 and the un-renovated cells of the central facility and at the Iași and Galați arrest detention centres) ;**
- **guarantee the regular maintenance and cleanliness of the cells and sanitary facilities and ensure regular and adequate supplies of personal hygiene products, taking into account the gender-specific needs of the detainees.**

d. juveniles in arrest detention centres

41. As regards juveniles, the CPT subscribes wholeheartedly to the cardinal principles enshrined in Articles 3 and 37.b of the 1989 UN Convention on the Rights of the Child and in Rules 5 and 10 of Recommendation CM/Rec (2008) 11 of the Committee of Ministers of the Council of Europe to member states on the European Rules for juvenile offenders subject to sanctions or measures European Rules for juvenile offenders, namely that in all action concerning juveniles, their best interests shall be a primary consideration and that they should only be deprived of their liberty as a last resort and for the shortest possible period of time.

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<sup>31</sup> At all arrest detention centres visited, food (three meals a day) was provided by the local prison establishment.

Article 117 of the Law No. 254/2013 recognises that juveniles accommodated at arrest detention centres should be separated from adults and should receive the necessary psychological assistance. The situation of juveniles and young adults held at arrest detention centre No. 2 of Bucharest was of particular concern given the combination of dilapidated material conditions, an inexistent regime and disproportionate security measures.<sup>32</sup> At the end of the visit, the CPT's delegation requested the Romanian authorities to hold young persons in another centre which is capable of offering suitable material conditions and appropriate activities pending the construction of a 300-bed facility for Bucharest in 2023.

By communication of 23 May 2018, the Romanian authorities informed the Committee that refurbishment activities were being carried out at the central arrest detention centre of Bucharest in order to provide the necessary conditions for the accommodation of juveniles and young adults pending their transfer from the arrest detention centre No. 2. **This is positive and the CPT would like to receive a confirmation of the transfer of the juveniles and young adults to the central Bucharest arrest detention centre as well as information on the daily regime offered to them.**

42. The CPT's delegation also met juveniles held at Cluj, Iași and Bacău arrest detention centres who were detained in similarly inappropriate conditions. In particular, the delegation was concerned by the case of a juvenile met at Bacău arrest detention centre who had been accommodated for several days in a cell with adults before being transferred to a single cell.

As repeatedly stated by the CPT in the past, although a lack of purposeful activity is detrimental for any prisoner, it is especially harmful for juveniles, who have a particular need for physical activity and intellectual stimulation. Juveniles in remand detention should be offered a full programme of out-of-cell activities suited to their age, such as education, sport, vocational training and recreational activities. Physical education should constitute an important part of that programme. Juveniles should also be offered at least two hours of outdoor exercise every day, from the moment they arrive at a detention establishment.

Indeed, the CPT has stated that juveniles in particular should be placed in a juvenile-friendly environment. To this end, it would be highly desirable for separate custody areas to be allocated for juveniles in arrest detention centres with a more open regime and, moreover, their transfer to specialised juvenile centres specifically designed for their age group (i.e. a non-prison like environment with regimes tailored to their needs and staffed by persons trained in dealing with the young).

**The CPT recommends that the Romanian authorities take steps in all arrest detention centres to ensure that juveniles are held in decent conditions and provided with a purposeful regime (i.e. at least eight hours out of their cells). To this end, it will be necessary to recruit specialised staff, including educators, to work in the relevant centres. Further, every effort should be made to keep them in arrest detention centres for the shortest possible period. The CPT would like to be informed of the number of juveniles held in arrest detention centres in 2017 and for the first six months of 2018 and how many of them were held for longer than one week.**

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<sup>32</sup> On the day of the CPT's visit the responsible prosecutor had denied to a juvenile the possibility to attend the funeral of his grandmother invoking security reasons.

e. health care services

43. The provision of health care in arrest detention centres was under the responsibility of the Medical Directorate of the Ministry of the Interior (MoI). As already mentioned in paragraph 17, the directorate had been re-organised in the course of 2016 in order to ensure adequate staffing of health care personnel dedicated only to the needs of detained persons (thus avoiding issues of dual loyalty vis-à-vis police staff). To this end, a specific Instruction was issued in April 2016 on the provision of health care in arrest detention centres covering the recording of injuries, screening for transmissible and infectious diseases, treatment of drug addiction, hunger strike and access to specialised care. That said, at Bacău arrest detention centre the doctor in charge had told the delegation that she continued to care for the health care needs of police staff regardless of the 2016 Instruction.

The staffing levels of general practitioners (GP) and nurses appeared to be adequate at Bucharest Central, Bacău and Cluj arrest detention centres. For example, at Bucharest Central arrest detention centre two general practitioners and four nurses<sup>33</sup> were caring for the needs of 59 detained persons.<sup>34</sup> That said, at Iași arrest detention centre the doctor in charge was performing multiple tasks within the Ministry of Interior as she was in charge also of the health care needs *inter alia* of the local border police, gendarmerie and fire brigade staff. The Committee takes positive note of the fact that Medical Directorate of the MoI had recently introduced the possibility of providing psychological assistance to detained persons in arrest detention centres. That said, most of the persons with whom the delegation held interviews were not aware of such a possibility.

The medical room of the Bucharest central arrest detention centre appeared to be adequately furnished with basic and emergency equipment for the needs of the detained population (such as ECG machine, defibrillator, oxygen mask and oximeter). That said, all other visited arrest detention centres were lacking basic life-saving equipment (i.e. defibrillators and oxygen).

With the exception of Bucharest Central, Cluj and Galați arrest detention centres where health care staff was distributing medication to detained persons, at the rest of the visited arrest detention centres such task was performed by custodial staff and the confidentiality of detained persons was not respected.<sup>35</sup>

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<sup>33</sup> In general, there was one general practitioner and one nurse present during the day (i.e. up to 10 p.m.) and one nurse during the night. One general practitioner was always available on call at night.

<sup>34</sup> The two general practitioners at Bucharest central arrest detention centre No.1 were also in charge of the health care needs of detained persons accommodated in the other nine arrest detention centres in Bucharest.

<sup>35</sup> At Iași arrest detention centre expired medications were found in a cabinet and an open unlocked medical cabinet was found in a vacant unsecured room of Galați arrest detention centre.

44. Newly admitted detained persons were routinely asked about substance misuse and could be referred to the national anti-drug agency for the prescription of opiate substitute therapy.<sup>36</sup> Nevertheless, the management of opioid substitution therapy (OST) was restricted to those already enrolled in an anti-drug programme outside prison. Other detainees who had an opiate dependence were in general withdrawn rapidly and received neither OST nor other symptom-relieving medication upon their admission to an arrest detention centre. For example, a detained person with a clear history of opiate addiction and met by the CPT's delegation at Galați arrest detention centre was complaining of symptoms consistent with opiate withdrawal (i.e. abdominal and leg pain and diarrhoea) and had objective signs of opiate withdrawal (i.e. his nose was running and he had goose bumps). He had already been seen for this same reason by the arrest detention centre's doctor who had sent him to see a local psychiatrist; however, rather than prescribing him OST or even giving him symptomatic relief (such as loperamide for his diarrhoea and analgesics for his pain), he had returned to the arrest detention centre with prescriptions for an antidepressant (mirtazapine), a mood stabiliser (carbamazepine) and a benzodiazepine (bromazepam). However, no other therapy to address his opiate withdrawal symptoms had been prescribed.

45. As regards the screening for transmissible diseases, the delegation noted with satisfaction that a systematic chest X-ray screening for tuberculosis was now offered to detained persons upon their admission to an arrest detention centre. That said, no systematic blood check was offered for blood-borne viruses such as hepatitis B (HBV), hepatitis C (HCV) and HIV.

**46. The CPT recommends that the Medical Directorate of the Ministry of Interior take the following steps in order to improve the quality of health care provided in arrest detention centres in particular by:**

- **relieving the doctor at arrest detention centre of additional duties within the Ministry of Interior;**
- **informing detained persons of the possibility of receiving psychological assistance while being held in an arrest detention centre;**
- **ensuring the respect of the confidentiality for distribution of medicines through the creation of individual boxes filled by health care staff;**
- **supplying all arrest detention centres at the national level with basic life-saving equipment (i.e. defibrillator and oxygen);**
- **providing OST programs for all opiate dependent inmates in arrest detention centres, including those who were not involved in a OST program outside prison;**
- **offering a voluntary blood test for blood borne viruses (HIV, HBV, HCV) and providing hepatitis B (HBV) vaccination for HBV negative patients.**

**Finally, the remarks outlined in paragraph 104 on the necessity for the Romanian authorities to consider the transfer of clinical staff to the Ministry of Health also apply to the health care personnel in arrest detention centres.**

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<sup>36</sup> In accordance with Article 241, paragraph 3 of the Implementing Regulation of Law No. 254/2013.

f. other issues

47. Article 16 of the Law No. 254/2013 in conjunction with the relevant provisions of its implementing regulation<sup>37</sup> provide for the possibility of the use of means of restraint such the resort to physical force and handcuffing in order to control detained persons displaying aggressive behaviour or being over-agitated or in the case of self-harming or at suicidal risk at arrest detention centres. A review of the relevant registers at all centres visited indicated that the resort to means of restraint was limited. For example, in the course of 2017, the handcuffing of detained persons as a cooling off measure in the case of over-agitation had been resorted to four times at Bucharest central arrest detention centre and once at Cluj arrest detention centre for a maximum duration of 25 minutes. That said, the CPT's delegation was concerned to note that at Iași arrest detention centre over the 11 months prior to the CPT's visit, detained persons had been handcuffed to a bed in a separate cell for periods ranging from two to eleven hours due to their aggressive behaviour on five occasions. The measure appeared to have been enforced by security staff without adequate medical supervision. Custodial staff at Iași arrest detention centre stated that such a measure was the only means in their view of addressing the aggressive behaviour of certain detained persons.

In the CPT's view, the use of fixation as a means of restraint and handcuffing of violent and/or agitated detained persons to a bed until they have calmed down should be ended forthwith. Instead, alternative methods of managing violent incidents and of restraint, such as verbal de-escalation techniques and manual control, should be employed; this will require staff, especially security officers, to be properly trained and certified in their use. Further, individual alternative measures to prevent agitation and to calm down detained persons should be developed. **The CPT recommends that the above-mentioned precepts be strictly applied by staff when dealing with a violent or agitated detained person at Iași arrest detention centre.**

48. Pursuant to Article 247 of the Implementing Regulation of Law No. 254/2013, adult remand prisoners were entitled to four visits per month and juveniles to six visits per month. Such entitlements were complied with at the arrest detention centres visited and took place in one or more booth-type facilities which had been recently renovated through a grant of the Norwegian Government. For example, all arrest detention centres visited in the Bucharest area (i.e. Central, No. 2, 4, 8 and 9) possessed new booths equipped with a glass screen and interphone system. That said, all visits with a family member took place in a closed environment which impeded physical contact between detained persons and their visitors. The delegation was told that open visits were only exceptionally granted to female detained persons with small children upon the approval of the competent judicial authorities or in particular events (i.e. birthday, marriage, birth of a child, death of a close relative) at the discretion of the director of the arrest detention centre.<sup>38</sup> However, the delegation did not meet any women detainees who had benefitted from this practice.

Access to a telephone for up to 30 minutes at a time for a maximum duration of three hours per week (five for juveniles) was accorded in practice in pursuance with the relevant legal provisions.<sup>39</sup>

**In line with the remarks made in paragraph 140 below, the CPT recommends that the Romanian authorities institute a rule of open visits for all persons detained on remand, with closed visits as the exception.**

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<sup>37</sup> See also Article 214 of the 2018 Regulation on the organization and functioning of arrest detention centres.

<sup>38</sup> See Article 248 of the 2016 Implementing Regulation of Law No. 254/2013.

<sup>39</sup> See Article 246 of the 2016 Implementing Regulation of Law No. 254/2013.

## **B. Prison establishments**

### **1. Preliminary remarks**

#### **a. prison reform**

49. The Romanian prison system is in the midst of a major reform effort aimed at drastically reducing the number of persons held in prison and at improving the conditions of detention. This reform effort was initiated following the July 2012 judgment by the European Court of Human Rights in the case of *Iacov Stanciu v. Romania*, but has gathered greater momentum following the Court's pilot judgment *Rezmiveş and Others v. Romania* of 25 April 2017. This latter judgment required the Romanian authorities to produce an Action Plan to address the overcrowding and poor conditions of detention, including the introduction of compensatory remedies. The Action Plan was adopted by the Romanian Government on 17 January (updated 17 March) 2018.<sup>40</sup>

The reforms implemented include the adoption of new criminal legislation with the entry into force on 1 February 2014 of a new Criminal Code and new Criminal Procedure Code. The new legislation not only decriminalised hundreds of crimes but also introduced alternatives to pre-trial detention as well as alternative sanctions and measures to imprisonment. New laws on probation (No. 252/2013) and enforcement of custodial measures (No. 254/2013) have, through further amendments, provided for the possibility of conditional release to be extended and for an exponential growth in probation cases. In 2017, an estimated 100,000 probation cases were registered, which represents a five-fold increase from 2012.

The consequence of the various measures taken has been a reduction of the prison population from 32,428 inmates in June 2014 to 21,956 on 16 January 2018. This is a significant reduction representing a 30% drop in the prison population in less than four years, and the rate of imprisonment has dropped from around 160 to 118 per 100,000. These figures are fluctuating from month to month as prison buildings are renovated and capacities within individual prisons rise and fall. Nevertheless, overcrowding remains a feature of the Romanian prison system. As of 23 March 2018, it was operating at 122% of its official capacity<sup>41</sup> which was 17,429 places for an inmate population of 21,342 persons (excluding the six hospitals and four young adult/juvenile institutions). As of 27 June 2018, the population had risen to 22,479 persons.

50. Prison overcrowding is an issue of direct relevance to the Committee's mandate. An overcrowded prison entails several features: cramped and unhygienic accommodation; a constant lack of privacy (even when performing such basic tasks as using a sanitary facility); reduced opportunities in terms of employment, education and other out-of-cell activities, due to demand outstripping the staff and facilities available; overburdened health care services; increased tension and hence more violence between prisoners and between prisoners and staff. This list is far from exhaustive.

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<sup>40</sup> See [Timetable for the implementation of measures 2018–2024 to resolve the issue of prison overcrowding and conditions of detention](#) of January 2018 and the [March 2018 update](#).

<sup>41</sup> Calculated on the basis of 4m<sup>2</sup> of living space per inmate.

At the time of the visit, the actual overcrowding was not spread evenly across the prison system nor within individual prisons. The CPT's delegation found the worst overcrowding in the closed regime, pre-trial and admission (quarantine) cells. As the prisoners in these cells were, in general, offered few activities it meant that the vast majority spent 21 hours or more confined to cells, which in many cases offered a mere 1.5 to 2m<sup>2</sup> of living space per prisoner (see paragraphs 88 to 95 below). While it is positive that prisoners are now entitled to receive a compensatory time remedy for being held in overcrowded conditions,<sup>42</sup> this does not solve the overcrowding problem as such. Every effort must be made to end the current situation as soon as possible to ensure that the objectives of imprisonment can be fulfilled and the dignity of the prisoners is respected. The cramped and poor living conditions combined with little out-of-cell time and lack of activities not only might amount to inhuman and degrading treatment but will, in addition, not be conducive to assisting a prisoner prepare for reintegration into the community. Further, as the CPT's delegation observed, it will have negative repercussions on health care provision and on levels of tension and violence within prisons.

**51. The CPT recommends that the Romanian authorities pursue their reform agenda with a view to ensuring that all prisoners are held in decent conditions and provided with a minimum of 4m<sup>2</sup> of living space each in multiple-occupancy cells (excluding the sanitary annexe). The CPT would like to be provided with an update on the implementation of the prison estate reforms. Further, it would like to receive an updated detailed breakdown of the number of prisoners held in each accommodation section (wing) of the five prisons its delegation visited and the corresponding official capacity.**

b. prisons visited

52. In the course of the visit, the CPT's delegation visited three prison establishments for the first time, namely, Aiud, Iași and Galați. It also visited Gherla Prison, for the first time since 1995, and Bacău Prison, which had not been visited since 2006.

*Aiud Prison*, located in the Alba District south of Cluj, consists of several buildings dating back to the 19<sup>th</sup> century. At the time of the visit, the establishment had an official capacity of 698 places and was accommodating 721 male inmates (including four juveniles) of whom 84 were in pre-trial detention and 107 subject to a maximum security regime. Further, 43 inmates were being accommodated in a dedicated transit section given that, due to its location, the prison was a main transit hub within the Romanian penitentiary system.

*Bacău Prison*, located in the town of Bacău in the region of Moldavia, had an official capacity of 409 and was accommodating 464 prisoners at the time of the visit. The establishment holds both men and women in various regime categories: notably, 161 women in all regimes, including five in maximum security regime; around 153 adult men, of whom 131 were in pre-trial detention, 14 in open regime (who were all workers), and 8 in transit; and 20 young adults were held in pre-trial detention. There were also some 130 sentenced young adults in semi-open and open regimes, who were held in a newly renovated building offering decent conditions for up to 200 inmates, which the CPT's delegation did not examine in detail. The prison had a very small footprint and the facilities were very limited.

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<sup>42</sup> Prisoners held in less than 4m<sup>2</sup> of living space each are entitled to a reduction in prison sentence of six days off for every 30 days served (see Law No. 169/2017 on the amending Law No. 254/2013).

*Galați Prison*, located in the town of Galați in eastern Romania, was built in the late 19<sup>th</sup> century and consists of one four-storey accommodation building, with eight sections. At the time of the visit, the prison had an official capacity of 345 and was holding 484 male inmates, of whom 77 were under a maximum security regime, 228 under a closed regime and 41 under a semi-open or open regime. There were also 115 inmates in pre-trial detention and 23 in admission. Two sentenced women prisoners were being held in transit.

*Gherla Prison*, located 60 kilometres north of Cluj in a historical 18<sup>th</sup> century building, accommodated 608 inmates for an overall capacity of 549 places.<sup>43</sup> The four-storey building visited by the CPT's delegation consisted of eight symmetrical sections accommodating inmates under various regimes, including 121 adult men on remand detention, 66 under a maximum security regime and 344 under a closed regime.

In addition, 15 women were accommodated in the recently inaugurated "Lotus" psychiatric therapeutic unit, which had capacity of 61 places and offered a good occupational and caring environment. However, only one of the three floors of the building was occupied, apparently due to a lack of staff and, of greater concern, there was no psychiatrist in post which somewhat undermined the reason for the unit. **The CPT would like to receive an update on the functioning of this unit.** A separate detention unit in Cluj, which the CPT's delegation did not visit, accommodated 124 females for an overall capacity of 139.

*Iași Prison*, located close to the city centre, was accommodating 1,087 inmates at the time of the visit for an official capacity of 693 places (i.e. an occupancy level of 156%). The prison was holding 967 sentenced adult males, of whom 167 were in the maximum security regime and 592 in the closed regime. There were also 106 inmates in pre-trial detention, 15 in admission and 7 in transit (including two women and a juvenile). These prisoners were held in two large accommodation blocks within an inner secure perimeter. The delegation did not examine in detail the situation in the recently renovated adult male semi-open and open unit, which was holding some 200 inmates.

## 2. Ill-treatment

### a. ill-treatment of inmates by prison staff

53. At the outset, the CPT wishes to state that its delegation met many committed managers and staff dedicated to their work and who were striving to improve the situation in their prisons. Indeed, many prisoners interviewed stated that they were treated correctly by prison officers and that relations were based upon reciprocity (i.e. if they showed respect to prison officers, they would be accorded respect in return). However, it was common for these prisoners to express the sentiment that should they infringe the rules or argue with a prison officer, they would likely be punished physically. Indeed, the CPT's delegation received a considerable number of allegations of ill-treatment of prisoners by prison staff, notably by members of the masked intervention groups, in the prisons of Aiud, Gherla, Iași and Galați. It also received a few allegations of ill-treatment at Bacău Prison.

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<sup>43</sup> The official capacity is based on the revised calculations carried out by the administration of Gherla Prison and forwarded to the CPT on 7 March 2018.

54. The situation was particularly alarming at Galați Prison, where a climate of fear was evident within the prison and where the CPT's delegation received widespread allegations of ill-treatment by staff. At Galați Prison, the delegation documented,<sup>44</sup> including with medical evidence, numerous cases of severe physical ill-treatment and one credible case of sexual abuse by staff, in particular by members of the intervention group. The ill-treatment consisted of punches, kicks and the use of batons and generally took place on the stairs and in staff offices of the main accommodation block where there was no CCTV coverage.

The following represents a sample of cases for the purposes of illustration:

- i. A prisoner (AB) alleged that in January 2018 he was subjected to baton blows, punches and kicks by three members of the intervention group, in the hallway and educational room on the ground floor. Upon examination by the delegation's doctor, he had three pairs of tramline bruises, some of which had scarred, on his back; each pair was 2-3cm long and separated from each other by 0.5-0.75 cm wide, consistent with the allegation of having received baton blows. He also had multiple other injuries: a 2 cm x 1.5 cm curved pink scar in his hair line consistent with having been kicked in the forehead and bruising on the front and back of the lower aspect of the right leg (6 cm x 3 cm and 7.5 cm x 3 cm, respectively) consistent with having been kicked; and an oval bruise (2 cm x 1.5 cm) on the right upper arm consistent with having been gripped tightly.
- ii. A psychologically vulnerable prisoner (CD) of a diminutive stature recounted how, in July 2017, he had been orally raped by three members of the intervention team and had had a baton forced up his anus. The prisoner clearly described how the oral rape had taken place, explaining that his mouth had been forced open by the guards pulling his lower lip down. He stated that his mouth had started to bleed. Upon examination by the delegation's doctor, it was observed that the body tissue (frenulum) connecting the lower lip to his lower gum was torn to its base and that there was a pink scar. He volunteered that his anus had hurt considerably and had bled for several days after the assault with a baton. He stated that he had no trust in the health care service and thus had not reported the assault.<sup>45</sup>

Indeed, he provided several more detailed accounts of having been beaten by members of the intervention group. The latest episode happened in December 2017 when he was taken from the courtyard to a ground floor office, was stripped naked, pushed to the floor and subjected to baton blows and kicks. His requests to go to the doctor were denied and he did not complain due to fear of reprisals.

- iii. A prisoner (EF) alleged that, in mid-2017, he was subjected to blows with batons to his back and abdomen, kneed in the stomach and head, and that his back had been stamped on while on the ground. At the time of the visit, his back displayed two relevant scars: a 16 cm long curved brown scar with distinctive parallel tracks in the middle of his back; and a 3.5 cm long curved brown scar on his left shoulder. Both these injuries were consistent with having been stamped on, and it should be noted that the perimeter of the boots worn by at least some members of the intervention team at the time of the visit appeared to have the same narrow heel shape and double-lined pattern as found on the prisoner.

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<sup>44</sup> Through individual interviews, eye-witness statements from prisoners held in other cells and prison records.

<sup>45</sup> Another prisoner met by the delegation had separately raised this case.

- iv. A fourth prisoner (GH) stated that he had been beaten by members of the intervention group in December 2017 in the stairways and claimed that one of them had stamped on his head. He complained that he was provided with no treatment by the health care service and that he had been suffering from headaches ever since the assault. Upon examination of his head by the delegation's doctor, the scars on his scalp were consistent with his allegation both in nature and timeframe; they could have been caused by the sole of a boot, had not been sutured but were instead healing by secondary intention.
- v. A prisoner (IJ) who had signs of moderate intellectual disability alleged that he had been subjected to repeated baton blows to his body and head by members of the intervention group in 2015 and that, despite passing out, he had not been sent to hospital. There were clearly visible scars to his head and an examination by one of the delegation's doctors supported his account of a predominantly left-sided head injury that had not been sutured but could have caused brain damage resulting in limiting his cognitive functioning (difficulty in speaking), and right-sided physical disability. Other prisoners met by the delegation supported his allegation and claimed that IJ had functioned autonomously prior to the alleged beating.

The delegation received numerous other consistent accounts by prisoners in the maximum security regime section of how they had been subjected to punches, kicks and baton blows by members of the intervention team and, at times, certain specific officers.

It should be added that many prisoners were visibly afraid of speaking to the CPT's delegation about their experiences as they expected that there would be serious reprisals. All stated that when they were taken to the health care service, their injuries were never recorded, that the members of the intervention team were present and that they considered some of the nurses to be complicit in the ill-treatment as they were married to prison officers working in the prison. A number of prisoners also stated that they had told the prison management and health care service that their injuries were caused by inter-prisoner violence when in fact they had been ill-treated by staff. Interestingly, the registers showed no evidence of disciplinary sanctions against other prisoners for inter-prisoner violence nor were the names of the alleged perpetrators in these cases recorded.

55. In the end-of-visit talks with the Minister of Justice, the CPT's delegation stated that it could only conclude that either the management of Galați Prison was ineffective in their oversight of the prison or that they were aware of the ill-treatment and were allowing it to continue with impunity. The situation was so serious that the delegation requested that a comprehensive external review be undertaken by the central authorities to ensure that the ill-treatment by prison staff ends once and for all at Galați Prison. To this end, the delegation invoked Article 8, paragraph 5, of the Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and requested that such a review be carried out immediately and that the Committee be informed of its outcome within three months. In the light of the climate of fear, the delegation emphasised that it expected the management of Galați Prison and the Romanian authorities to ensure that prisoners suffered no reprisals following the CPT's visit.

56. By communication of 23 May 2018, the Romanian authorities informed the CPT that the findings of the Control Body of the Ministry of Justice do not support the CPT's findings of ill-treatment of prisoners by prison staff at Galați Prison. The 32-page excerpt of the report provided to the CPT essentially states that the delegation had only listened to the prisoners who had wanted to discredit the prison staff for keeping order in the establishment, but had not examined other evidence. Such a response is unfortunate as it raises the question as to whether the Ministry's oversight can be considered as effective in relation to the matter of ill-treatment. The CPT reiterates that the multiple allegations of ill-treatment received from prisoners at Galați Prison, who were interviewed in private in numerous different cells, were concordant. Not only were they credible and supported by witness statements from other prisoners, but in a number of cases they were supported by medical evidence. The fact that the health care service did not have a record of many injuries is precisely because it is not, and is perceived not to be, acting in the best interests of prisoners and hence not safeguarding prisoners from ill-treatment by staff.

Further, the CPT does not understand the conclusion of the Romanian authorities in equating the infliction of a degrading act of forced oral sex with the implication that the persons who committed the act were homosexual. Sexual violence in prison is not linked to homosexuality per se but to power relations and humiliation of the victim. Sexual violence can be committed by a person of any sexual orientation. Further, the CPT considers that in vigorously denying the allegation of oral rape by prison staff, the Control Body has all but ignored the multiple very serious allegations of ill-treatment inflicted on prisoners by members of the intervention group and other prison staff.

**The CPT remains extremely concerned about the situation at Galați Prison and recommends that the Romanian authorities initiate an independent prosecutorial-led inquiry into the situation in the prison regarding ill-treatment by staff. The CPT requests that the results of this inquiry be communicated to the Committee within three months.**

57. As mentioned above, the CPT's delegation also received allegations of ill-treatment at the other prison establishments visited:

- i. At Aiud Prison, on 5 October 2017, three inmates independently alleged that they were taken out of their cell one at a time by the head of Section 4 and, in the staff office, subjected to baton blow to their thighs and the palms of their hands. Apparently, a member of the intervention team was present but did not intervene. They also stated that their subsequent requests to see a doctor were refused.
- ii. At Aiud Prison, in December 2017, an inmate alleged that during a general cell search he had received a punch to the head and several blows with batons to his legs by members of the masked intervention team. He had also been hit by the officer in charge of Section 4.
- iii. At Bacău Prison, a few allegations of ill-treatment were received primarily from prisoners in Section 3 (high risk maximum security, transit and remand) which included punches, kicks and baton blows.
- iv. At Gherla Prison, during the night of 24 to 25 December 2017 an inmate in the infirmary alleged that the section chief and two members of the masked intervention group pulled him out of his bed and delivered several punches to his head and back.

- v. At Iași Prison, an inmate claimed that, on 2 February 2018, after he had tried to hang himself and had been cut down by his cellmates, the head of section and several members of the intervention team had escorted him, handcuffed, to the medical centre. He alleged that they had kicked and subjected him to baton blows on the medical couch while a nurse turned his back. Subsequently, he was given two tablets and taken to the protection room. Upon examination by the delegation's doctor, the prisoner had a linear lesion of 4.5 cm x 0.4 cm which was raised and textured and consistent with having been hit with a baton.
- vi. At Iași Prison, an inmate with a learning disability and a profound stutter who was clearly a very vulnerable prisoner claimed that, on 5 February 2018, he had been slapped and kicked by a particularly tall prison officer. Upon examination he had a brown bruise with central tenderness (9 cm x 4 cm) on the back of his left upper leg. He also displayed other recent injuries such as a brown bruise (6 cm x 2 cm) on the left side of his back, a brown blue bruise (5 cm x 1.5 cm) at the top of his left buttock and diffuse tenderness (10 cm x 7 cm) and minor bruising on the right side of his ribcage.
- vii. At Iași Prison, a number of other prisoners alleged that they had been beaten (punches, kicks and baton blows) by members of the intervention team, usually on the staircase within the past six months. Several claimed that the beating had taken place following an episode of self-harming. Most recently, a prisoner claimed that on 6 February 2018 he had received a cuff to the back of the head and a kick to the right knee. A bruise was visible on the knee.

**58. In the light of the information gathered during the 2018 visit, the CPT recommends that the national authorities hold to account all senior prison staff to ensure they fulfil their basic responsibility of guaranteeing prison staff respect the right of prisoners to physical and mental integrity.**

**The CPT recalls that any form of ill-treatment is illegal and totally unacceptable and must be subject to appropriate sanctions. This demands that all senior and middle managers pay special attention to the actions of staff, notably prison officers, under their responsibility and take immediate steps to address any indications that staff are ill-treating prisoners. Failure on the part of supervisory staff to fulfil this role is, in itself, a serious dereliction of duty.**

**Prison officers, notably members of the intervention groups, too must be made fully aware that no more force than is strictly necessary should be used to control violent and/or recalcitrant prisoners and that once prisoners have been brought under control, there can be no justification for them being struck. In this context, the authorities should ensure that all prison officers are trained in recognised control and restraint techniques.**

**Moreover, the CPT recommends that the Romanian authorities put in place active measures to prevent individual prisoners being the subject of reprisals. To this end, it goes without saying that prisoners should be able to make requests and complaints without fear of reprisals. Further, access to a doctor by a prison officer should not be refused.**

**The CPT also recommends that CCTV be installed in the stairways of accommodation blocks, starting with those buildings where maximum security regime prisoners are held.**

59. Many prisoners in all the establishments visited also alleged that they had been verbally abused by prison officers. In particular, inmates with learning difficulties or mental health problems complained that prison officers often goaded them and made fun of their disabilities. At Galați Prison, a prisoner with a pronounced stutter and learning disability was frequently mocked by prison officers, which often degenerated into a confrontation resulting in a disciplinary sanction and a further postponement in his regime progression. At Bacău and Iași Prisons, a number of Roma prisoners complained about staff calling them “*cioara*” (black crows) and other derogatory terms.

**The CPT recommends that Romanian authorities ensure that the management in every prison reiterates to all prison staff that verbal abuse, notably of a racist nature, and goading of prisoners is unprofessional and not acceptable. Further, all prison officers, as part of their basic education, must be trained in how to interact with and offer support to prisoners with disabilities.**

60. The credibility of the prohibition of torture and other forms of ill-treatment is undermined each time officials responsible for such offences are not held to account for their actions. For this reason, it is essential that whenever there are grounds to believe that an inmate may have been ill-treated within the prison, the prison authorities should bring this matter to the attention of the relevant prosecutorial authorities. In this respect, a fundamental safeguard against ill-treatment and impunity is the requirement that a thorough medical examination be conducted on prisoners following a violent incident or use of force within an establishment, as well as on all newly-admitted inmates.

At present, Romanian prison health care staff are not documenting injuries properly and it is only when a prisoner is able to obtain a forensic medical examination from the Institute of Legal Medicine that the injuries are recorded adequately.

**The CPT reiterates its recommendation that the national authorities put in place a comprehensive policy for the identification and investigation of allegations of ill-treatment. In this context, where the results of a medical examination suggest that a prisoner has suffered ill-treatment, there should be an obligation on doctors automatically to notify the prosecutor’s office, regardless of the wishes of the person concerned; any statement made by the prisoner concerned should also be transmitted (see also paragraph 116 below).**

61. The CPT also stresses the need to ensure that whenever allegations of ill-treatment of inmates by prison officers come to light, there is an effective investigation, in addition to the recording of injuries. At Galați Prison, one inmate (ID) alleged that on 12 January 2018 while exiting the accommodation building he had had a verbal altercation with a prison officer who had subsequently slapped him across the right cheek. In reaction, he had lunged at the officer but missed and was immediately restrained by other prison officers present and two members of the intervention team who had been stationed nearby. The whole incident was captured on CCTV and, as seen by the delegation, took place as described by the inmate.<sup>46</sup> The inmate also alleged that while members of the intervention team were escorting him up the stairs to the medical centre, with his hands cuffed behind his back, he had been subjected to several punches and kicks. On 15 January 2018, he went to the Institute of Legal Medicine. The subsequent forensic medical report stated that he had a fissure of the 6<sup>th</sup> rib and a fracture of the 8<sup>th</sup> rib on his left side and bruising around the left eye. It concludes by stating that the traumatic injuries dated from 12 January 2018 and required 25-30 days to recover.

The prison authorities informed the delegation that they believed ID was making the story up as the health care staff had not recorded any such injuries when he had seen them right after the incident nor had they been visible to other staff members. Upon his return from the Institute of Legal Medicine on 15 January 2018, ID had been placed in cell 7.08 on his own for two weeks<sup>47</sup> without any reasons provided to him; he did not associate with other prisoners and had no activities and the cell was not equipped with a television or a telephone. He was effectively held in conditions akin to solitary confinement. During this period, the prison authorities interviewed his cell mates who had apparently said that ID had requested them to hit him prior to leaving for the forensic medical examination, which they had refused to do. Subsequently, he had allegedly gone into the sanitary annexe of the cell from which he had emerged a few moments later with redness around his eye. This story is hardly credible in the light of the forensic medical examination above which clearly dates the injuries to 12 January (i.e. several days earlier not a few hours as alleged by the prison authorities). Further, the injuries to the two ribs (separated from one another) are far more indicative of blows delivered to the body than of any self-inflicted injury. The actions of the prison authorities clearly demonstrate that they will go to considerable length to cover up the alleged acts of ill-treatment by the intervention group members and other staff.

**The CPT recommends that an effective investigation into this case be carried out, and that it be informed of its outcome and be provided with a copy of the prosecutor's reasoned decision.**

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<sup>46</sup> In the internal investigation by the head of security, it was stated that the prisoner had spat at the prison officer but there is nothing to suggest that this occurred and that the officer had pushed the prisoner on the shoulder which is clearly not an accurate description of what occurred.

<sup>47</sup> In accordance with Article 30 of the Implementing Regulation (Government Decision 157/2016) applying Article 15 of Law No. 254/2013 – see also paragraph 134 to 136 below.

b. prison intervention groups

62. The CPT, in its previous visit reports to Romania,<sup>48</sup> has questioned the *raison d'être* and *modus operandi* of the masked intervention groups that operate in those establishments which accommodate inmates under the maximum security regime. In the light of the delegation's findings during the 2018 visit of repeated and numerous detailed allegations of ill-treatment by members of the intervention groups, the CPT believes that the time has come for the national authorities to reconsider the continued existence of these groups. From the observations of the CPT's delegation in the prisons visited, the presence of members of the intervention groups on the landings (prison corridors) is designed to intimidate prisoners (body armour, balaclavas, helmets, batons, gloves) and their *modus operandi* appears to grant them a *carte blanche* to deliver their own brand of justice.

Indeed, in each of the four prisons, which held maximum security regime prisoners, there were allegations of intimidation and ill-treatment by members of the intervention group.<sup>49</sup>

63. The mandate provided to each intervention group is defined by the director of each prison but is broadly the same in every prison. For example, at Galati Prison, the order of 4 January 2018 by the director states that masked guards have to be present whenever high risk prisoners are taken in and out of their cell and escorted anywhere (health care service, education, yards, supervisory judge, etc.). They should also be present whenever a cell accommodating a high-risk prisoner is opened and for instances whenever any prisoner is placed in the protection room, has to be immobilised to a bed or goes to and from the van.

The members of the prison intervention groups work 24-hour shifts followed by three days off. An emphasis is placed on physical fitness and in the four prisons visited these groups had their own exercise and weights room. During their shifts, much of their time is spent exercising and waiting to be called to intervene on the wings, which often involves them merely standing around in their full kit with no interaction with the prisoners. They are not trained in de-escalation techniques but in control, and it appears that in reality their role is designed to intimidate prisoners and to demonstrate to those inmates who step out of line or challenge the authority of the prison that there will be consequences both formal and informal. Further, despite a National Administration of Prisons policy for intervention groups to video record all their interventions with body cameras, the delegation found that this did not happen and that, in addition, some of the recordings were useless as the cameras were not capturing the intervention. At the same time; it found consultations with health care staff were being video-recorded at Iași Prison by members of the intervention team without the prisoner's consent. **Such a practice should be ended forthwith.**

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<sup>48</sup> See, for example, the report on the 2014 visit: CPT/Inf (2015) 31, paragraphs 51 and 52.

<sup>49</sup> The intervention groups were composed of: 40 members at Aiud Prison, 45 at Gherla Prison, 19 at Galați Prison and 41 at Iași Prison.

64. Best practice from other European countries shows that there is no need for such intervention groups to be based in each prison accommodating maximum-security regime prisoners. Their duties, both preventive and reactive, relating to control and restraint of prisoners following an incident, could easily be carried out by ordinary prison officers. The CPT acknowledges that the ability of the prison management to be able to react rapidly to incidents threatening the good order in an establishment is important. However, the establishment of a dedicated intervention squad on stand-by to enter the detention areas, whenever an incident occurs or to manage particular prisoners, is not necessarily the most appropriate way of resolving conflicts. Experience has shown that, in many instances, such units often intervene too late and more forcefully than circumstances require, and that their presence is an aggravating factor rather than a mitigating one.

Potentially, a more effective means of coping with incidents threatening the good order of a prison is to ensure that all prison officers are trained in recognised means of control and restraint. On each shift, a number of officers could be designated as “first responders” in case of an incident and be able to leave their normal duties in order to provide assistance to colleagues in the area where the incident is taking place. Such an approach will not only provide a more timely response but will also empower prison officers to take responsibility for good order within the prison. Further, as the prison officers are in daily contact with the inmates, they will have an added incentive to resolve conflicts with minimal recourse to force, yet have the confidence that they and their colleagues are professionally equipped to apply control and restraint techniques, if required. Within each prison, a group of officers could be trained to a higher level of control and restraint techniques for planned interventions to resolve specific situations, such as prisoners who have barricaded their cell doors or are acting in a particularly violent manner towards other persons. However, the important point is that these officers would be first and foremost ordinary prison officers who have received additional training and duties for specific interventions.

The vast majority of prisoners classified as high risk in a maximum security regime met by the delegation were not seeking to aggravate their situation through confrontation with staff; indeed, several genuinely appeared committed to progressing in their prison sentence. Having an extra 5 to 10 officers present on the maximum security regime wings on a permanent basis during the day, who are capable of interacting with the prisoners constructively and escorting them, would be a step in the right direction towards promoting a normalisation approach to prison, based upon a system of dynamic security.

**The CPT recommends that the Romanian authorities dissolve the intervention groups in each of the 13 prisons where they are currently present. Instead, the staffing complement on the maximum security regime wings should be augmented and a dynamic security approach be adopted, taking into account the above remarks.**

65. Pending the above review of the use of the prison-based masked intervention groups, **the CPT recommends that the Romanian authorities immediately take the simple step of ending the wearing of balaclavas by all members of the intervention groups.** There is no good reason for their identities to be hidden. On the contrary, the removal of the balaclavas would help to combat impunity and prevent ill-treatment.

Further, an end should be put to the system whereby teams work for a continuous period of 24 hours. To begin with, no staff can operate effectively for 24 hours. Secondly, there is no need for members of the intervention units to be present in the prison once all movements for the day have ended on the maximum security regime wings (i.e. after 19h00, once dinner has been served). It is a waste of resources to pay for staff at night when they are not needed.

**The CPT recommends that the Romanian authorities end the 24-hour shift system for members of the intervention groups, until such time as the groups are dissolved.**

66. The CPT recognises that there may be a need for specialised intervention groups to be established at the national or regional level to manage serious prison disturbances. Prison administrations in a few countries have established such intervention groups whose main task is to provide support to local staff when there is a more general outbreak of violence among prisoners, which needs to be brought under control. Where this is the case, it is essential that great care be taken in the selection, recruitment, training (including stress management and physical training) and equipping of the members of special units, in order to ensure that they are the best suited to dealing appropriately (including through the use of minimum force) with situations of risk. Written selection criteria should be established and officers should come from within the prison service. The selection process should also involve the participation of a person independent of the prison and preferably with a qualification in psychology.

As regards, in particular, training, the CPT recommends that members of any special intervention teams be provided with both initial and ongoing training that has a human rights dimension - and with a training manual. In addition, as regards supervision, clear operating rules should be established for the special intervention teams, covering the criteria and responsibility for deployment and the chain of command, particularly when the police are also involved. Further, basic precautions must be taken to prevent inappropriate reactions linked to a strong feeling of belonging to an elite force, united by the dangers it has to face. These precautions include firm professional management attentive to any misconduct, which it is vital to punish, and an appropriate staff rotation policy. Moreover, to be able to assess how interventions are carried out, it is essential that the reports of interventions drawn up by the team leaders be as detailed as possible.

**The CPT recommends that the Romanian authorities take due note of these basic precepts should they decide to create a specialised national or regional prison intervention team to deal with specific incidents.**

c. July 2016 prison riots

67. In the course of the visit, the CPT's delegation had an opportunity to review the events of 11 and 12 July 2016 when prisoners from Iași Prison and a number of other establishments initiated a protest over living conditions in prisons. The CPT has had sight of the report by the People's Advocate and the response of the Ministry of Justice as well as the analysis drawn up by the management of Iași Prison on the disturbances and their aftermath.

68. At Iași Prison, 38 prisoners were identified as the main instigators of the disturbance and were transferred out of the prison as from 13 July 2016. According to the information provided by Iași Prison, another 25 prisoners claimed to have been beaten by the intervention groups and requested medical assistance. Many of them made formal complaints about the way the intervention teams had acted when they entered the various cells of the establishment, and the CPT understands that a military prosecutor initiated an investigation. The CPT's delegation received clear and concordant allegations from prisoners located in different sections of Iași Prison (and even in other prisons) about the way in which the intervention teams had acted.

In one particular case, a prisoner recounted how the special intervention team, wearing full riot gear, had entered the cell and indiscriminately kicked and delivered blows with their truncheons to prisoners. This prisoner was sent to Iași Military Hospital on 15 July 2016 and later to the Institute of Forensic Medicine on 22 July 2016. The results of these examinations showed that he had a fracture of the right arm and extensive bruising on the right side of his body and head<sup>50</sup> which were caused by "physical aggression with an object". At the time of the visit, there was no further information on the steps being taken to investigate this and other similar cases.

**The CPT wishes to be informed of the steps taken to investigate the complaints of severe ill-treatment made by prisoners against members of the intervention forces during the intervention in Iași Prison on 12 July 2016.**

69. As mentioned above, the CPT acknowledges that there may be occasions when it is necessary for specialist intervention teams from outside the prison establishment to be deployed to restore order. However, such operations should be carefully managed with a command and control structure, which ensures that the response of the intervention teams is proportionate to the threat faced and only the minimum use of force required to restore order is applied. It goes without saying that each member of the intervention team should be visibly identifiable, displaying on their uniform and helmet either a name or a number.

**The CPT recommends that the Romanian authorities establish clear operating rules for the command and control of specialised intervention teams. Further, the members of all such teams should be clearly identifiable.**

d. inter-prisoner violence

70. In the course of the visit, the delegation documented several cases of inter-prisoner violence whereby young prisoners in particular have been severely ill-treated and sexually abused by other prisoners for prolonged periods in their cells. The CPT recalls that there is a duty of care on the prison authorities to ensure that all prisoners are kept safe and secure. This requires both that effective preventive measures be put in place and that there be a timely reaction whenever signs indicative of inter-prisoner violence are detected.

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<sup>50</sup> Swelling of the crown of the head (3 cm in diameter with a 1cm excoriation); yellowish bruise on the right temporal region (4 cm x 3 cm); yellowish bruise on the right flank (16 cm x 1.5 cm); three linear purple yellowish bruises on the right shoulder (measuring 12 cm x 1.5 cm to 10 cm x 1.5 cm); a purple yellowish bruise of the lower right arm (20 cm x 1 cm in size); purple yellow bruise of the right shoulder blade (7 cm x 1 cm).

71. At Bacău Prison, the CPT's delegation had to intervene to have three vulnerable prisoners taken out of an admission cell where they were being severely abused, including sexually.<sup>51</sup> The CPT's delegation had been alerted to the situation by a prisoner who had been in the admission cell and who had been an eye-witness to the inter-prisoner violence. All three of the young men were terrified and initially denied that any abuse had taken place until such time as the delegation had them removed to a place of safety. One of the three, who was examined by the delegation's doctor, had had his forearms and legs forcibly shaved, and bore multiple injuries consistent with his allegation of having been punched, kicked, slapped and thrown on the floor. He was subsequently sent to the Medical Legal Institute to be examined.

Another young man met by the delegation at Bacău Prison alleged that he had been repeatedly abused by cellmates over the course of several months without the prison authorities acting to stop it. Soon after arriving in the prison, the young man was hit with a metal bar around the head by another prisoner in mid-September 2017. In December 2017, he was placed back in the same cell with the assailant who, together with two other prisoners, proceeded to severely abuse him in the sanitary annexe between 24 December 2017 and 1 January 2018. He was punched and hit with a metal rod, hogtied and orally raped. Two of the assailants were moved out of the room on 2 January 2018. However, the third one assaulted him again several times, including punching him in the head and abusing him sexually (most likely including oral and anal rape) while he was in a state of reduced consciousness. On 8 January 2018, the young man managed to leave his cell and present himself to health care where he was seen by the doctor and a nurse, but he was not properly cared for;<sup>52</sup> his injuries were not recorded and he was not referred to a specialist. Although the perpetrators were identified and it was known that they had also beaten up several other young persons in the same cell during the same period (the delegation received at least five more clear allegations) and there were at least two witness statements confirming the physical and sexual abuse, the police told the victim that without evidence there was no point in complaining. Consequently, no criminal investigation was initiated (and only one of the three assailants had received any sort of disciplinary sanction). Clearly this is unacceptable and a criminal investigation should be (re-) opened.

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<sup>51</sup> Contrary to the statement made in the response of the Romanian Government of 22 May 2018, none of the three inmates had been identified by the Bacău Prison staff as being vulnerable or as having been abused prior to the intervention of the CPT's delegation. It was only upon the insistence of the CPT's delegation that they were removed from the admission cell to a safer location. It is true that one of the prisoners was taken to the medical service after being interviewed by the delegation as he had a visible black eye. However, this did not result in any protective measures being taken towards him.

<sup>52</sup> On 9 January 2018 (a day after reporting the abuse), he was seen by a prison psychologist for his new patient review despite having arrived in the prison on 31 August 2017. In the two further sessions provided to the prisoner, the main message in his view imparted by the psychologist was "try to move on because this is prison life".

At Galați Prison, the delegation met a young man who had been placed in a cell with another inmate who hated him. This inmate together with several other prisoners allegedly tied up the young man in the sanitary annexe (including placing a strip of cloth across his mouth to prevent him from screaming), placed him in cold water in the shower and beat him (punches, kicks and blows with sticks) and burned his hand with a lighter. Two of these prisoners subsequently raped him, orally and anally. He alerted the prison staff the next morning and was sent to hospital and for a forensic medical examination and the police was informed. The forensic examination of the prisoner's injuries was detailed and there was a thorough analysis of the CT scans of his head and abdomen. However, the CPT is concerned to note that because no positive findings of sperm had been detected, the rape claim was not considered seriously whereas it is possible to have anal and/or oral penetration without any sperm being detected. At the same time, from the forensic medical certificate there appeared not to have been a thorough intimate examination nor actual DNA sampling of the oral cavity, relevant areas of the skin (such as the peri-oral region and the genitals). Further, when the young man had returned to Galați Prison on 16 February 2018 he had been placed in a cell on his own for his own protection, yet he had been provided with no support and had not been offered the possibility of outdoor exercise. The CPT's delegation advised that he should be offered a blood borne virus test and psychological support, and not be left alone.

72. The above three cases are the most extreme ones encountered by the CPT's delegation but by no means the only ones. Many adult prisoners at Bacău Prison raised concerns over the high levels of inter-prisoner violence and more particularly sexual violence. Such violence was also evident in the other prisons visited both from the injury registers and from interviews with prisoners and staff. There can be no impunity for violent acts in prisons and the CPT's delegation urged the Romanian authorities at the end of the visit to initiate an immediate criminal investigation into the Bacău Prison cases. In addition to beatings, many young prisoners stated that bullying was normal with the stronger prisoners helping themselves to whatever possessions of the other inmates they desired.

**The CPT wishes to be informed of the investigative steps and the outcome of the investigations into the above-mentioned Bacău and Galați Prisons' cases of inter-prisoner violence.**

73. More generally, each prison should have in place a clear anti-bullying policy. To begin with, there is a need to put in place a cell-share risk assessment process in every prison for each person entering prison (especially young persons) before they are placed in an admission (quarantine) cell for 21 days. Further, all prisoners should have a psychological review during their time in an admission cell.

It is also essential that prison staff are alert to signs of trouble and be both resolved and properly trained to intervene. Such a capacity to intervene will of course depend, *inter alia*, on an adequate staff/prisoner ratio (see also paragraphs 125 to 127 below). In addition, the prison system as a whole may need to develop the capacity to ensure that potentially incompatible categories of prisoners are not accommodated together. The findings of the visit found that while most staff take seriously their duty of care towards prisoners, the delegation received clear indications at Aiud, Bacău, Galați and Gherla Prisons of certain staff members not intervening to prevent instances of inter-prisoner violence. Clear allegations of a few prison officers even inciting such violence were heard at Bacău<sup>53</sup> and Galați Prisons. At Iași Prison, a prisoner who handed over to staff a mobile phone which he found in his workplace was moved to another cell by prison officers against his will where he was immediately punched and kicked by his cell mates for having turned in the phone. Until challenged by members of the CPT's delegation, the wing staff intended to place him back into the same cell in which he had been beaten up. Further, staff need to take a proactive approach towards ensuring that prisoners, especially vulnerable prisoners, located in cells under their responsibility, are not abused or otherwise ill-treated by other prisoners.

Tackling effectively the problems posed by inter-prisoner violence requires the implementation of an individualised risk and needs assessment, the availability of sufficient members of staff and ensuring that staff receive the requisite initial and advanced training throughout their careers. Further, prisoners need to be offered a constructive regime, with a range of purposeful activities.

Moreover, the CPT is critical of the very existence of accommodation in large-capacity dormitories; frequently, as was observed in the Romanian prisons visited, such dormitories hold prisoners in extremely cramped and insalubrious conditions. In addition to a lack of privacy, the Committee has found that the risk of intimidation and violence in such dormitories is high, and that proper staff control is extremely difficult. Further, an appropriate allocation of individual prisoners, based on a case-by-case risk and needs assessment, becomes an almost impossible task. The CPT has consequently long advocated a move away from large-capacity dormitories towards smaller living units.

**The CPT recommends that the Romanian authorities take pro-active steps to combat inter-prisoner violence in light of the above remarks. Part of the strategy to combat inter-prisoner violence and bullying will have to include investing far more resources in recruiting additional staff and developing staff professionalism and training as well as offering prisoners a purposeful regime and decent conditions.**

74. The Committee also considers that the Romanian authorities need to ensure that prisoners who allege to have been sexually abused by other prisoners should be provided with much greater support. Being sexually abused is designed to make the men in question no longer feel “manly” and to instil in them a deep sense of shame. This was the case with all the prisoners met who alleged sexual abuse. Consequently, they are less likely to raise this form of abuse to prison officials. However, when such acts of abuse come to light the prisoner in question must be provided with the appropriate psychological support and follow-up medical care; this requires a change of attitude on the part of health care personnel, psychologists and prison officials who seem only too willing to deny the existence of sexual abuse among prisoners and to punish the victim through further inaction.

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<sup>53</sup> Regarding the case in the admission cell at Bacău Prison, one officer was allegedly heard to say to one of the abused prisoners when he left the cell, “Have you been sexually initiated yet?”

**The CPT recommends that the Romanian authorities ensure that prison health care services and prison management are properly trained and equipped to support victims of sexual violence.**

- e. deaths in prison and prevention of suicide (and self-harm)

75. The CPT considers that every death of a prisoner should be the subject of a thorough investigation to ascertain, *inter alia*, the cause of death, the facts leading up to the death, including any contributing factors, and whether the death might have been prevented. Such inquiries are necessary in order to identify possible means to improve the system of prevention in place as well as to provide the relatives of the deceased person(s) with relevant information concerning the circumstances of the death.

76. The CPT's delegation was informed that, until the time of the visit, there had been 91 deaths in prisons in 2017 of which 9 were suicides. The delegation examined in detail one recent death at Aiud Prison and two at Iași Prison.

- i. At Aiud, prisoner PS committed suicide by hanging on 13 June 2017. The prisoner in question had already made two previous attempts to hang himself on 20 November and 5 December 2016, and he was known to have a mixed anxiety-depressive disorder and to have an anti-social personality disorder. It is also interesting to note that one week prior to his suicide, on 7 June, the doctor recorded that he had a head injury to both ears and an excoriation on the left knee, and the dentist noted a suspicion of a mandibular fracture (the fracture was confirmed in the autopsy report).<sup>54</sup> PS refused to go to hospital and a week later he sewed his lips together with a wire, and later that same day at 22h00 was found hanging in the sanitary annexe by his cell mate.
- ii. At Iași Prison, prisoner PC died a violent death on 28 June 2017. The autopsy states it was a consequence of "skull-cerebral trauma combined with subdural hematoma, subarachnoid haemorrhage, laceration of the brain, contusion of the brain's "corpus callosum", facial fracture at the level of the cranial vault and fracture at the base of the skull." PC's injuries were of a very severe nature, usually requiring a relatively high degree of force. The delegation was informed informally that PC had been hit by another prisoner (SVC) with a walking frame across the head while the two of them were located in the infirmary for protection reasons.

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<sup>54</sup> The CPT's delegation heard allegations, including from staff members, that these injuries to PS had been inflicted by members of the intervention team.

- iii. At Iași Prison, prisoner SVC (allegedly responsible for the death of PC in ii above) died on 2 October 2017 apparently from natural causes according to the prison management. However, the autopsy report of 22 February 2018 concludes that the death of SVC had been violent. More specifically, the death was caused by “acute cardio-respiratory insufficiency consequent to a trauma of the skull/brain which materialized through an extradural haemorrhage, acute subdural hematoma, subarachnoid haemorrhage due to the fracture of the base of the skull’s vault irradiating from the base of the skull.” The autopsy goes on to state that “the lesions have been produced most likely by a mechanism of fall from the same level (with an impact of the temporal part of the head) either self-induced or provoked by another subject/person following an event that has to be the object of an investigation.”

The CPT’s delegation had the distinct impression that officials at Iași Prison did not want to discuss this case. His records show that on 31 May 2017 he alleged that he had been sexually assaulted and the forensic medical examination at the time appeared to confirm anal penetration had occurred. He was moved to the infirmary as a protective measure but over the next six months until the day of his death he moved cells at least 12 times, with each move accompanied by a note of an injury in the health care register.

**77. The CPT recommends that the Romanian authorities ensure that a thorough investigation is systematically carried out into every death in prison by an authority independent of the prison system to ascertain, inter alia, the cause of death, the facts leading up to the death, including any contributing factors and whether the death might have been prevented. Further, an analysis should be undertaken of each death in prison to consider what general lessons may be learned for the prison in which the death occurred and whether in the case of self-inflicted death there are any systemic, nationwide measures that need to be taken.**

**The Committee would also like to be informed of the outcome of the investigations into the above-mentioned cases. In addition, it would like to be receive details of the investigative steps taken to determine the circumstances of the death regarding case no. (iii) above, including why he was repeatedly moved to different cells between 1 June and 2 October 2017.**

**Further, the CPT would like to be informed of the results of any internal inquiries established following the above deaths with a view to identifying acts or omissions which might contribute to avoiding similar deaths in the future.**

78. In addition to the case of suicide by hanging examined above, the delegation looked into another such suicide at Galați Prison, and it also came across numerous cases of self-harm at this and other prisons visited. However, despite the duty of care by the authorities towards prisoners requiring them to take appropriate measures to prevent instances of suicide and self-harm, there was no suicide or self-harm prevention programme in place in any of the prisons visited. Prisoners who self-harmed were not provided with the appropriate medical, including psychological, support.

All the prisons in Romania and notably prisons holding pre-trial prisoners need to put in place procedures for the identification of prisoners who may be at risk of suicide or self-harm and a protocol for the management of prisoners identified as presenting a risk. To begin with, medical screening on arrival, and the reception process as a whole, has an important role to play in suicide prevention; performed properly, it should assist in identifying those at risk and relieve some of the anxiety experienced by all newly arrived prisoners. The screening process should include a suicide risk assessment using an identified screening tool.<sup>55</sup> Moreover, it is essential that the prevention of suicide, including the identification of those at risk, should not rest with the health care service alone. All prison staff coming into contact with inmates – and, as a priority, staff who work in the reception and admissions units – should be trained in recognising indications of suicidal risk. The sharing of information concerning suicidal tendencies with prison staff should be based on the consent of the prisoner but if there is an imminent threat of harm to the inmate such information may be shared with staff. In this connection, it should be noted that the periods immediately following admission to prison as well as before and after trial and, in some cases, the pre-release period, are associated with an increased risk of suicide.<sup>56</sup>

Further, it is imperative that acts of self-harm or attempted suicide should not be treated as a disciplinary offence. Such acts require prisoners receiving support, not punishment. The relevant legal regulations should be amended accordingly (see also paragraph 131 below).

**The CPT recommends that the Romanian authorities ensure that a comprehensive suicide prevention and management approach is introduced at Aiud, Iași and Galați Prisons and other prisons, taking into account the above remarks. See also paragraph 131 below which recommends that acts of self-harm and attempted suicide stop being considered as a disciplinary offence.**

### **3. Conditions of detention**

#### **a. regime for sentenced prisoners**

79. The Romanian prison system provides for four different detention regimes for sentenced prisoners pursuant to Articles 34-38 of the Law No. 254/2013 and the breakdown at the end of December 2017 was as follows:

- Maximum Security Regime (8% of inmates) which is applicable to lifers, prisoners executing a sentence of more than 13 years as well as persons “presenting a risk for the security of the establishment” (Article 34 of the Law). Prisoners subject to this regime are under the strict surveillance of staff and are, in theory, accommodated in single cells. They are offered activities of a recreational, educational or therapeutic nature in small groups and may be engaged in work in their cells (e.g. handicraft, sewing shoes, etc.).
- Closed Regime (32% of inmates) executing a sentence between 3 and 13 years. They are accommodated in multiple-occupancy cells and perform activities in groups.

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<sup>55</sup> Including a checklist of standard questions, e.g. the Viennese Instrument for Suicidality in Correctional Institutions, or “VISCI”.

<sup>56</sup> See also the 2007 World Health Organisation publication [Preventing Suicide in Prisons and Jails](#).

- Semi-open Regime (42% of inmates) is automatically applied to prisoners serving a sentence from 1 to 3 years. They enjoy an open cell regime, can move freely within the establishment and can perform work in dedicated workshops in dedicated parts of the establishment.
- Open Regime (18% of inmates) applies to prisoners serving a sentence of up to one year. This category of prisoners can also be engaged in activities outside the detention perimeter of the establishment.

80. The detention regime of an inmate is established by the “Board for the establishment, individualisation and alteration of sentence enforcement regimes” (i.e. a commission composed of the prison director, the head of treatment, psychologist, educational officer and a secretary) and is normally imposed after the end of the initial admission period (i.e. 21 days). The decisions of the above-mentioned board can be appealed by the inmate to the supervisory judge. Further, every inmate must have an individual treatment plan and should be able to access the activities on offer to facilitate his/her rehabilitation needs. The Board reviews periodically the regime of each inmate and it can decide on the promotion or regression of the regime based on different criteria (i.e. the inmate’s disciplinary record, behaviour, etc.).

From the evidence gathered by the CPT’s delegation, it appeared that prisoners were not involved sufficiently in the development of their sentence plans; indeed, the sentence plans were very rudimentary and did not establish clearly defined objectives for prisoners to achieve. Too much emphasis was placed on passing various written tests to gain credits. Further, the review boards did not consult the prisoners before making their decision about “regime” changes but merely informed them of the conclusion reached.

**The CPT recommends that the Romanian authorities review the way in which the individual prisoner sentence plans and “regime” reviews are carried out, in the light of the above remarks.**

81. The activities on offer to prisoners depended on the regime in which they were placed. In all the prisons visited, the CPT’s delegation noted that efforts were being made to expand the range of activities on offer to prisoners. However, it is evident that much more needs to be done to provide prisoners with purposeful activities with a view to preparing them for reintegrating back into the community.

- At Aiud Prison, prisoners were offered two to three hours of outdoor exercise and access to a gym once a week for one hour. At the time of the visit, 309 inmates worked, with 152 sewing shoes in their cells and 159 engaged in various prison maintenance and kitchen/food distribution activities as well as a car mechanic workshop.
- At Gherla Prison, a similar range of activities and work were on offer, with 105 inmates sewing shoes in their cells and 145 working in prison-related jobs.<sup>57</sup> As regards schooling, 67 prisoners had started the school year and 48 completed it in 2016/17.
- At Iași Prison, roughly 115 inmates were working for a third beneficiary (sewing shoes, construction work, carpentry, etc.) and 180 in prison-related jobs.

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<sup>57</sup> A further 46 women from the open centre at Cluj were working in a factory.

- At Galați Prison, some 75 inmates were working on prison-related jobs. The delegation received positive feedback on the operation of the school in which more than 100 inmates were enrolled up to the 11<sup>th</sup> grade. Overall, some 50% of inmates were involved in an activity on weekdays lasting one or more hours. There were also two sports instructors running programmes for 6-8 hours on weekdays (the recently installed synthetic football pitch was appreciated by prisoners).
- At Bacău Prison, the range of activities available was rather poor. Other than some kitchen and maintenance work there were no paid jobs on offer. The main activity for women was schooling with some 90 women attending primary school classes and basic literacy courses. Sports activities were limited due to lack of space but a sports monitor ran courses in which 45 women prisoners were enrolled. However, the vast majority of sentenced prisoners (women and young adults) had little in the way of purposeful activities offered to them.

In all the prisons visited, various social (improving relations with the family and children; preparation for release) and educational (geography, literature, history, civic education, etc.) courses were offered whereby prisoners could earn credits. The courses were usually one hour a week and lasted three months. Each prison also had a psychological service that offered various behavioural courses (such as addressing addiction, aggression, violence and personal choices) which were usually 24 sessions of 90 minutes each over a period of six months.

**The CPT recommends that the Romanian authorities continue to develop the range of purposeful activities (work, vocation, education, sport and recreation) on offer to prisoners. Particular efforts should be made to ensure that young adults are provided with daily stimulation which should include physical activities.**

b. regime for pre-trial prisoners (men and women)

82. The regime offered to inmates on remand remains in practice very poor. Pre-trial detainees are locked in their cells for 21 or more hours a day for months on end with little access to purposeful activities.

In all the establishments visited, the only activity remand prisoners were offered on a daily basis was access to outdoor exercise for one to two hours. No regular activities were offered to inmates apart from a few hours of educational classes every month; the possibility for them to access work and purposeful activities as provided for by Article 122 (2) 2 of the Law No. 254/2013 has yet to see the light of day. Their days were spent reading, listening to the radio, playing board games and watching television. In light of the extreme overcrowding in many of the cells accommodating pre-trial prisoners in the prisons visited in which many inmates had only 1.5 to 2 m<sup>2</sup> of living space each, there is an even greater necessity to provide more out-of-cell time.

In its 26<sup>th</sup> General Report published in April 2017, the CPT addresses the issue of remand detention in detail.<sup>58</sup> The CPT considers that it is not acceptable to lock up prisoners in their cells for 22 hours or more a day and to leave them to their own devices for months on end. Instead, the aim should be to ensure that remand prisoners are able to spend a reasonable part of the day (i.e. eight hours or more) outside their cells, engaged in purposeful activity of a varied nature (work, preferably with vocational value, education, sport, recreation/association). The longer the period of remand detention, the more varied the regime should be.

**The CPT recommends that the Romanian authorities devise and implement a comprehensive regime of out-of-cell activities for remand prisoners (the aim should be for prisoners to spend 8 hours out of their cells every day). An immediate step would be to offer all prisoners at least two hours of outdoor exercise a day in reasonably sized yards which are suitably decorated and equipped with a means of rest and shelter from the rain or sun.**

**The CPT would like to be informed of the daily activities offered to young adults on remand in the prisons of Bacău and Galați.**

c. maximum security regime (RMS)

83. As mentioned above, the RMS regime applies to prisoners serving life sentences or sentences of more than 13 years, as well as to prisoners posing a risk to the security of the establishment. The “Board for the establishment, individualisation and alteration of sentence enforcement regimes” is mandated under Article 40 of Law No. 254/2013 to reassess the regime applied to life sentenced prisoners after 6.5 years, and for other prisoners after one fifth of their sentence has been served. Reassessments are carried out annually.

The CPT continues to have serious misgivings concerning the organisation and review of the maximum security regime.<sup>59</sup>

Moreover, the CPT has consistently advocated against the systematic allocation of prisoners to a high-security regime based only on their sentence. Such an approach runs counter to the generally accepted principle that offenders are sent to prison as a punishment, not to receive punishment. Further, the length of sentence does not necessarily bear any relationship to the level of risk a prisoner may represent inside a prison. Instead, the placement of prisoners in the maximum-security regime should be decided after a period of assessment in normal location, and in all cases, on the basis of a full psychological and, if necessary, psychiatric evaluation of the prisoner.<sup>60</sup>

**The CPT recommends that the Romanian authorities review the automatic placement policy for the maximum-security regime with a view to introducing a system based on an individual risk assessment of the prisoner’s behaviour and the threat posed to the safety and security of staff and other prisoners.**

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<sup>58</sup> See the 26<sup>th</sup> General Report of the CPT: CPT/Inf (2017)5, paragraphs 52 to 73.

<sup>59</sup> See the report on the 2014 visit: CPT/Inf (2015) 31, paragraphs 70 and 77.

<sup>60</sup> See Recommendation CM/Rec (2014) 3 of the Committee of Ministers of the Council of Europe concerning dangerous offenders and the 25<sup>th</sup> General Report of the CPT published in April 2016 concerning the situation of Life-sentenced prisoners – CPT/Inf (2016) 10, paragraphs 74 to 82.

84. The CPT recognises that in every country there will be a certain number of prisoners considered to present a particularly high security risk and hence to require special conditions of detention. In Romania, the perceived high security risk of such prisoners results from the nature of the offences they have committed, as well as the manner in which they react to the constraints of life in prison. This group of prisoners should represent a very small proportion of the overall prison population which is largely the case in Romania (8%). However, it is a group that is of particular concern to the CPT, as the need to take exceptional measures *vis-à-vis* such prisoners brings with it a greater risk of inhuman treatment.

Consequently, the CPT has advocated that prisoners who present a particularly high security risk should, within the confines of their detention units, enjoy a relatively relaxed regime by way of compensation for their severe custodial situation. In particular, they should be able to meet their fellow prisoners in the unit and be granted a good deal of choice about activities. Special efforts should be made to develop a good internal atmosphere within high-security units. The aim should be to build positive relations between staff and prisoners. This is in the interests not only of the humane treatment of the unit's occupants but also of the maintenance of effective control and security and of staff safety.

Further, the existence of a satisfactory programme of activities is just as important - if not more so - in a high security unit as it is on normal locations. It can do much to counter the deleterious effects upon a prisoner's personality of living in the bubble-like atmosphere of such a unit. The activities provided should be as diverse as possible (education, sport, work of vocational value, etc.). As regards, in particular, work activities, it is clear that security considerations may preclude many types of work which are found on normal prison locations. Nevertheless, this should not mean that only work of a tedious nature is provided for prisoners.

85. In the four prisons visited in 2018 in which prisoners under the RMS were held, the vast majority of inmates were confined to their cells for 22 hours a day with one hour of outdoor exercise and one hour (on average) of activities (socio-educative courses). Due to the overcrowding in all the prisons, inmates under RMS were not confined alone in their cells as stipulated by the law - which is just as well otherwise most of them would have been held in *de facto* solitary confinement. Nevertheless, the poor regime exacerbated by the lack of positive relations with staff and the presence of members of the intervention team meant that these units often operated as additional punishment blocks on top of the sentence handed down by the courts.

The CPT considers that the Romanian authorities should review the way in which the units for RMS prisoners operate. A prisoner who is considered a danger to the community and is sentenced to a long term of imprisonment does not necessarily represent a specific threat within the prison environment. Prisoners with long sentences often want a stable environment as they know they have a long time to serve. For this reason, within a high secure environment (and the Committee acknowledges that there is a need to upgrade the infrastructure in many Romanian prisons) RMS prisoners should be offered a much more open regime. The aim should be for them to spend 8 hours a day out of their cells engaged in education, sport, work, vocational activities and recreation.

Many prisoners under the RMS regime (notably at Aiud and Gherla Prison) were provided with work, sewing shoes in their cells. However, they should also be offered opportunities to participate in education, sport and recreational activities and to associate with other inmates. In those prisons where less work is available (such as Galați and Iași Prisons) greater emphasis should be placed on vocational training and education as well as sport and recreation.

**The CPT recommends that the Romanian authorities review the manner in which the maximum security regime is applied with a view to offering prisoners subject to this regime with more out-of-cell time and a greater range of activities, as well as the possibility to associate together within the confines of their wings, in the light of the above remarks.**

86. The CPT recognises that the Romanian authorities have in place a procedure to review placements in the RMS regime on an annual basis and the decision of the Board can be appealed to the supervisory judge. However, the findings of the visit showed that the procedure was very formalistic with the Chair of the Board simply informing the prisoner of the decision for the regime to be extended without any reasoning or opportunity for the prisoner to express him/herself. In addition, Article 40(12) of Law No. 254/2013 does not provide for all prisoners to be heard by the Board when their case is being discussed.

Further, individual sentence plans drawn up with the participation of the prisoner concerned containing clear goals to achieve were not in place. Instead, prisoners undertook particular courses in order to earn credits, ideally to gain a privilege such as an extra visit, but often because they had committed a disciplinary offence and had a deficit of points to pay back if they wanted to progress in their regime.

The CPT considers that the review of RMS prisoners should be carried out every six months and that such a review should always be based on the continuous assessment of the individual prisoner by staff specially trained to carry out such an assessment.

**The CPT recommends that the “Board for the establishment, individualisation and alteration of sentence enforcement regimes” always provide a written reasoning for the continuation or progression of regime for each prisoner and that the procedure include an exchange of views with the prisoner concerned. The relevant legal provision should be amended accordingly.**

**Further, the CPT recommends that an individual sentence plan for every RMS prisoner be established with clearly defined objectives and which is reviewed periodically.**

**The CPT would also appreciate the observations of the Romanian authorities on the phasing out of the current points system.**

87. As for the procedure for deciding to designate a prisoner as high-risk,<sup>61</sup> it appeared to be precipitous at times, based on a single incident (which might not involve any physical aggression) rather than an evaluation of the prisoner based on a thorough individual risk assessment. Given that the consequences of the high-risk designation meant that a prisoner was handcuffed every time he left his cell and was always escorted by two masked members of the intervention team for a minimum period of six months but usually much longer, such a measure seemed disproportionate. For a number of prisoners, the measure was maintained for many years regardless of the behaviour of the inmate but always with reference at each extension to the initial reason.<sup>62</sup> The CPT considers that where a prisoner might be considered as high-risk, it may be appropriate for that prisoner to be escorted by one or more ordinary prison officers whenever he leaves the cell. However, within the secure environment of the MSR regime and the prison, the application of handcuffs should be an exceptional measure. Also, prisoners should not be handcuffed during medical consultations.

**The CPT recommends that the Romanian authorities review the manner in which high-risk prisoners are designated. Further, it recommends that the policy of handcuffing high-risk prisoners be thoroughly reviewed so as to ensure that such a measure is truly exceptional and is based on an individual and comprehensive risk assessment carried out by appropriately trained staff. In addition, immediate steps should be taken to put an end to the practice of keeping high-risk prisoners in handcuffs during medical consultations (as well as any other interviews).**

d. material conditions

88. The material conditions in all the prisons visited could be considered as generally poor. The National Prison Administration and the local prison management were generally very much aware of the deficiencies. Nevertheless, the CPT wishes to provide a brief overview of the situation in each establishment visited as it considers that urgent action is required to address certain findings.

89. At Aiud Prison, a number of initiatives had been undertaken by the management to improve the conditions in the establishment such as renovating the kitchen, equipping more than half the cells with new televisions and installing telephones in every cell. However, this could not hide the fact that the building itself was cold, austere and dilapidated compounded by an obsolete steam heating system with multiple leaks. The cells were generally in a poor state of repair with flaking walls, poor access to natural light and inadequate ventilation; in addition, the cells in Section E1 were noticeably humid and had mould on the walls. The separate open plan collective shower facilities provided no privacy and were in a poor state of repair. Further, many young adults complained that they were often verbally intimidated in the showers by older prisoners.

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<sup>61</sup> The definition of high risk is set out in Art 24 of Law No. 254/2013 and Article 27 of its Implementing Regulation.

<sup>62</sup> At Gherla Prison, an inmate sentenced to 25 years imprisonment in 2003, had been kept in RMS high-risk classification until 10 days prior to the delegation's visit. From his arrival at Gherla Prison in 2011, he had been held alone in a cell. Every review by the Board upheld his high-risk classification based upon an escape from a prison in Greece in 1993 and the fact his crime had been carried out with a firearm. He had no disciplinary sanctions at Gherla and had completed more than 60 courses. The CPT's delegation met several other such prisoners classified as RMS high-risk.

The CPT has taken note that Sections 7 and 8 of the prison will be disconnected from the steam heating system and that a new electric central heating system will be installed. Nevertheless, in light of the state of the buildings, it considers that it might be more economical to close down the prison than to invest the necessary resources to ensure that it can provide decent living conditions for prisoners and suitable working conditions for staff.

**The CPT would appreciate the comments of the Romanian authorities on this matter. If the prison is to remain operational, the CPT recommends that considerable resources be invested to upgrade the heating system to maintain the cells at an appropriate temperature and to renovate the cells. Further, steps should be taken to prevent prisoners, notably young adults, from being bullied (e.g. by operating separate shower times).**

90. At Bacău Prison, the material conditions in the recently constructed semi-open and open regimes unit for young adults, funded by the Norwegian Government, could be considered acceptable. The multiple-occupancy cells were of a sufficient size (4 m<sup>2</sup> of living space per inmate excluding the sanitary annexe) and had adequate access to natural light and to artificial lighting. Cells were equipped with four sets of bunk beds, a table and chairs and a separate sanitary annexe.

By contrast, the 18 young adults in pre-trial detention<sup>63</sup> were held in a single dilapidated and overcrowded cell measuring a mere 26 m<sup>2</sup> (i.e. 1.5 m<sup>2</sup> of living space per prisoner). The three sets of double bunk beds and two sets of triple bunk beds were all pushed together to try and provide some open communal space in the cell. The sanitary annexe consisted of two sinks, an open shower basin (the shower hose did not function) and a toilet which had no light at the time of the visit. The young men were confined to their cell for 20 to 22 hours a day for months on end. Their situation was akin to that of caged animals, and the delegation observed for itself the pacing to and fro of inmates within the cell and the palpable tension therein. Such conditions are not only unacceptable in themselves, but they also contribute directly to the potential of severe inter-prisoner violence (see paragraph 71 above).

The CPT's delegation requested that immediate steps be taken to improve their situation both by reducing the number of young adults held in the cell and by offering them more access to out-of-cell activities. Given that the young adult semi-open and open unit were operating at only 60-70% capacity, consideration might be given to allocating two to three cells in this unit for accommodating young adults on remand. This would address the issue of overcrowding and poor conditions and also provide more options for the distribution of the young adults on remand based on a proper risk and needs assessment.

**The CPT recommends that urgent steps be taken to provide young adults on remand at Bacău Prison with safe and decent living conditions, in the light of the above remarks and findings. The Committee would also like to receive the observations of the authorities on using part of the capacity of the semi-open and open unit for placing young adults on remand.**

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<sup>63</sup> Two other young adults accused of bullying and beating fellow inmates were held in Section 3.

91. The situation of adult male inmates on remand was also notably poor. The living space afforded to them in the multiple-occupancy cells varied from 2m<sup>2</sup> to as little as 1.25m<sup>2</sup> each.<sup>64</sup> All the cells had one or more sets of triple bunk beds which meant that the persons on the top bunk could not sit up without hitting their heads on the ceiling and, in one cell, 22 prisoners were sharing 20 beds. The cells were in a state of disrepair. Mattresses were infested and many prisoners met by the delegation had bedbug bites all over their bodies. The sanitary annexes had mould on the ceilings and walls, the pipes were rusting and many of the fixtures were broken. Hot water was offered for one hour a day.

**The CPT recommends that the Romanian authorities take immediate steps to reduce the extreme overcrowding in the adult male pre-trial unit at Bacău Prison. It is imperative that every prisoner be allocated his/her own bed.**

**Further, a rolling programme of renovation should be undertaken in the prison, in conjunction with the decongestion of the cells, to upgrade the sanitary facilities (remove the mould, provide new fixtures, fix the piping) and improve the state of repair in the cells (deinfest the bedding and mattresses, provide a table and chairs for prisoners to eat their meals at, and an individual lockable space).**

92. At Galați Prison, the 19<sup>th</sup> century accommodation block was in a general state of dilapidation. The cells on the ground floor, which primarily accommodated maximum security regime prisoners, were in a notable state of disrepair: the cells were cold (11°C) and humid (condensation was trickling down the walls), beds frames rusty and the mattresses clearly infested and damp; the sanitary annexes were generally foul smelling, had mould on the walls, rusty pipes and broken fixtures. Many prisoners complained that there was only hot water for one hour twice a week and that the water contained lots of sediment. There also appeared to be a strict rule forbidding prisoners from bringing coloured bedding from home unless the sheets were white and the blankets blue. Given the state of the prison bedding, **this rule seems rather disproportionate and should be reviewed.** Further, all cells should be equipped with a table and chairs and a lockable space for prisoners in which to keep their belongings.

A few cells had recently been renovated and they provided acceptable conditions. However, these cells were equipped with four new sets of triple bunk beds which did not allow the top bed to be removed. Although overcrowding remained a problem in the prison, it had reduced considerably and it was no longer necessary for cells to have 12 beds. At the time of the visit, the delegation found that cells measuring 16.5m<sup>2</sup> (excluding the separate sanitary annexe), were accommodating a maximum of eight persons. In those cells holding maximum security regime prisoners, the numbers were never higher than four, which is what the maximum occupancy level ought to be for such sized cells.

**The CPT recommends that urgent steps be taken to renovate the cells (including as regards maintaining the cells at an adequate temperature) at Galați Prison and that occupancy levels be reduced further to ensure all prisoners are offered 4m<sup>2</sup> of living space each in multiple-occupancy cells (excluding the sanitary annexe). The CPT would like to be provided with an update on the state of repairs at Galați Prison. It would also like to be informed about the proposals for the construction of a new accommodation block and the implications for the existing structure.**

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<sup>64</sup> For example, 22 prisoners in 33m<sup>2</sup> and 14 to 16 prisoners in 20m<sup>2</sup>.

93. At Gherla Prison, the material conditions in the accommodation areas had been upgraded in 2010 and again in 2016, when new windows had been installed in all cells thus resulting in better insulation and reduced heating costs. Further, most cells had recently been repainted and some privacy curtains installed in the communal shower areas. However, the cells in Sections 3, 4 and 8 were in a state of disrepair with flaking walls and poor ventilation, insufficiently heated and the sanitary annexes were dilapidated with leaking water pipes and damaged tiling. Also, cells were not equipped with call bells. Overcrowding was evident in many cells with six prisoners in 12m<sup>2</sup> in the maximum security regime section and 16 prisoners in 38m<sup>2</sup> in the closed regime cells.

94. In respect of Iași Prison, the CPT has received confirmation since the visit that Block A, which was accommodating some 600 prisoners at the time of the visit in large, mostly severely overcrowded dormitories, has been closed down and will be razed to the ground. A new accommodation block should be constructed. This is positive news given the state of Block A.

As regards Block B, in which the maximum security regime, pre-trial, admission and transit prisoners were accommodated, there is a need to renovate the cells beyond just whitewashing the walls. In many of the cells, the fixtures in the sanitary annexes were broken, mattresses were infested and cockroaches were visible. The humidity in the cells meant that the mattresses were often damp which was not conducive to prisoners' good health. It is positive that overcrowding in the cells was reduced considerably in the months prior to the visit; nevertheless, further efforts need to be made as a number of cells of 16m<sup>2</sup> were accommodating five or six persons.

**95. The CPT recommends that the cells and sanitary annexes in Sections 3, 4 and 8 of Gherla Prison and in Block B of Iași Prison be renovated and that additional efforts be made at both establishments to reduce the occupancy levels to ensure all prisoners are provided with a minimum of 4 m<sup>2</sup> of living space each in multiple-occupancy cells (excluding the sanitary annexe).**

**More generally, the CPT recommends that the Romanian authorities instruct all prisons to remove extra beds from cells as soon as they become decongested to provide prisoners with more living space.**

**Further, the CPT would like to be provided with information about the new accommodation block being built to replace Block A at Iași Prison, including its intended occupancy and proposed date of opening.**

96. As for the food in the prisons visited, the delegation once again was able to observe for itself the meagre portions and the inadequacy of the diet with little fruit and vegetables, too much fatty meat and a lot of starch (mainly bread and potatoes). Many prisoners met complained about the food and stated that they did not eat the food provided by the prisons and relied on their families and the prison canteen. This was especially the case at Bacău Prison where the food coming out of the temporary kitchen was almost inedible and the delegation observed that only one in five prisoners accepted a bowl of supposed macaroni cheese one evening and a sample of a few cells showed that half of the bowls were not eaten.

The delegation was informed that discussions to augment the food budget allocated per prisoner per day (currently 3.76 lei or 60 cents) were being considered.

The state of hygiene and cleanliness of the kitchens visited was acceptable (the Bacău Prison kitchen was being renovated at the time of the visit).

**The CPT again recommends that the Romanian authorities take steps to guarantee that the quality and quantity of food distributed to prisoners in the prisons visited, and in all other Romanian prison establishments, comply with minimum standards on daily food intake in proteins and vitamins.**

e. exercise yards

97. At Bacău Prison, the exercise yards consisted of two concrete floored caged-in yards which measured some 15 m x 4.5 m and were equipped with a small table and four fixed metal stools, a couple of benches and an exercise bar. Each yard also contained a portable cabin toilet which was filthy and had excrement all over the floor at the time of the visit.

The yards were too small in which to exercise properly when 25 or more prisoners were crammed into them. Further, the cage-like nature of the yards with barred sides and a wire mesh ceiling (upon which had collected a mass of rubbish) were hardly inviting, especially when it rained as there was no shelter available. **The CPT recommends that steps be taken to create decent walking areas which possess shelter from inclement weather as well as a means of rest and some exercise equipment.**

98. At Aiud Prison, the 13 concrete walled courtyards (12 of 30m<sup>2</sup> and one of 70m<sup>2</sup>) available for maximum security regime prisoners were covered with a double metal grille mesh, making them austere; further, they possessed no water outlets or toilet and were in a general state of disrepair. The other courtyards were in a similar condition.

At Galați Prison, there were seven cage-like exercise yards adjacent to one another and three slightly smaller yards with concrete walls on three sides for maximum security prisoners. The yards each had a means of rest and a telephone, and one was equipped for weight lifting exercises. There was also a small synthetic football pitch, which was highly appreciated by prisoners.

At Gherla Prison, the six triangular exercise yards (c. 60m<sup>2</sup>) were surrounded by high concrete walls and covered with a low-lying metal mesh grille which rendered them rather oppressive, especially as up to 40 prisoners could be in a yard at one time. Indeed, many prisoners told the delegation that they did not go outside as they considered the yards depressing places.

At Iași Prison, there were multiple outdoor exercise yards of various sizes, all of which were equipped with an exercise bar, shelter from inclement weather and a bench. The concrete yards were drab and uninviting, especially as the view to the sky was impaired by the wire mesh ceiling.

**The CPT recommends that the low-lying metal mesh grilles be removed from the exercise yards and that all courtyards be equipped with a means of rest, and that they be brightened up. Further, all yards should have some shelter from the rain and sun.**

#### 4. Women prisoners

99. In the course of the visit, the CPT's delegation looked into the situation of women inmates held at Bacău Prison. At the outset it should be stated that relations between the staff and women prisoners were positive and no allegations of any ill-treatment were received. The female section, located on the 1<sup>st</sup> and 2<sup>nd</sup> floors of the main accommodation block above the male remand section, was holding 161 prisoners of all regime types in 18 cells. The occupancy levels varied from one cell to another: certain of the cells accommodating closed regime inmates offered less than 2m<sup>2</sup> of living space per person while others offered 3 or 4m<sup>2</sup>.<sup>65</sup> The cells resembled those accommodating male remand prisoners in Bacău Prison. They were furnished with only metal bunk beds; mattresses were infested with bedbugs and the sanitary annexes were in a very poor state of repair, several were dilapidated, with rusty pipes and mould on the walls and ceiling. At least one sanitary annexe had no running water in the sink, with water having to be collected from the floor-level toilet.

The four maximum security regime prisoners were held in a cell of 20m<sup>2</sup>. It was equipped with five sets of bunk beds,<sup>66</sup> a cupboard for clothes, a table and chairs and a television. The cell had good access to natural lighting, adequate artificial lighting and heating. The separate sanitary annexe (equipped with two sinks, a shower and a toilet) was in a poor state of repair. The conditions in the other cells were similar.

The CPT recalls that the conditions of accommodation for women prisoners should meet their specific hygiene needs, including sanitary towels provided free of charge and a regular supply of water to be made available for the personal care of women.

The delegation also noted that the hygiene packs provided to women inmates on a monthly basis were insufficient to cover their needs. **The packs should be correspondingly augmented.**

**The CPT recommends that immediate steps be taken to reduce the severe overcrowding in the female units, particularly as regards those in closed regime and to initiate a rolling programme of renovation, starting with the sanitary annexes. Steps must also be taken to meet the special hygiene needs of women prisoners.**

100. As for the regime, it generally could be described as poor. Women in the maximum security regime spend approximately 21.5 hours a day confined to their cell with the possibility of one and half hours in the exercise yards and one hour of recreational activities (table tennis, sports). They were not offered any education or work. Most of the 71 women in the closed regime had a similar regime with only about 20 enrolled in educational classes on weekdays for 2-4 hours. Pre-trial detainees were only offered outdoor exercise. Furthermore, the outdoor exercise cages are inadequate and expose the women to the men in the pre-trial unit on the ground floor.

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<sup>65</sup> For example, 18 prisoners in 33m<sup>2</sup>, 12 prisoners in 20m<sup>2</sup> and 8 prisoners in 32m<sup>2</sup>.

<sup>66</sup> As it is rare to have more than six women prisoners under the maximum security regime at any one time, at least two sets of bunk beds could be removed from the cell.

The CPT recommends that steps be taken to ensure that all women prisoners, including maximum security regime inmates and pre-trial detainees, are offered a range of purposeful out-of-cell activities, including educational, work and vocational as well as recreational and sports. These activities should take into account gender-appropriate needs (the aim should be for prisoners to spend 8 hours out of their cells every day). An immediate step would be to offer all women prisoners at least two hours of outdoor exercise a day under decent conditions, where they can associate out of hearing and out of sight of male prisoners. In addition, particular efforts should be made to provide appropriate services for women prisoners who require psychosocial support, especially those who have been subjected to physical, mental or sexual abuse.<sup>67</sup>

101. More fundamentally, the CPT considers that the Romanian authorities should reconsider whether Bacău Prison is able to cater effectively to the needs of women prisoners from all regime categories. At present, as noted above, the prison is not able to provide sufficient purposeful activities for women prisoners and there is little available space to develop potential workshops. Above all, most of the women prisoners are not from Bacău but from places between 100 to 400 kilometres distant. This impacts negatively both on their preparation to reintegrate into the community and on their ability to maintain contact with their families. The ability of women with children to retain contact with them was severely hampered (see Section 6d. below).

As there are far fewer women in prison than men, there are only a few prisons which accommodate women, and hence it is a fact that women prisoners are held much farther away from their families than male prisoners. Research undertaken in other countries has suggested that it would be much more beneficial to have smaller custodial centres for women which are based closer to their homes. However, until such time as this is feasible, the State should take additional measures to ensure that women prisoners are able to maintain effective contacts with their families. **The CPT would appreciate the comments of the Romanian authorities on these matters.**

102. In the other prisons visited, women could be held for brief periods (usually a week but at times a month or longer) while in transit attending a court hearing. The conditions in the cells allocated to the women were often poor. For example, at Iași Prison, the designated cell (measuring 13.5m<sup>2</sup>) was occupied by seven beds and was holding four women at the time of the visit. It had no sanitary annexe or running water and the women had to repeatedly bang on the cell door to be let out to go to the toilet or to wash themselves. The male prison officers apparently did not account for the needs of women, especially when they were menstruating, and were at times verbally abusive and unresponsive to the women's demands.

**The CPT recommends that in all those prisons where women prisoners are held for short periods in transit:**

- female staff should be on duty in those wings where they are accommodated;
- all staff working with women prisoners should receive training to enable them to understand and attend to their biology-specific needs;
- appropriate supplies of hygiene products for women should be provided;
- all "transit" cells should offer 4m<sup>2</sup> of living space per prisoner and be equipped with a fully-partitioned sanitary annexe (where no in-cell toilet exists, staff must be attentive to the demands of the prisoners) which offers a regular supply of water for personal care.

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<sup>67</sup> See Rule 42 of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) adopted by the General Assembly on 16 March 2011.

## 5. Health care services

### a. introduction

103. The CPT recalls that a prison health care service should be able to provide medical treatment and nursing care, as well as appropriate diets, physiotherapy, rehabilitation or any other necessary special facility, in conditions comparable to at least the same access as those enjoyed by patients in the outside community. Provision of medical, nursing and technical staff, as well as premises, installations and equipment, should be organised accordingly. There should be appropriate supervision of the pharmacy and of the distribution of medicines. Further, the preparation of medicines should always be entrusted to qualified staff (pharmacist/nurse, etc.).

104. The findings of the 2018 visit showed that the health care services in the prisons visited were in many instances not providing an adequate standard of care in line with the above criteria. In particular, habitual breaches of clinician-patient confidentiality undermined the position of health care services in the prisons visited. Some of these breaches result from inappropriate legislation: for example, the obligation to report deliberate self-harm, which erodes patients' trust in their clinicians and impairs clinicians' roles as health care providers and patient advocates. There is too much reliance on prison officers acting as chaperones and intermediaries in the patient journey such as patients having to request health care appointments via prison officers who then perform inappropriate triage. However, the main underlying problem is one of conflict of interest of health care staff. The fact that many health care staff wore the same uniforms as prison officers reinforced the perception of their lack of independence.

The most serious consequence of this conflict of interest manifests itself in the inadequate documentation of injuries; clinical staff must be truly independent of prison staff when dealing with ill-treatment allegations. Therefore, the Romanian authorities should give serious consideration to the transfer of (the responsibility for) clinical staff to the Ministry of Health. The CPT is convinced that a greater participation of health ministries in prison health care will help to ensure optimum health care for prisoners, as well as implementation of the general principle of the equivalence of health care in prison with that in the wider community.<sup>68</sup>

**The CPT recommends that the Romanian authorities act to ensure that clinical staff are truly independent of prison staff. To this end, serious consideration should be given to the transfer of (the responsibility for) clinical staff to the Ministry of Health.**

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<sup>68</sup> On 16 December 2016, the Ministry of Justice and the Ministry of Health signed a Protocol of cooperation. This represents a positive development. However, it does not provide for Ministry of Health oversight of health care services in prisons.

105. Another serious deficiency is the use of multiple paper registers to record health care findings for prisoners.<sup>69</sup> As a consequence, it is difficult to obtain a clear picture of an individual prisoner's health condition. And yet, a state-of-the-art, multi-disciplinary electronic data entry system existed, with a restricted access health care section for each patient as she/he transited through the criminal justice system. It was not clear why the electronic records management system was not used for routine consultations, especially as the consulting rooms were equipped with internet-accessed computers. Doing away with the multiple registers and fully utilising the electronic system would likely lead to improved care and efficiency gains.

In this context, it is also important to highlight once again the paucity and inadequacy of the clinical notes recorded in the medical registers.

**The CPT recommends that the existing electronic data entry system be fully exploited and developed for the recording of patient information and that the current practice of using multiple registers to record patient information be phased out.**

**Further, all clinical staff should be reminded of the importance to record properly and in full the findings from a consultation with a patient.**

b. staff and access to a doctor

106. At Aiud Prison, the health care team consisted of two full-time equivalent (FTE) general practitioners (GPs) and eight nurses FTE (one of whom worked as the dentist's assistant and another as a hygiene assistant). For a population of some 700 inmates, it would be preferable for the number of nurses to be increased, notably nurses with a mental health qualification. There was also a full-time dentist but the psychiatrist post was removed at the end of 2017 which meant there was no psychiatric input at the time of the visit (see Section 6e below). Access to the health care service was filtered by prison officers.

107. At Bacău Prison, there was one general practitioner in post, a retired civilian doctor, who had joined the prison in June 2017 after a period when no doctor had been working in the prison. The current arrangement should be considered as a stop-gap solution pending the recruitment of 1.5 FTE GPs, given its inmate population of 410 to 480. There were 11 FTE nurses in post for an official complement of 12, which is adequate, and they ensured a 24-hour presence in the establishment. There were no in-reach specialists visiting the prison, nor had there been a dentist or dentist's assistant present since 2013. The lack of dental care was evident in many of the prisoners, and a sample examination of prisoners showed nearly all of them had obvious caries, gum disease (gingivitis) and a poor state of oral hygiene.

Access to a doctor depended on the prisoner revealing the reason for the request to the prison officer on his/her section. The average consultation time for a prisoner from the moment he entered and left the room was a mere 90 seconds. Moreover, at times the health care service did not see inmates in certain cells; for example, the doctor informed the delegation that when the prison ran out of medicine there was no point in seeing inmates. Clearly, the therapeutic value of a doctor's clinic does not only depend on dispensing medication.

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<sup>69</sup> For example, at Iași Prison, there were at least 15 registers for various types of illnesses (e.g. mental health concerns would usually be entered into the psychiatric register but could also crop up in the general clinic registers).

The CPT also has serious misgivings about the dangerous drug dispensing practices witnessed at Bacău Prison. Dispensed medication was not issued with verbal or written instructions regarding dosages, amounts and regimes, and one of the delegation's doctors observed one instance of the wrong medication being dispensed. The provision of glass vials of Algocalmin to inmates suffering from toothache was particularly worrying as the inmates were supposed to self-administer orally the vials' contents when the pain became too excruciating. This off-licence use of a medication meant for injection may be dangerous; furthermore, it also resulted in sharp glass vials ending up in cells and the vials being available for trading on the prison's black market.

108. At Galați Prison, there were three FTE GPs and 10 FTE nurses for a prison population of 484, which represents a good staffing level. There was also a dentist in post. However, there was no psychiatric input or other specialist in-reach doctors and prisoners requiring such care were transferred to hospital. The medicine storage room was well organised and adequately stocked. However, a major concern was the lack of access to the health care service and the delegation received many complaints from prisoners on this matter. Certain prisoners (who had no mental health condition) with serial incised wounds on their non-dominant arms explained that they were deliberately self-harming purely as a vehicle for accessing medical help for their physical ailments. Indeed, allegations were received that prison officers encouraged prisoners to self-harm in order to receive emergency care.

109. At Gherla Prison, there were two FTE GPs in place and 17 FTE nurses (one of whom worked as the dentist's assistant, one as a pharmacist and another as a hygiene assistant) who assured a round-the-clock presence. There was also a full-time dentist. For a prison population of 600, such a staffing complement can be considered as adequate. However, there was no psychiatric input. Also, access to the health care service was filtered by prison officers.

110. At Iași Prison, the official staffing complement consisted of five FTE GPs and six nurses, as well as a psychiatrist, a dentist and three specialised nurses (dental, hygiene and pharmacy). However, at the time of the visit, there was only one GP in post (who was also the head of the service) supported by two part-time doctors from outside contractors, three nurses and no psychiatrist. For a prison of more than 1,000 inmates, there ought to be at least 2.5 FTE GPs and 15 to 20 nurses, including at least two with a mental health qualification. A psychiatrist, a dermatologist, an Ear Nose and Throat surgeon and an internal medicine specialist visited the prison for two hours each once a week. However, there was no administrator which meant that the GP in charge of the service spent much of her time doing paperwork.

Access to a doctor for prisoners was difficult as requests were filtered by prison officers and prisoners could only ask to see a doctor on a particular day. Doctors often ended up seeing 70-100 patients a day which represents an excessive amount of cases to manage safely. In the maximum-security clinic, the delegation also observed that prisoners had to stand before the doctor's consultation table with their heads bowed flanked by two or more prison officers, which is hardly conducive to establishing a therapeutic doctor-patient relationship. A similar approach was observed at other prisons visited. The stocking of psychoactive medication should also be reviewed as the current system of placing different psychoactive tablets loose in a container left a wide margin for dispensing errors.

111. The CPT recommends that the health care staffing levels in the prisons visited be reviewed with a view to ensuring that:

- at Bacău Prison, 1.5 full-time equivalent general practitioners are recruited as well as a dentist;
- at Iași Prison, 2.5 full-time equivalent general practitioners and 15 nurses, including at least one or two with a mental health training, are in post. It would also be cost-effective for a full-time administrator to be appointed to the health care service;
- an adequate provision of psychiatric input is provided at each of the five prisons visited in the light of their specific needs.

As regards access to the health care service in the prisons visited, **the CPT recommends that the Romanian authorities put in place a system whereby prisoners can make a request directly to the health care service by placing a paper in a box on their landing/wing indicating the reason for the request.** The requests could be collected by members of the health care staff at the end of each day (e.g. when the final round of medication is distributed). Further, **prisoners should be treated as patients and not have to stand with heads bowed when seeing the doctor and prison officers should not be placed in a position whereby they can filter access to the health care service.**

**The CPT also recommends that the drug dispensing practices at Bacău Prison be reviewed and that the supply and storage of medication be improved.**

112. The CPT was concerned to learn that none of the prisons visited were equipped with basic emergency medical equipment such as a defibrillator. Nor did the prisons have any oxygen or working electrocardiography (ECG) machine. Further, the consultation rooms were not always properly equipped such as a chair for patients or paper to cover the examining bed.

**The CPT recommends that at a minimum every prison be equipped with a defibrillator and oxygen as well as an ECG machine. Also, prison medical consultation rooms should be properly equipped.**

- c. medical screening on admission and recording of injuries

113. The CPT has consistently stressed the importance of medical screening of prisoners on admission - especially at establishments which represent points of entry into the prison system. Such screening is indispensable, in particular in the interests of preventing the spread of transmissible diseases, suicide prevention and the timely recording of any injuries.

114. As was the case in previous visits, the prison establishments visited in the course of the 2018 visit had policies in place to ensure that all newly admitted prisoners were screened by a doctor or a nurse on the day of their arrival. Prisoners would always see a doctor within 72 hours. The initial screening consisted of filling out a proforma template, which at some prisons appeared far more detailed than others. At Bacău Prison, the initial screening was particularly perfunctory. All prisoners were screened for syphilis<sup>70</sup> and tuberculosis (TB), if the latter had not already been carried out in the Arrest Detention Centre. On the other hand, no systematic voluntary screening for blood-borne viruses was offered, namely hepatitis B and C or HIV.

Women prisoners at Bacău and Gherla Prisons were all seen by a gynaecologist upon arrival, primarily to check if they might be pregnant. However, there was no specific screening template applied to women which goes through their history, including any mental health and gynaecological issues, self-harm and medical care and, importantly, which addresses sexual abuse and other gender-based violence.

**The CPT recommends that the Romanian authorities ensure that all prisons carry out a comprehensive medical screening on admission.**

**In addition, the CPT recommends that a gender-specific medical screening on admission for women should be introduced at Bacău and Gherla Prisons, and other prisons accommodating women prisoners. Such screening should allow for the detection of vulnerabilities, including a history of any sexual abuse and other gender-based violence, and it should inform any care plan established for the woman to ensure appropriate care and avoid re-traumatisation.**

**Further, the CPT recommends that all newly admitted prisoners be offered a systematic, voluntary blood test for blood borne viruses (HIV, HBV, HCV) and that hepatitis B (HBV) negative patients be provided with a HBV vaccination and treatment. Also, hepatitis C positive patients should be vaccinated against hepatitis A.**

115. In addition, the CPT's delegation found that prisoners in transit for periods of longer than a few days were not being seen by the health care service despite the provisions of Article 159(d) of the Implementing Regulation (Government Decision No. 157/2016) of Law No. 254/2013 stating that all such prisoners should be screened within 72 hours of their arrival in a prison. **The CPT recommends that this shortcoming be remedied in all relevant prison establishments.**

116. The CPT remains concerned that injuries sustained in prison were often not correctly recorded - or even not recorded at all - in the prisons visited. Specific examples were found of cases of prisoners who, in the light of information gathered from other sources, certainly would have displayed injuries sustained in prison but whose medical records contained no such evidence. In certain instances where a prisoner subsequently underwent a forensic medical examination, it was striking to note the lack of detail recorded by the prison health care service. The lack of proper recording of injuries undermines the ability to investigate cases of alleged ill-treatment. Further, the poor recording of injuries sustained by inmates as a result of violence and any delay or obstruction in reporting such acts to the prosecutorial authorities is contrary to Article 72 (3) of Law on the Execution of custodial measures (Law No. 254/2013).

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<sup>70</sup> At Galați Prison, testing for syphilis was voluntary although required if prisoners wanted a certificate to marry or to work in the kitchen.

The CPT reiterates its recommendation that steps be taken to ensure that any signs of violence observed when a prisoner is medically screened following an incident within the prison are fully recorded, and that the record contains:

- i) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment);
- ii) a full account of objective medical findings based on a thorough examination, and
- iii) the health care professional's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings.

The record should also contain the results of additional examinations carried out, detailed conclusions of specialised consultations, a description of treatment given for injuries and the results of any further procedures performed.

A record of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with body charts for marking the location and documenting the nature of traumatic injuries that will be kept in the medical file of the prisoner. Further, it would be desirable for photographs to be taken of the injuries, which should also be placed in the medical file. In addition, a special trauma register should be kept in which all types of injury observed should be recorded.

The CPT recommends that procedures be in place to ensure that whenever injuries are recorded which are consistent with allegations of ill-treatment made by the prisoner concerned (or which, even in the absence of an allegation, are clearly indicative of ill-treatment), the record is systematically brought to the attention of the competent prosecuting authorities, regardless of the wishes of the person concerned. Further, dedicated registers on traumatic injuries should be introduced at all prison establishments.

d. confidentiality

117. As regards medical confidentiality, Article 72(2) of Law No. 254/2013 stipulates that any medical examination of an inmate should take place in a confidential setting "with the necessary security precautions". In practice, medical examinations in all prisons continued to be systematically performed in the presence of custodial staff as was the case during previous visits by the CPT. Further, in those prisons where inmates under a maximum security regime were being held, it was also usual practice for one or two members of the special intervention team to be present. In such circumstances, it is not feasible to establish a therapeutic doctor/nurse-patient relationship. Consequently, trust in the health care service is lost and the potential for complicity between health care staff and prison officers is increased. The time has come for the Romanian authorities to ensure that medical consultations of prisoners are no longer carried out in the presence of custodial staff. Alternative solutions can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality. One possibility might be the installation of an alarm system, whereby a doctor would be in a position to rapidly alert prison officers in those exceptional cases when a prisoner becomes agitated or threatening during a medical examination.

**The CPT calls upon the Romanian authorities to instruct the custodial staff that no pressure should be exercised on health care personnel to force them to conduct medical examinations of prisoners in the presence of custodial staff. Further, there can be no justification for custodial staff being systematically present during such examinations; their presence is detrimental to the establishment of a therapeutic doctor/nurse-patient relationship and usually unnecessary from a security point of view. In sum, all medical examinations should be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of non-medical staff.**

118. More generally, the CPT found that there was a lack of confidentiality of prisoner medical records. In all the prisons visited, certain prison officers appeared to have access to medical records whenever they wished without being challenged by health care staff. Further, inmates working in the health care centres were at times allowed to work unsupervised whereupon they could have access to the medical records.

In addition, the CPT considers that the current use of “CVMC”<sup>71</sup> on medical files be abolished as it is stigmatising and a breach of confidentiality. The procedure requires that the front of a prisoner’s medical record be stamped with a colour code if he or she has a specific pathology. For example, yellow for cardiac problems, brown for TB, green for addiction problems, blue for psychiatric problems, etc. The CPT’s delegation noted that at Bacău, Gherla and Iași Prisons, whenever a patient was diagnosed with any illness that could be considered transmissible, health care staff were obliged to divulge to the custodial administration department the patient’s name and condition so that the abbreviation ‘CVMC’ could be stamped across the front of all the prisoner’s criminal justice records – be they discipline, health care or legal files.

**The CPT recommends that the CVMC procedure be abolished as it stigmatising and a breach of confidentiality. There is no necessity for non-health care staff to be systematically informed about whether a prisoner has a specific illness or not. Health care staff may inform custodial officers on a need-to-know basis about the state of health of a detained person; however, the information provided should be limited to that necessary to prevent a serious risk for the detained person or other persons, unless the detained person consents in writing to additional information being given. Also, prisoners working as cleaners should always be supervised in areas where they could have access to records.**

e. psychiatric care

119. In the course of the visit, the CPT’s delegation met many prisoners who were suffering from a mental illness and/or a personality disorder. At Aiud Prison, 166 inmates were identified as having a mental health illness (three of whom were under a court imposed measure under Article 109 of the Criminal Code) and the delegation met several inmates in Section 1 who should have been placed in a psychiatric hospital; their speech was delusional and their behaviour paranoid. All were on various types of psychoactive medication. However, they were not being followed by a psychiatrist or a psychologist. Further, the conditions in Section 1 were among the worst in the establishment (dilapidated and cold with blackened walls and mould and a high humidity which can cause serious infections) which served to worsen their mental and physical well-being.

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<sup>71</sup> CVMC stands for *Caz Vulnerabil Medico-Contagios* (i.e. medically contagious vulnerable case).

In the other prisons visited, the lack of psychiatric input was evident and inmates suffering from a mental health illness had to cope with conditions of detention which had a negative impact on their mental and physical health. For example, at Bacău Prison an inmate with a severe depression with psychotic symptoms and suicidal ideation was not under regular psychiatric review and his medication regime appeared inappropriate. At Iași Prison, some 228 inmates (21% of the population) were taking at least one regular psychoactive medication.<sup>72</sup> Some of these inmates were very vulnerable and were subjected to bullying by staff and inmates alike, and appeared to be over-medicated.<sup>73</sup> For a non-psychiatric secure environment, especially one that lacks both an electrocardiogram (ECG) machine and an in-house psychiatrist, such a prescribing pattern is concerning.

**The CPT recommends that the Romanian authorities ensure that all prisons have appropriate psychiatric input from both a psychiatrist (i.e. at least one psychiatrist in each prison) and nurses dedicated to mental health. Further, prisoners with severe mental health illnesses should not be held in prison but in an appropriate health care facility.**

120. According to Article 73(7), of Law No. 254/2013 a special psychiatric unit should be established in all prisons for the treatment of persons with mental health illnesses and personality disorders.<sup>74</sup> The 2017 annual report of the Romanian Prison Administration refers to such units either existing in several prisons, including Iași, or being established, including Aiud, Bacău, Gherla and Galați Prisons. However, at the time of the visit, no such unit existed at Iași Prison or in the other prisons visited. Moreover, it would be totally inappropriate merely to designate one or two cells in the infirmary wing or close-by as a psychiatric unit and thereafter place prisoners with a mental health illness in such cells without creating the necessary medical and therapeutic environment in which to hold them.<sup>75</sup> Prisoners with mental health illnesses should not only be medicated based on pharmacotherapy and warehoused in prison cells but provided with proper treatment for their illness. As stated above, prisoners with clear mental health illnesses should be treated in an appropriate health care facility; this includes, for example, all prisoners sentenced under Article 109 of the Criminal Code who require mandatory psychiatric treatment.

The CPT considers that it may be appropriate to create step-down units within prisons for prisoners returning from in-patient treatment in a health care facility. However, such units must be appropriately staffed with clinical psychologists and mental health nurses, being under the regular supervision of a psychiatrist as well as offering, as far as is possible within a prison environment, a therapeutic environment.

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<sup>72</sup> It was also worrying that 16 of these inmates were prescribed in addition two different benzodiazepines to be taken at the same time of the day.

<sup>73</sup> For example, at Iași Prison, a small, slight inmate with learning disability and functional illiteracy who was obviously sedated, appearing very sleepy and with bilaterally dilated, slowly-reacting pupils, was prescribed Tiapridel (tiapride) 100mg twice daily, Depakine (sodium valproate,) 1,000mg twice daily, Timonil (carbamazepine) 300mg twice daily, Clopixol (zuclopenthixol) one cup three times daily, diazepam (10mg) at night, and fenobarbital (one cup) at night.

<sup>74</sup> According to the [Romanian authorities](#), 1,487 prisoners were under medical supervision for mental health problems in August 2016, of whom 218 were suffering from a serious mental health disorder.

<sup>75</sup> Note in this context that the Council of Europe's Committee of Ministers encouraged the Romanian authorities to deploy all efforts for these psychiatric units to become operational rapidly and urged them "to ensure that they are equipped with the necessary resources, including qualified medical and nursing. See [CM's decision adopted at the 1273rd meeting \(December 2016\) \(DH\) – Ticu group v. Romania](#) (Application No. 24575/10).

**The CPT recommends that the Romanian authorities undertake a comprehensive review, within six months, of the way in which psychiatric care should be provided to prisoners, including as regards the establishment of psychiatric units in prison establishments under Article 73(7) of Law No. 254/2013, in the light of the above remarks.**

f. drug misuse and transmissible diseases

121. Drug misuse was not considered a major problem<sup>76</sup> and there was no functioning Opioid Substitution Treatment (OST) programme to speak of in any of the prisons visited. A national methadone programme had been rolled out a few years before but any prescription had to be decided by a psychiatrist at one of the specialised hospitals, notably Jilava or Rahova. At the same time, no harm reduction measures were in evidence such as a needle and syringe exchange programme (NSP) or the distribution of condoms (condoms were only made available to prisoners having intimate visits). The attitude of the health care services in the prisons visited appeared to be that substance abuse does not occur, thus there is no need for any specific measures.

However, in the course of the visit, the CPT's delegation met many male prisoners who had injected themselves with various substances (prior to and during imprisonment), notably olive oil, and others who stated that they had consensual sex with other prisoners. Prisoners were wary to approach the health care services as they stated that there was no privacy and that the prison officers would find out immediately. Some prisoners alleged that when they had asked the health care services for condoms they were dismissed as being "dirty".

Although drug misuse does not appear to be a major challenge in prisons at present, it does exist and there can be no room for complacency. The approach towards substance misuse in prison should be part of a national drugs strategy, and should have as its goals, inter alia: eliminating the supply of drugs into prisons; dealing with drug abuse through identifying and engaging drug misusers, providing them with treatment options and ensuring that there is appropriate throughcare (continuity of care); developing standards, monitoring and research on drug issues; and the provision of staff training and development.

**The CPT recommends that the Romanian authorities ensure that a comprehensive strategy for the provision of assistance to prisoners with drug-related problems (as part of a wider national drugs strategy) is operating effectively throughout the prison system.<sup>77</sup> Access to OST should be facilitated and be managed by health care providers in the prison. Harm reduction measures (i.e. condom distribution, needle exchange programmes) should be introduced forthwith in all prisons.**

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<sup>76</sup> Only the psychiatrist working at Gherla Prison until February 2018 spoke about an increase in drug misuse, notably cannabis, methamphetamines and ethno-botanical products.

<sup>77</sup> See, for example, "Health and social responses to drug problems: a European guide" published in October 2017 by the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA); "Mental Health and Drugs in Prison" from the Council of Europe Pompidou Group (2013) and "Prison and Health" (chapters 13 and 14) by the WHO Regional Office in Europe (2014).

122. The management of prisoners with transmissible diseases (HBV, HCV and HIV) was generally under-developed in all the prisons visited.

At Iași Prison, the delegation met two young and fit prisoners who been placed alone in separate infirmary cells because they had HIV and hepatitis C, respectively. Further, prison officers were not allowing the prisoner with HIV access to the outdoor exercise yards (or to any activities) purportedly for his health but essentially because they thought he would infect other people. A similar approach was undertaken in the other prisons visited.

In the view of the Committee, there is no public health justification for segregating prisoners solely because of their HIV or hepatitis status.<sup>78</sup> However, given the current situation in Romanian prisons, with severe overcrowding, poor material and hygienic conditions, lack of medical confidentiality and high levels of prejudice against people living with HIV, it might indeed be tolerable for HIV positive prisoners to be accommodated separately, as long as this accommodation offers conditions conducive to their health and well-being. Further, prisoners with HIV should be offered access to outdoor exercise yards on a daily basis and access to a range of purposeful activities together with other prisoners.

**The CPT recommends that the Romanian authorities put in place an information programme for staff and prisoners on transmissible diseases and notably on HIV. Further, it recommends that clear instructions be issued to ensure that HIV-positive prisoners are treated equally with other prisoners and have access to the same regime.**

123. In the prisons visited, the delegation noted that it was not uncommon for prisoners to undertake a hunger strike<sup>79</sup> the vast majority of which lasted only a few days. Article 54 of Law No. 254/2013 lays down in detail the steps to be taken when a prisoner undertakes a hunger strike, which is defined as refusing three meals in a row. All cases of hunger strikes were recorded in a dedicated register; however, the daily monitoring of prisoners on hunger strike was not always rigorous in all the prisons visited (i.e. recording of blood sugar levels, body mass, heart rate). In this respect, the CPT's delegation also noted that certain doctors had an erroneous understanding of the fasting metabolism<sup>80</sup> leading them to conclude that certain prisoners, given they had normal sugar levels, were only pretending to hunger strike, when this was not the case. It is also not appropriate in this context for health care staff to inform the director or other staff about whether a prisoner has ended (or not) a hunger strike, particularly in the early stages when no medical treatment is required; such information should instead be conveyed by prison staff. Of greater concern, was the apparent punitive approach toward hunger strikers by placing them in a separate cell and imposing certain restrictions such as no daily outdoor exercise. For example, at Iași Prison, the room used for placing hunger strikers had the feel of an environmental sensory deprivation room<sup>81</sup> which was very cold (8°C) and contained many ligature points. The room was particularly unsuitable for prisoners on hunger strike who are all mentally vulnerable.

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<sup>78</sup> See: CPT Standards on Health care Services in Prisons: CPT/Inf (93)12-part, paragraph 56.

<sup>79</sup> For example, in 2017 there were 16 cases at Aiud Prison, 30 cases at Bacău Prison and 80 cases at Gherla Prison,

<sup>80</sup> I.e. the body stores glucose in the liver as glycogen which it can release back in the form of usable glucose during the first few days of fasting (hunger strike); this means that blood sugar results usually stay in the normal range during the first few days when well-nourished people fast.

<sup>81</sup> For example, strip lighting that was controlled externally, no furnishings other than bare bed frames and freshly painted bright white walls, and no television or radio..

The Committee wishes to reiterate that hunger strikes (and acts of self-harm) should be approached from a therapeutic rather than a punitive standpoint. In this context, the prisoners concerned should be accommodated in suitable facilities where their state of health can be placed under appropriate medical supervision. Further, they should not be held in conditions inferior to those of other prisoners (i.e. the cell should be equipped with a bed, a table, a chair, a television, etc.).

**The CPT recommends that prisoners on hunger strike should not be moved to a separate cell but kept in their cells to avoid isolation and to prevent additional negative effects on their psychological wellbeing. Any placement in a separate cell should be exceptional and justified in writing. Further, those separate cells should offer decent conditions and the persons on hunger strike should be provided with the appropriate support from staff. Further, care should be taken to properly monitor and record prisoners on hunger strike, in accordance with the law, and all prison doctors should be educated about the effects hunger striking on the metabolism.**

## 6. Other issues

- a. reception and first night procedures and information to prisoners

124. In addition to medical screening on arrival, the reception and first night procedures as a whole have an important role to play; performed properly, they can identify at least certain of those at risk of self-harm and relieve some of the anxiety experienced by all newly-arrived prisoners. Regrettably, in the prisons visited there were no rigorous admission procedures whereby all new prisoners would undergo a cell-share risk assessment before being allocated to a cell. Nor was there any proper induction programme to acquaint prisoners with the regime and running of the prison during their 21 days in an admission cell, or to ensure that they had been able to contact their family. The Committee considers that such basic procedures on admission are vital in assisting inmates entering the criminal justice system to adjust to prison life. The current compulsory “adaptation to deprivation of liberty” programme needs to be expanded and rolled out in the first days following admission. Further, specific induction programmes should be put together for illiterate inmates.

The severe consequences of not having a proper cell-share risk assessment before allocating prisoners to a cell meant that the CPT’s delegation met several prisoners who had been beaten and sexually abused during the first few days of their stay in prison (see Section 2d above). This was notably the case at Baçau and Galați Prisons concerning young adult prisoners and prisoners who were thought to be sex offenders.

In introducing such a first night procedure, prisons should have at least one or two cells available where potentially vulnerable prisoners may be allocated until the risks have been analysed. Further, prisons should think about establishing a prisoner mentor scheme whereby a trusted experienced prisoner can provide new arrivals with basic information about prison life. Prisoners should of course receive a formal induction about prison life, including the provision of written material, by staff. Prisons must also be alert to the not insignificant numbers of prisoners who are illiterate. For example, at Bacău Prison, a newly-admitted prisoner who could not read was asked to sign a consent form by a psychologist without the contents being read out to him and a similar problem was found in the education department.

**The CPT recommends that the Romanian authorities introduce proper reception and first night procedures as well as an induction process for newly-admitted prisoners in establishments which are points of entry to the prison system. Additional care should be taken to ensure that illiterate prisoners understand the materials with which they are provided.**

b. prison staff

125. In general, it appeared that the number of staff in the prisons visited was not sufficient to cope with the size and type of the inmate population in the establishments concerned.

For example, Iași Prison, with an inmate population of 1,087, had a complement of 305 prison officers, including external security and escorts. As a result, the number of prison officers within the detention areas was only 31 during the day (including for supervising visits) as well as six members of the intervention team (EOS). On many landings there was only one prison officer on duty. At Bacău Prison, a similar situation prevailed; with only one officer on duty for a wing of 97 prisoners supported by a senior prison officer who was also supervising another wing. Consequently, it is not surprising that incidents of inter-prisoner violence go undetected and that prison officers delegate informally certain tasks to inmates nominated as head of the cell.

At Galați Prison, there were some 180 prison officers, including 19 members of the intervention group for an inmate population of 484. During the day there were 23 prison officers working with inmates, nine of whom were responsible for supervising the eight accommodation wings. The lack of staff was apparently the reason for three of the seven external watch towers being manned by prisoners (who were of course unarmed); this is, of course, unacceptable.

This state of affairs is not surprising given that the National Prison Administration (NPA) informed the CPT's delegation at the outset of the visit that of the 16,041 posts foreseen only 12,730 were currently filled. Further, the NPA estimated that the real number of prison employees needed to be closer to 20,000. The CPT was also concerned to learn that in 2016/17 some 3,000 prison employees had retired whereas for 2018 the intention was to recruit only 1,000 new staff.

126. An inadequate staff/prisoner ratio generates an insecure environment for both staff and prisoners. In addition to creating a potentially dangerous situation for vulnerable prisoners, it also poses dangers for staff, whose position can be compromised by their inability to exert proper control over - and develop a meaningful interaction with - prisoners.

Further, the CPT wishes to emphasise the great importance it attaches to the adequate recruitment and training of prison staff. There is arguably no better guarantee against ill-treatment than a properly recruited and trained prison officer, who knows how to adopt the appropriate attitude in his relations with prisoners. In this regard, developed interpersonal communication skills are an essential part of the make-up of such staff. Such skills will often enable them to defuse a situation which could otherwise turn to violence. More generally, they will lead to a lowering of tension and improvement in the quality of life in the institution concerned, to the benefit of all concerned. However, from the information gathered on the ground, staff were not being offered ongoing training courses to develop such skills, and many prison officers expressed their frustration at this state of affairs.

**127. The CPT recommends that the Romanian authorities make provision to recruit additional staff after carrying out a review of the current staffing levels in the prisons visited. In carrying out this review, regard should be had to the role and duties of prison staff (i.e. to their role to provide a safe and secure environment for prisoners and staff and to organise a programme of activities for all prisoners to assist them in preparing for reintegration into the community).**

**Further, high priority should be given to the development of prison staff training, both initial and ongoing. In this context, the CPT would like to be informed about the current programme of initial training and whether any minimum ongoing/refresher training is mandatory such as in relation to de-escalation skills and the use of control and restraint measures.**

128. In the course of the visit, a number of prisoners alluded to the fact that corruption was rife within the prison system and that it was possible to buy whatever one wanted from prison staff (mobiles, open visits, work placements, regime progression, etc.). Such allegations were more persistent at Galați Prison than elsewhere and they tended to demonstrate that the situation had not improved since a high-profile 2015 case in which a prison officer at the prison had been found guilty and sentenced to a term of imprisonment for accepting bribes. The CPT's delegation was provided with no concrete information to back up these allegations but nor did it seek to look into them. Nevertheless, given the temptation of corruption within prisons generally, it is important that the Romanian authorities have clear policies in place to combat the phenomenon.

**The CPT would appreciate being informed about the measures in place to combat corruption in prisons, including details of any whistle blower protective measures.<sup>82</sup>**

c. discipline and security measures

129. Article 103 of Law No. 254/2013<sup>83</sup> sets out the disciplinary procedure to be applied. In brief, following an incident a report has to be sent to the disciplinary board<sup>84</sup> within 24 hours, and an internal investigation (including an interview of the inmate concerned) is carried out, the result of which has to be submitted to the board within 10 days. The board has 10 days to interview the inmate concerned and any other relevant persons and to issue a written decision. The decision is immediately conveyed to the inmate concerned, who has to sign for it, and it makes reference to the right of appeal and time limits. Under Article 104, the inmate has three days to lodge an appeal against the decision, with suspensive effect, and it is the prison supervisory judge who decides on the appeal within 10 days. That decision has to be conveyed to the inmate within three days. The prisoner may, within five days after communication of the decision, appeal (to the departmental court) against the decision made by the supervisory judge. Any subsequent challenge will be decided on by the local court of first instance.

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<sup>82</sup> i.e. a framework for the legal protection of individuals who disclose information on ill-treatment and other malpractice.

<sup>83</sup> Reference should also be had to Articles 217 to 219 and 225 of the Regulation on the application of Law No. 254/2013.

<sup>84</sup> The board comprises the deputy director in charge of security, the deputy director in charge of education and psychosocial assistance, an officer appointed by the prison director) and a secretary (appointed by the prison director).

In all the five prisons visited, the disciplinary procedure was correctly followed: prisoners were systematically interviewed, decisions were reasoned and inmates were informed of the means of appeal. The procedure was monitored by the supervisory judge.

130. The CPT's delegation found that solitary confinement as a disciplinary measure was not overly applied. For example, at Iași Prison, out of 691 disciplinary punishments given out in the course of 2017 (for a population of 1,000+ inmates), solitary confinement was imposed on 77 occasions, 31 of which were for 10 days and the remainder for five days or less. However, it was interesting to note the contrast between the three other high secure establishments: at Gherla Prison, the solitary confinement cells were not used at all during 2017 and at Aiud, they were used 39 times in 2017 for a population of around 750 prisoners; whereas at Galați Prison more than 110 disciplinary punishments of solitary confinement were imposed in 2017 for an inmate population of around 500. At Bacău Prison, solitary confinement as a disciplinary punishment was not imposed at all.

It should also be noted that prisoners at Galați and Iași Prisons complained that the cells used for serving their periods of solitary confinement were particularly cold (broken windows and/or heating not functioning). At the time of the visit, the relevant cell at Iași Prison had just been renovated but it remained cold. **Care should be taken to ensure that all cells in which prisoners are placed are adequately heated.**

131. The CPT has serious concerns over the provision of Article 100 Law No. 254/2013 whereby self-harming constitutes a disciplinary offence. In the course of the visit, the CPT's delegation again met numerous inmates who had been the subject of disciplinary sanctions for having committed an act of self-harm or even attempted suicide. Many of those inmates met clearly required psychological or even psychiatric support. In the response of the Romanian authorities to the 2014 visit report, it was stated that the disciplinary boards are instructed to avoid applying any sanctions to an inmate showing signs of behavioural or health problems.<sup>85</sup> The cases examined by the CPT's delegation showed that this was not the case and that the basic approach followed in all the prisons visited was to place the inmate who had committed an act of self-harm or attempted suicide in a protection room for a period (at Iași Prison the period ranged from one hour to four days) and thereafter to apply a disciplinary sanction which usually involved a period of solitary confinement. At Iași Prison, the delegation documented that nearly all those persons placed in the protection room, who happened to be many of the more vulnerable prisoners, subsequently served a sanction in the solitary confinement cell for an act of self-harm. Such an approach is totally unacceptable.

The Committee has already had occasion to emphasise the fact that acts of this kind very often reflect psychological or psychiatric difficulties or situations which should be dealt with from a therapeutic angle, rather than punished. The time has come for the Romanian authorities to change their approach towards acts of self-harm and/or attempted suicide.

**The CPT recommends that the Romanian authorities ensure that acts of self-harm and attempted suicide are no longer subjected to disciplinary punishment in prisons and that the relevant legal provisions be amended accordingly.**

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<sup>85</sup> See CPT/Inf (2015) 32, page 66.

132. The CPT's delegation again found that, in accordance with Article 101 (4) of Law No. 254/2013, the doctor in the prisons visited had to inform the chair of the disciplinary board of any contraindications to a prisoner's placement in solitary confinement as a disciplinary measure (i.e. that an inmate was "able to withstand isolation for punishment"). Furthermore, health care staff did not visit prisoners serving a disciplinary sanction of solitary confinement consistently on a daily basis.

The CPT recognises the importance of persons placed in solitary confinement whether for disciplinary reasons or administrative reasons being visited on a regular basis by a doctor or nurse. However, the medical staff should not be endorsing a disciplinary sanction by certifying the prisoner as being fit for punishment. Such an approach is not conducive to promoting a positive doctor-patient relationship between health care staff and prisoners which represents a major factor in safeguarding the health and well-being of prisoners.<sup>86</sup>

**The CPT recommends that prison doctors no longer be asked to certify prisoners as being fit to serve a disciplinary punishment of solitary confinement and that subsequently Article 101 (4) of Law No. 254/2013 be amended accordingly.**

133. The sanction of solitary confinement as a disciplinary measure was accompanied almost systematically by a withdrawal of the right to visits for a period of up to three months. In the CPT's view, restrictions on family contact in the context of a disciplinary offence should be imposed only where the offence relates to such contact and should never amount to a total prohibition of contact.<sup>87</sup> The importance of maintaining family contact cannot be overstated and the suspension of family visits should not be imposed as a general disciplinary sanction as was the case in all the prisons visited by the CPT's delegation. Even where the disciplinary offence relates to an abuse of visiting rights, any sanction should not result in the suspension of all visits but of "open" visits across a table for a period.

**The CPT recommends that the Romanian authorities no longer suspend the right to visits for inmates as a disciplinary punishment, in the light of the above remarks, and that Law No. 254/2013 and its implementing Regulation be amended accordingly.**

134. In accordance with Articles 29 and 30 of the Implementing Regulation (Government Decision No. 157/2016) applying Article 15 of Law No. 254/2013, the Director of a prison may separate a prisoner and place him or her in an individual cell for reasons of maintaining good order within the prison or while carrying out an investigation into a disciplinary matter. In the course of the visit, the CPT's delegation came across a number of prisoners who had been subjected to this measure. However, there was no dedicated register where such placements were recorded and it was not at all clear whether the prisoners concerned had been clearly informed of their situation or of the avenues available to challenge the measure.

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<sup>86</sup> It is also contrary to Recommendation Rec(2006)2 of the Committee of Ministers on the European Prison Rules (Rule 43.2).

<sup>87</sup> See also Rule 60.4 of the European Prison Rules (2006) and the commentary on that Rule.

For example, at Galați Prison, a prisoner had been placed alone in a cell almost continuously from 10 November 2017 to 8 January 2018. During this period, he spent four days in solitary confinement as a disciplinary punishment (11 to 14 December and 18 to 19 December) and one week in an ordinary accommodation cell (28 November to 5 December). For the remaining 51 days he was in a cell on his own and did not associate with any other prisoners. The reason provided for the period of solitary confinement was “reorganisation”. However, there were no records providing any reasoning for the placement or any reviews for extending the placement. Apparently, he was not visited by health care staff during this period, despite having had some injuries, nor by the prison director.

In another case, an inmate (ID) was held for two weeks alone in a separate cell while the prison carried out an investigation into an incident (see paragraph 61 above). The CPT considers that placing of prisoners in investigative separation following a suspicion that they may have committed a disciplinary offence, and prior to a formal charge being brought, should not last longer than a few hours. Confinement to a cell for longer than a few hours, in relation to an incident giving rise to a disciplinary procedure, should not occur without the prisoner being charged and being given an opportunity to be heard on the matter and to explain his/her behaviour to a senior prison officer reporting to the director.

135. The CPT considers that once it becomes clear that solitary confinement is likely to be required for a longer period of time, a body external to the prison holding the prisoner, for example, a senior member of headquarters staff or the supervisory judge, should become involved in providing oversight. A right of appeal to an independent authority should also be in place. When an order is confirmed, a full interdisciplinary case conference should be convened and the prisoner invited to make representations to this body. A major task for the review team should be to establish a plan for the prisoner with a view to addressing the issues which require the prisoner to be kept in solitary confinement. Among other things, the review should also look at whether some of the restrictions imposed on the prisoner are strictly necessary – thus it may be possible to allow some limited association with selected other prisoners. The prisoner should receive a written, reasoned decision from the review body and an indication of how the decision may be appealed.

After an initial decision, there should be a further review at which progress against the agreed plan can be assessed and if appropriate a new plan developed. The longer a person remains in this situation, the more thorough the review should be and the more resources, including resources external to the prison, made available to attempt to (re)integrate the prisoner into the main prison community. The prisoner should be entitled to require a review at any time and to obtain independent reports for such a review. The prison director or senior members of staff should make a point of visiting such prisoners on a regular and frequent basis and familiarise themselves with the individual plans. Health care staff should visit prisoners immediately after placement and thereafter, on a regular basis, at least once per day, and provide them with prompt medical assistance and treatment as required. It goes without saying that the reasons for the initial placement and any extension, including the reviews, should be fully documented.

136. **The CPT recommends that the Romanian authorities introduce a review procedure for every measure of separation for the purposes of good order in line with the above precepts with a view to reducing the length of any period of solitary confinement.**

**More specifically, the CPT recommends that all prisoners subject to separation under Article 15 of Law No. 254/2013 should have a right to appeal the measure. Further, all decisions should be properly documented and reasoned and a dedicated register introduced for the cell used for separating the prisoner. The prisoner should receive a reasoned written decision on the measure and the extension of any stay and information on how to challenge the measure.**

**In addition, the CPT recommends that any measure of investigative separation comply with due process safeguards and should generally not last longer than a few hours.**

137. As regards means of restraint, the CPT's delegation received several allegations in the course of the visit from prisoners that they had been handcuffed to fixed objects (a radiator or a bed) for periods of several hours in a cell on their own after having committed an act of self-harm or attempted suicide. Such a practice should be ended immediately. Acts of self-harm frequently reflect problems and conditions of a psychological or psychiatric nature, and should be approached from a therapeutic rather than a punitive standpoint. In this respect, the use of the protection room in accordance with Article 23 of Law No. 254/2013 would be more appropriate; however, it is essential that the supervision is rigorous, including direct monitoring by staff not only through the use of CCTV, and that persons are able to benefit from psychological assistance, which was not the case at the time of the visit.

**The CPT recommends that the Romanian authorities ensure that the handcuffing of prisoners who commit acts of self-harm or attempted suicide is ended immediately. Further, all prisons should apply a therapeutic approach exclusively towards such prisoners.**

d. contact with the outside world

138. The CPT attaches considerable importance to the maintenance of good contact with the outside world for all persons deprived of their liberty. The guiding principle should be to promote contact with the outside world as often as possible; any restrictions on such contacts should be based exclusively on security concerns of an appreciable nature.<sup>88</sup>

139. Contact with the outside world is regulated by Law No. 254/2013 and its Implementing Regulation of 2016. Together they set out the rights and modalities for the operation of prisoner visits and correspondence.

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<sup>88</sup> See also European Prison Rule 24.2.

As regards visits, prisoners in the semi-open and open regimes may benefit from 5 and 6 visits per month respectively in an open setting around a table. Prisoners under a maximum security or closed regime are offered 3 and 5 visits respectively per month and are separated by a screen from their visitors. Visits last between 30 minutes and two hours depending on the prison's capacity to facilitate them.<sup>89</sup> Sentenced prisoners are also entitled to a conjugal visit of three hours every three months as long as they have not committed a disciplinary offence in the previous six months and participate in activities offered to them.<sup>90</sup>

Pre-trial prisoners are offered four screened visits per month.

140. In the prisons visited, the CPT's delegation observed that these regulations were applied in practice and it noted that visits usually lasted between one and a half and two hours. Further, at Iași Prison prisoners in maximum security and closed regime were offered an open visit on their birthdays if they had not committed a disciplinary offence in the previous six months. Given the importance of maintaining contact with their families, the CPT considers that the starting point should be to offer all prisoners "open" visits around a table which allows prisoners to have physical contact with their families. This is especially important for promoting and maintaining contacts between prisoners and their children.<sup>91</sup>

The CPT accepts that in certain cases it will be justified, for security-related reasons or to protect the legitimate interests of an investigation, to have visits take place in booths and/or monitored. However, "open" visiting arrangements should be the rule and "closed" (i.e. screened) ones the exception, for all legal categories of prisoners. Any decision to impose closed visits must always be well-founded and reasoned, and based on an individual assessment of the potential risk posed by the prisoner. The CPT is fully aware that inmates under a maximum security regime are deemed to require higher security. Nevertheless, visits take place in a secure environment, inmates are searched following open visits, and open visits can facilitate the process of progression towards a closed regime or from closed to semi-open regime.

**The CPT recommends that the Romanian authorities institute a rule of open visits for all prisoners, with closed visits as the exception, in the light of the above remarks.**

141. As for the visiting facilities, they varied from prison to prison. At Galați and Iași Prisons, efforts had been made to provide a pleasant environment for the open visits around tables, and at Bacău Prison a space with games for children had been established. However, the visiting areas were all cramped. Additional efforts should be made to create a larger, more child friendly, visiting space in each prison, especially in light of the recommendation in paragraph 140 above. **The CPT would appreciate the observations of the Romanian authorities on this matter.**

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<sup>89</sup> See Article 68 of Law No. 254/2013 and Articles 139 and 142 of its implementing Regulation.

<sup>90</sup> See Article 69 of Law No. 254/2013 and Articles 145 to 147 of its implementing Regulation.

<sup>91</sup> See Recommendation CM/Rec(2018)5 of the Committee of Ministers of the Council of Europe to member States concerning children with imprisoned parents, adopted on 4 April 2018.

142. Women interviewed at Bacău Prison by the CPT's delegation complained that they did not have enough physical contact with their families. Several women confided that they had not seen their family, including their children, for many months as the family could not afford the cost of the travel. A high percentage of the women inmate population are mothers and the primary caretakers in the family. Separation from families and children can have a particularly detrimental effect on both the women and their families and children.

The CPT is particularly attentive to the measures in place to ensure that women prisoners' contact with their families, including their children, and their children's guardians are encouraged and facilitated by all reasonable means. Where possible, measures shall be taken to counterbalance disadvantages faced by women detained in institutions located far from their homes such as the possibility to cumulate visit entitlements. Furthermore, the visits of children should take place in an environment which is as conducive as possible to creating a positive visiting experience and should allow open contact between mother and child. Visits involving extended contact with children should be encouraged, where possible.<sup>92</sup> Every effort should be made to enable children to carry out a visit to their mother which avoids further traumatising them or their mother – the visiting environment should be child-friendly and mothers should be permitted to have physical contact with their children (i.e. hug and kiss them) and the entry and search procedures should not be invasive or excessive (searches should be based upon a clear risk assessment) and the journey to and from the visiting area should mitigate as far as possible a carceral setting.

Much more needs to be done to promote contacts between women prisoners and their families, especially as many of them are incarcerated long distances from their homes.

**The CPT would appreciate receiving the observations of the Romanian authorities on this matter.**

143. As for access to the telephone, the CPT has noted positively that all cells have been provided with a telephone that inmates can use whenever they want. The quota of 10 calls of up to one hour per day is good. It is also important that prisoners can still have access to the phone booths in the wing corridors and in the exercise yards as it is not always possible, as the CPT's delegation observed, to have the required privacy in a large multiple-occupancy cell. Further, a number of prisoners, notably young adults, stated that they could not make phone calls as they did not have any money; these prisoners usually did not receive visits either.

**The CPT recommends that the prison administration offer prisoners with no money the possibility to contact their families on a periodic basis free of charge.**

144. The CPT's delegation noted that in each of the prisons visited there existed the possibility for prisoners to maintain contact with their families through using Voice over Internet Protocol (VOIP) which in most cases meant Skype. This is positive. However, the actual use of such means of communication was extremely limited as only prisoners who did not receive visits because their families resided far away, who had not received a disciplinary sanction and where a social worker had recommended it, were permitted to apply for the use of Skype. For example, at Bacău Prison, the delegation noted that in the course of 2017 only six prisoners had been granted access to one of the two Skype portals between one and seven times each.

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<sup>92</sup> See Rules 26 and 28 of the 2010 Bangkok Rules and paragraphs 16 to 31 of Recommendation CM/Rec(2018)5 of the Committee of Ministers to member States concerning children with imprisoned parents of 4 April 2018

Consideration should be given to extending the use of such communication without restriction to all prisoners who only receive visits on a less regular basis than that permitted due to the distance of the prisoner from his/her home.

It would also be desirable to offer foreign nationals the possibility to have access to such means of communication in order to maintain contacts with their families abroad. At Bacău Prison, the only foreign national in the establishment, who came from east Africa, had no funds to call his family and had not been offered the opportunity to call his family in the six months since his arrival in the prison.

**The CPT recommends that the Romanian authorities review the use of VOIP communication for prisoners to maintain contact with their families and make its use less restrictive, in the light of the above remarks. If necessary, the relation legal provisions should be amended.**

e. complaints and inspections<sup>93</sup>

145. In the context of complaints, the prison supervisory judge who is located within each prison establishment has a clear mandate to receive and investigate prisoner's complaints on any detention-related matter (see Article 9 of Law No. 254/2014). The CPT's delegation noted that at Gherla Prison, in 2017, some 527 complaints/appeals were made to the prison supervisory judge of which 119 were upheld (108 of which concerned decisions on regime change). The supervisory judge received inmates individually in his office and visited the detention areas. At the other prisons, the vast majority of complaints also related to regime change and discipline matters and the supervisory judges appeared to take their role seriously in processing the complaints.

However, at all the prisons visited, there was a widespread perception that the prison supervisory judge was not independent and inmates stated that they had little trust in the complaints system. At Aiud Prison, this perception was reinforced by the fact prisoners were separated by metal bars when they met the supervisory judge and had to remain standing. In the other prisons where maximum security regime prisoners were present, the supervisory judge held meetings with these prisoners with members of the masked intervention team present in the room. Furthermore, many inmates with whom the delegation had interviews, especially at Iași and Galați Prisons, were afraid that the lodging of a complaint would aggravate their situation (i.e. they would be transferred to another prison or for fear of reprisals by staff). In this respect, it should be noted that many inmates did not have paper and pen and were only provided with such after complaining to the supervisory judge. Further, complaints boxes were not present in all sections of the prisons visited which meant that prisoners had to hand their complaints over to prison officers to be given to the supervisory judge.

**The CPT recommends that the Romanian authorities re-examine the procedures currently in force for dealing with inmates' complaints, in the light of the above remarks. In particular, all inmates should be provided with paper and pen to make a complaint and complaints boxes should be readily available throughout the establishment. It is also important that supervisory judges meet all prisoners in a confidential setting out of the hearing of any prison officers.**

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<sup>93</sup> See the section on Complaints Mechanisms in the 27th General Report of the CPT, published in April 2018: CPT/Inf (2018) 4, paragraphs 68 to 91.

**APPENDIX I:**

**List of the establishments visited by the CPT's delegation**

**Police establishments**

- Central detention facility (No. 1) at Bucharest Municipal Police Headquarters, Georgescu Street
- Detention facility No. 2 at Bucharest Regional Transport Police
- Detention facility No. 4 at Bucharest Police Station No.5
- Detention facility No. 8 at Bucharest Police Station No.13
- Detention facility No. 9 at Bucharest Police Station No.15
- Detention facility of Bacău Department, Bacau
- Detention facility of Bistrița Năsăud Department, Bistrița
- Police station of the Bistrița Năsăud Police Inspectorate
- Detention facility of Cluj Department, Cluj-Napoca
- Detention facility of Iași Department, Iași
- Detention facility of Galați Department, Galați

**Prison establishments**

- Aiud Prison
- Bacău Prison
- Galați Prison
- Gherla Prison
- Iași Prison

**APPENDIX II:**

**List of the national authorities, other bodies and non-governmental organisations  
with which the CPT's delegation held consultations**

**A. National authorities**

**Ministry of Justice**

Tudorel Toader	Minister
Marieta Safta	State Secretary
Sebastian Costea	Personal Advisor to the Minister
Lorin Ovidiu Hagimă	Director for European Affairs and Human Rights
Claudiu Tudor	Legal Advisor, Directorate for European Affairs and Human Rights
Carmen Georgescu	Legal Advisor, Directorate for European Affairs and Human Rights
Marian Dobrică	General Director of the National Prison Administration
Cristian Pleșa	Deputy General Director of the National Prison Administration
Ioana Morar	Deputy General Director of the National Prison Administration
Răzvan Coțofană	Director for Detention Security and Prison Regime at the National Prison Administration
Laurenția Ștefan	Director for Medical Affairs at the National Prison Administration

**Ministry of Interior**

Daniel Robert Marin	State Secretary
Gabriel Crăciun	Deputy General Director for Legal Affairs
Claudiu Iaru	Head of Division for Arrest Detention Centers
Alina Panait	Head of Division for Medical Affairs

