



Report

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

from 10 to 21 May 2021

The Government of Romania has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2022) 07.

Strasbourg, 14 April 2022

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EXECUTIVE SUMMARY

In the course of the 2021 visit, the CPT's delegation examined the treatment of persons held in prison and police establishments, and evaluated the measures taken by the Romanian authorities to improve the situation since the Committee's February 2018 visit. To this end, the CPT's delegation visited four prisons, with a particular focus on persons held in maximum-security, closed and pre-trial regimes as well as prisoners with mental disorders. It also visited seven police arrest detention centres and looked into the treatment of persons deprived of their liberty by the police. Further, the delegation had an opportunity to examine the effectiveness of investigations into allegations of ill-treatment by law enforcement officials and prison staff.

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 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.

Law enforcement

The report notes that the vast majority of persons interviewed by the CPT's delegation stated that they had been treated correctly by police officers. Nevertheless, a few allegations of physical ill-treatment 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. Complaints of excessively tight handcuffing were also received.

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 severe sanctions. Further, a system of investigative interviewing of criminal suspects should be promoted. It is also essential that injuries observed by medical staff on detained persons upon their admission to Detention and Preventive Arrest Centres (DPACs) are accurately recorded. The CPT also comments on the investigation into allegations of police ill-treatment and recommends that prosecutors be provided with their own investigators as a means to enhance the independence as well as the promptness and thoroughness of investigations.

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 that all persons are informed of their rights and offered the right to inform a relative or third party of their detention from the outset of their deprivation of liberty.

The CPT maintains that serious consideration should be given to placing the DPACs under the authority of the Ministry of Justice. The findings of the 2021 visit again highlight the poor material conditions and impoverished regime for persons held in the centres visited, which render them unsuitable for holding persons for periods of two months or more. Steps should also be taken to improve the care and regime afforded to minors held in DPACs, and the procedures for strip searches should be amended to avoid persons being completely naked during the process. As for health care, it was generally adequate with the exception of screening for blood-borne viruses in new arrivals. Finally, the CPT wishes to be reassured that the new DPACs will meet the minimum standards for holding remand prisoners for periods of two months or more.

Prison establishments

The CPT notes the ongoing investment in the reform of the prison system as outlined in the updated [Action Plan for the period 2020-2025](#). Nevertheless, the challenges remain extensive: improving the living conditions, offering a range of purposeful activities for prisoners to assist them in preparing for reintegration into the community, increasing prison staff numbers and ensuring that health care services in prisons meet the needs of prisoners.

Moreover, overcrowding remains a serious problem, with the prison estate operating at 127% of its official capacity. Certain establishments visited such as Craiova and Mărgineni Prisons were operating above 150% of their capacity. Such levels of overcrowding lower the overall quality of life in a prison and undermine efforts at preparing prisoners for reintegration into the community. The Romanian authorities should take the necessary steps to ensure that all persons in prison are held in decent conditions and with those living in multiple-occupancy cells afforded a minimum of 4m² of living space each (excluding the sanitary annexe) and increase use of alternatives to imprisonment.

The majority of persons met by the CPT's delegation indicated that they had been treated correctly by staff. This was notably the case at Galați Prison where relations between prisoners and staff appeared calmer and more respectful compared to the 2018 visit. Nevertheless, a considerable number of allegations of physical ill-treatment of prisoners by prison staff were received, including by members of the masked intervention groups, at Giurgiu Prison in particular. Allegations were also received at Craiova Prison and to a lesser extent at Mărgineni and Galați Prisons. The situation was particularly alarming at Giurgiu Prison where the delegation received credible allegations of several persons having been repeatedly subjected to blows to the soles of their feet: a torture method known as *falaka*. The report again raises serious concerns over the lack of recording of and reporting on injuries by the health care service and failures to investigate allegations of ill-treatment effectively.

More generally, particular emphasis should be 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. It is also important that CCTV systems are rendered fully operational in all prisons as a safeguard against ill-treatment. Likewise, all investigations into cases of alleged ill-treatment of detained persons by prison staff must strictly comply with the criteria of effectiveness as set out by the European Court of Human Rights.

Although instances of inter-prisoner violence appeared to be lower than in 2018, it nevertheless remains a concern, notably at Giurgiu and Galați Prisons. The authorities' duty of care for prisoners requires that each prison establish a clear anti-bullying strategy. Such a strategy must include investing more resources in additional staff and developing staff professionalism and training as well as offering detained persons a purposeful regime and decent living conditions. It must also ensure that a proper cell share risk assessment is carried out before placing a person in a particular cell.

Material conditions in all the prisons visited were generally poor, with cells dilapidated and lacking equipment (storage space, tables and chairs), and mattresses and bedding worn out and infested with bed bugs and cockroaches. Many complaints were received about the very limited access to hot water as well as in respect of the insufficient in-cell heating in winter. Further, many cells were severely overcrowded, notably at Craiova and Mărgineni Prisons, with persons often afforded a mere 2m² of living space each. Moreover, sanitary facilities were often in a poor state of repair and detained persons were not provided with appropriate quantities of detergent and hygiene products.

In all the prisons visited, it was difficult to evaluate the range of activities on offer to prisoners given the restrictions imposed by the Covid-19 pandemic. 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. In particular, the regime for remand prisoners remains very poor, with persons confined to their cells for 22 hours or more per day; a comprehensive regime of daily out-of-cell activities should be put in place for them. Steps should also be taken to replace the current credits system with a more qualitative assessment of the activities undertaken by the socio-educative team in each prison.

The CPT considers that the maximum-security regime should be reviewed with a view to offering more out-of-cell time and a greater range of activities. In addition, the policy of hand (and ankle) cuffing high-risk prisoners should be thoroughly reviewed to ensure that the measure is exceptional and based on an individual and comprehensive risk assessment

As regards the provision of health care services in the prisons, the findings of the 2021 visit showed that there had been some progress made since 2018, including in respect of the administrative independence of prison health care services from prison management and staff. Nevertheless, much remains to be done 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 persons with drug-related issues. Steps should also be taken to improve coordination with local public health services and to put in place a system of oversight by the Ministry of Health in conjunction with the Ministry of Justice.

There is also a need to improve mental health care in prisons. The situation at Craiova and Mărgineni Prisons was particularly detrimental for persons suffering from a mental health illness. The lack of psychiatric input was compounded by persons being held in an environment, including accommodation in large dormitories, which exacerbated their condition. All prisons must have appropriate psychiatric input from both a psychiatrist and nurses dedicated to mental health. Those establishments such as Craiova Prison with a supposedly designated mental health unit must provide an environment that is beneficial for persons with mental disorders.

The CPT again emphasises the urgency of reinforcing staffing levels in the prisons visited, based upon a review of the role and duties of prison staff. High priority should also be given to both initial and in-service training for staff. As regards the masked intervention groups that operate in those establishments which accommodate prisoners under the maximum-security regime, the CPT has long questioned their *raison d'être* and *modus operandi*. In the light of the delegation's findings during the 2021 visit, the CPT reiterates its belief that these groups be dissolved, and that the staffing complement on the maximum-security regime wings be augmented and that a dynamic security approach be adopted.

The CPT found that the disciplinary procedure was correctly applied and that there was no excessive use of disciplinary procedures and sanctions. However, the CPT is again critical of the fact that self-harm and attempted suicide incidents are still treated as disciplinary offences. It also reiterates that restrictions on visits should not be imposed as a disciplinary punishment. As regards contacts with the outside world, the CPT reiterates that open visits for all prisoners should be the rule, with closed visits as the exception. More generally, further efforts should be made to promote contacts between prisoners and their families. Finally, the CPT considers that steps need to be taken to promote trust in the fairness of the complaints system among persons in prison as, at present, complaints do not accurately reflect the problems in prisons, notably as regards issues of violence.

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 10 to 21 May 2021, which was one that appeared to the Committee “to be required in the circumstances” notably as regards the strengthening of protection of persons deprived of their liberty from ill-treatment in prisons. To this end, the visit built upon the findings and analysis contained in the CPT’s report on its February 2018 visit and the response of the Romanian authorities thereto. Another focus of the 2021 visit was to examine the conditions of detention and treatment of persons deprived of their liberty by the police, notably in the Detention and Preventive Arrest Centres, and to follow up on the question of the effectiveness of investigations into allegations of ill-treatment by law enforcement officials.¹

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

- Alan Mitchell, President of the CPT (Head of Delegation)
- Hans Wolff, 1st Vice-President of the CPT
- Therese Rytter, 2nd Vice-President of the CPT
- Vânia Costa Ramos
- Ifigeneia Kamtsidou
- Philippe Mary
- Helena Papa.

They were supported by Hugh Chetwynd, Head of Division, and Julien Attuil-Kayser of the Committee's Secretariat.

2. The list of establishments visited by the CPT’s delegation can be found in Appendix I.

3. The report on the visit was adopted by the CPT at its 106th meeting, held from 25 to 29 October 2021, and transmitted to the Romanian authorities on 15 November 2021. 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 four 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.

¹ The CPT’s reports on previous visits to Romania and related Government responses are available on the Committee’s website: <https://www.coe.int/en/web/cpt/romania>.

B. Context of the visit and cooperation encountered

4. In the course of the visit, the delegation held consultations with Stelian Cristian Ion, Minister of Justice, and Lucian Nicolae Bode, Minister of Internal Affairs as well as with Bogdan Despescu, State Secretary of the Ministry of Internal Affairs, Dan Halchin, Director General of the Penitentiary Administration and other senior officials from the Ministries of Internal Affairs and Justice. The delegation also met Gabriela Scutea, General Prosecutor attached to the High Court of Cassation and Justice, and other senior prosecutors in Bucharest and Ploiești.

In addition, meetings were held with the National Preventive Mechanism (NPM) and representatives of civil society.

A list of the national authorities and organisations met by the CPT's delegation is set out in Appendix II to this report.

5. The co-operation provided by the national authorities in facilitating the visit was excellent. The delegation was granted immediate access to the detention facilities it wished to visit and to the persons it wanted to interview, and information required to carry out its task was promptly provided. In particular, the delegation would like to thank Alina Barbu, the CPT's liaison officer, for her proficient assistance both prior to and throughout the visit.

The CPT's delegation did, however, receive a couple of allegations at Giurgiu Prison of custodial officers threatening prisoners that it would not be in their interest to talk with the delegation (see paragraph 62). Such action is entirely incompatible with the principle of co-operation, which lies at the heart of the Convention, as well as with the confidentiality that applies, by virtue of the Convention, to the Committee's interviews with detained persons. **The CPT trusts that the Romanian authorities will take the necessary steps to ensure that such behaviour by custodial staff will not occur during future visits by the Committee.**

6. The principle of cooperation laid down in Article 3 of the Convention also requires that action be taken to improve the situation in the light of the Committee's key recommendations. In this respect, the CPT has noted positively the steps that have been taken to address the recommendations made in previous reports, in particular as regards plans to improve conditions in police and prison establishments, while recognising that serious challenges still remain. Moreover, the CPT continues to be concerned that little or no action has been taken in respect of certain recommendations made in previous reports, notably as regards the situation of persons under the maximum-security regime, the operation of the prison intervention teams and the provision of health care in prisons. **The CPT trusts that the Romanian authorities will take concrete measures to address the recommendations in this report, including as regards the specific issues highlighted above, in accordance with the principle of co-operation set out in Article 3 of the Convention.**

In this context, by communication of 28 September 2021, the Romanian authorities provided the CPT with an extensive response to the preliminary observations delivered by its delegation at the end of the visit on 21 May 2021. The contents of this response have been reflected in the relevant sections of the visit report.

C. Response to the Covid-19 pandemic

7. At the outset of the visit, the delegation was informed by the Romanian authorities about the measures taken to reduce the propagation of the SARS-Cov-2 virus in different places of deprivation of liberty. A similar protocol was implemented in both police and prison establishments. It consisted *inter alia* of systematic body temperature checks of all persons entering the establishments, testing for Covid-19 upon arrival or prior to a transfer, distribution of protective equipment to persons deprived of their liberty, and mandatory quarantine periods of newly and re-admitted persons in designated units for up to 21 days. In the prison context, compensatory measures were taken for the temporary suspension of visits.²

The information gathered by the delegation indicates that the Romanian authorities adopted an appropriate response to the Covid-19 pandemic in prisons and police establishments by taking timely preventive measures and reacting promptly whenever cases were detected during the first and second waves of the pandemic in 2020. In the prison context, persons who tested positive for Covid-19 or suspected of such were systematically transferred to one of the five dedicated prisons.³ Further, the CPT takes positive note of the efforts made to vaccinate persons deprived of their liberty and of staff working in places of detention. As of 6 June 2021, over 7,500 prisoners (i.e. 33%) and about 30% of prison staff had been fully vaccinated and, as of 27 September 2021, this figure had risen to 15,809 prisoners (i.e. 68%).

The CPT acknowledges the significant measures undertaken by the Romanian authorities and staff working in places of deprivation of liberty to prevent the widespread propagation of Covid-19. Likewise, the understanding of persons deprived of their liberty in putting up with even more restrictions during the pandemic should also be recognised, notably in relation to visits and activities.

The CPT would like to be provided with updated information on the ongoing impact of Covid-19 pandemic for both staff and persons held in police and prison establishments in Romania.

² The Romanian authorities increased access to telephone and offered additional possibilities of online conversations with families.

³ Bucharest - Jilava Hospital Penitentiary, Aiud Penitentiary, Constanța Hospital Penitentiary - Poarta Albă, Drobeta Turnu Severin Penitentiary and Baia Mare Penitentiary.

D. National Preventive Mechanism

8. In December 2014 the People's Advocate of Romania (Ombudsperson) was designated as the National Preventive Mechanism.⁴ The NPM is a specific department within the Ombudsperson's Office, structured with a headquarters and four regional units (Alba, Bacău, Bucharest and Craiova) under the supervision of a Deputy Ombudsperson.

The CPT notes positively that the staff of the NPM is no longer involved in processing individual complaints in accordance with its previous recommendation.⁵ However, the staffing situation remained similar to the one found during the 2018 visit with 23 budgeted positions and 14 posts filled at the time of the visit (among whom were lawyers, doctors, psychologists and social workers) in addition to the Head of the NPM. Due to the Covid-19 pandemic, the NPM did not carry out any *in situ* monitoring visits between March 2020 and May 2021 which led it to adapt its working methodologies to find out what was happening in places of deprivation of liberty (via letters, questionnaires and telephone conversations with persons deprived of liberty and staff). It also published a "*Special Report on psychological assistance in detention and remand centres – Extract from the findings of the 51 visits of the National Preventive Mechanism 2015-2020*" in May 2021.

The CPT also notes that the legislation establishing the NPM requires it to carry out visits with, at least, a doctor and a representative of civil society. However, as the NPM finds itself unable to fill its four budgeted doctor positions⁶ and it is unable to recruit sufficient doctors on an ad hoc basis or to co-opt NGO representatives, it has difficulties finding participants for its visits.

The CPT recommends once again that the vacant posts in the NPM's staffing table be filled. Measures should also be taken to ensure that doctors and NGO representatives may effectively participate in the activities of the NPM.

⁴ Romania ratified the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in 2009

⁵ Ombudsperson's Order no. 8 regarding *the observance of the OPCAT provisions concerning the preventive mandate of the NPM*, 14 February 2018.

⁶ At the time of the visit, only one of the four positions was filled despite several recruitment attempts; the fact that doctors will lose their license to practice after five years of working for the NPM is seen as an impediment.

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 a Detention and Preventive Arrest Centre (*Centrul de Reținere și Arestare Preventivă*) have remained unchanged since the 2014 visit.⁷ 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.⁸ 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;⁹ it is enforced in the 52 arrest detention centres located throughout the country.¹⁰

Furthermore, following the adoption of Law 192/2019 which entered into force on 26 January 2020, administrative detention by the police may be carried out 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. During the period of deprivation of liberty, the detained person may benefit from a number of safeguards including the right to contact a member of the family or another person, to be assisted by a lawyer and to have a confidential conversation with him/her, to see a doctor and to be informed about the reasons for being taken to a police station. The person should not be placed in a detention cell during the procedures. The law does not provide for any time limit for such procedures but does state that they should be carried out “at once”.¹¹ **The CPT would like to be informed about the number of cases whereby persons have been deprived of their liberty by the police under these provisions for periods in excess of six and 12 hours for the year 2021.**

10. As regards the deprivation of liberty of minors, the Code of Criminal Procedure (CCP) provisions applicable to adults (including those relating to its duration) also apply to minors as of 14 years of age.¹² That said, Article 243 of the CCP stipulates that the arrest and detention on remand of a minor 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.

⁷ See Article 23, paragraphs 3 and 4 of the Constitution and Articles 205, 209, 233 and 236 of the CCP.

⁸ 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.

⁹ After an indictment is brought, remand custody may be imposed for up to half of the period of the applicable sentence (with a maximum of 5 years) and it is served in prison establishments - see Article 239 of the CCP.

¹⁰ Pursuant to Article 236 of the CCP.

¹¹ See consolidated Law on the organisation and functioning of the Romanian Police, 218/2002, Article 36.4.

¹² See Article 504 of the CCP.

In addition, following the Constitutional Court decision 102/2018, which declared certain aspects of Article 505 of the CCP unconstitutional, it is now mandatory for the parents, legal representative or child protection services to be present during all police and prosecutorial proceedings. This is a welcome development.

11. In the course of the 2021 visit, the CPT's delegation examined the treatment of criminal suspects and remand prisoners held in seven of the 52 Detention and Preventive Arrest Centres (i.e. in Bucharest and in the counties of Cămpina, Craiova, Giurgiu, Galați and Târgoviște).

According to the Romanian authorities, the median average period of detention in arrest detention centres remains around 60 days. Statistics for recent years show that the number of persons held for periods exceeding 60 days continues to fall and in 2019 represented 3.3% of the overall number of persons detained (i.e. 597 persons).¹³ The findings of the CPT's delegation confirmed that most persons appeared to spend around two months in the arrest detention centres. However, as was the case in 2018, the findings of the 2021 visit show that neither the regime nor the material conditions in the centres visited were appropriate for stays of more than a few days (see Section 4 below).

2. Ill-treatment

12. The CPT's delegation received no allegations of physical ill-treatment by custodial staff at the arrest detention centres visited. As was the case in 2018, 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 operational police staff (i.e. those maintaining public order and investigating criminal offences).

Similarly, the vast 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 apprehension and until the moment they were transferred to an arrest detention centre. Nevertheless, a few allegations of ill-treatment of detained persons by the police were received. They consisted primarily of slaps, punches, kicks and baton blows to the head and body. 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.

¹³ The equivalent figures were 5.7% (i.e. 934 persons) in 2018 and 6.3% (i.e. 1,182 persons) in 2017.

13. The attention of the CPT was also drawn to several incidents prior to the visit which were extensively reported in the media.

- On 16 April 2021, a 63-year-old man died after being thrown to the ground and immobilised by several police/gendarmerie officers at Pitesti bus station. The incident, which had been filmed, was under investigation at the time of the visit;
- on 5 March 2021, seven policemen were filmed abusing a handcuffed man inside a large room of Bucharest Police Station No.16;
- on 1 September 2020, two persons complained to a group of police officers that the officers should wear masks; the officers arrested the two persons and transported one of them to a field on the outskirts of Bucharest where they apparently subjected him to repeated blows to the body, head, upper and lower limbs, but also on the fingers and soles of the feet. On 3 March 2021, Prosecutors charged nine police officers for unlawful deprivation of liberty, torture and complicity in torture;
- on 29 May 2020, a young man was allegedly beaten by officers at Pârcov municipal police station for not having respected the 14-day isolation measure imposed upon him after returning from abroad and had to be treated at the emergency room of Buzău County Hospital for a suspected fracture of the leg and several broken ribs, as reported in a local newspaper;¹⁴
- on 18 April 2020, an intervention group of police officers were filmed¹⁴ inflicting baton blows and using racist language towards a group of persons from the Roma community in Bolintin commune, Giurgiu County, who are all lying face down on the ground with their hands cuffed behind their backs; in the video footage it appears that several officers are subjecting one person to baton blows to the feet, a torture method known as *falaka*.

14. At the outset of the visit, the Minister of the Interior reiterated to the CPT's delegation the 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. The Committee has also taken note of the various training modules (both initial and on-going) in which police officers at various levels have to undergo.¹⁵ Nevertheless, in the light of the delegation's findings in the course of the 2021 ad hoc visit, it is incumbent on the Romanian authorities to take the necessary measures to pursue their efforts to end ill-treatment by law enforcement officials through a multifaceted approach, comprising: 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 17); 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.

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 pressure) 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.

¹⁴ A more extensive video and comment on the beatings was placed [online here](#).

¹⁵ See pages 22 to 25 of the response by the authorities to the report on the CPT's February 2018 visit to Romania at [CPT/Inf \(2019\) 8](#).

15. As part of the approach towards combating impunity, it is important that an atmosphere be created within the police service whereby the right thing to do is to report ill-treatment by colleagues; there must be a clear understanding that culpability for ill-treatment extends beyond the actual perpetrators to anyone who knows, or should know, that ill-treatment is occurring and fails to act to prevent or report it. This implies the existence of a clear reporting line as well as the adoption of whistle-blower protective measures (i.e. a framework for the legal protection of individuals who disclose information on ill-treatment and other malpractice). In 2004, Romania adopted a generic law on protecting persons who report violations of the law (Law 571/2004); however, the CPT's delegation was not in a position to examine the effectiveness of this legislation. **The CPT would like to be informed of the practical application of Law 571/2004 in relation to combating ill-treatment by law enforcement officials. It would also like to receive any secondary legislation and associated rules regulating the whistle-blower protective measures and whether any new regulations in this field are envisaged.**

16. The Ministry of the Interior informed the delegation that Body Worn Video Cameras (BWVC) had been issued to traffic police and that there were plans to provide them to all officers. The CPT considers that the systematic use of BWVCs during any incidents represent an additional safeguard against abuse by officials as well as a protection against unfounded allegations of ill-treatment. **The Committee encourages the Romanian authorities to roll out BWVCs to all operational officers. Further, it would like to be informed of the instructions issued to officers regarding the use of these cameras and in relation to the retention of any video footage.**

17. 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: it 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.

There must be a change of paradigm. 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.¹⁶

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 audio and 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.

¹⁶ In this respect, reference should be made to the [“Principles on Effective Interviewing for Investigations and Information Gathering”](#) adopted in June 2021 by a group of eminent international legal experts under the auspices of the former UN Special Rapporteur on Torture, Juan Mendez.

The CPT recommends that the Romanian authorities promote a system of investigative interviewing of criminal suspects, in the light of the above remarks. Crime inspectors must 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. Prosecutors who are involved in interviewing suspects would also benefit from such training.

18. In the course of the visit, the CPT's delegation met many persons who complained about excessively tight handcuffing and in a number of instances it met persons who still bore marks caused by the handcuffs weeks and even months afterwards. Further, several persons complained of being handcuffed for prolonged periods. **The CPT recommends that the Romanian authorities ensure that, where it is deemed essential to handcuff a person, the handcuffs should under no circumstances be excessively tight¹⁷ and should be applied only for as long as is strictly necessary. Further, detained persons should not be handcuffed to fixed objects.**

In addition, in light of many allegations by apprehended persons that their hands had been cuffed behind their backs during transport,¹⁸ **the CPT recommends that such a practice should be avoided given the potential to cause unnecessary pain to the person concerned and the risk of injury in the case of accident.**

19. Further, once again, 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 or water. 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. **The CPT recommends that steps be taken to ensure that handcuffing 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.**

20. The CPT's delegation noted that most persons held at an arrest detention centre underwent a medical screening by a doctor or a qualified nurse within 24 hours of their admission. The medical examination in question generally consisted of a visual check in order to identify any signs of physical aggression on the part of law enforcement officials and screening for signs of self-harm/suicide risks, drug addiction, mental health disorders and infectious diseases.¹⁹ 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.²⁰ This is positive.

¹⁷ It should be noted that excessively tight and prolonged handcuffing can have serious medical consequences. For example, sometimes causing a severe and permanent impairment of the hand(s) or thrombophlebitis in the arms (that is, blood clotting and infection of superficial veins).

¹⁸ The application of handcuffs to detainees during transportation should only be resorted to when the risk assessment in an individual case clearly warrants it. When the use of such means is considered absolutely necessary, it should be done in such a way as to minimise any risk of injury to the detained person. See [CPT Factsheet on transport of detainees \(2018\)](#).

¹⁹ See Articles 26 and 33 (1) of the Regulation on the organisation and functioning of arrest detention centres (ROFCRAP) which came into force on 18 March 2018 after the CPT's visit, and Article 238 (2) of the Implementing Regulation of the Law No.254/2013.

²⁰ As set out in Article 238 (4) of the Regulation on the enforcement of Law no. 254/2013 and Article 33 (1) of the ROFCRAP.

However, the description of injuries on persons admitted to an arrest detention centre was predominantly cursory, and doctors were still making little effort to assess the compatibility of the injuries with the detained persons' allegations of ill-treatment. For example, 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's allegations. The CPT understands that the mandate to professionally document injuries and determine their compatibility with any allegations of ill-treatment lies with the Forensic Medical Institute and not with the doctors working in the arrest detention centres. Nevertheless, the doctors in the centres should as a minimum provide the context by which the injuries were sustained by recording any allegation of ill-treatment. Further, the injuries should be described in more detail and photographed, with a copy placed in the medical file.

21. **The CPT reiterates its recommendation that the Romanian authorities take the necessary steps to ensure that the record drawn up after the medical screening of a person admitted to a Detention and Preventive Arrest Centre 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 the 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.**

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.

Further, the CPT recommends that procedures be put 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.

Health-care staff must advise detained persons of the existence of the reporting obligation and that the forwarding of the report to the competent prosecutor's office is not a substitute for the lodging of a complaint in a proper form. They should also inform them of their right to undergo a forensic medical examination.²¹ Health care staff should be provided with the appropriate training to carry out these tasks.

²¹ See Article 32 (4) of ROFCRAP.

22. In the course of the 2021 visit, the CPT's delegation followed up on the question of the effectiveness of investigations into allegations of ill-treatment by law enforcement officials.²²

In the period since the 2018 visit, the European Court of Human Rights (ECtHR) has issued several decisions against Romania which concern inter alia a violation of Article 3 of the European Convention on Human Rights (ECHR) under its procedural limb (i.e. a lack of an effective investigation).²³ In the *Lingurar* judgment of 16 April 2019, the Court found a violation of Article 14 of the ECHR in conjunction with Article 3 in its procedural limb. In this judgment, the Court recalled that Roma communities were often confronted with institutionalised racism and were prone to be victims of excessive use of force by police officers in Romania. According to the Court, the authorities should have taken all possible steps to investigate whether or not discrimination may have played a role in the police intervention of December 2011. Instead, the applicants' allegations of discrimination of the Roma community have been dismissed by the domestic authorities and courts without any in-depth analysis of all the relevant circumstances of the case.

As part of the measures to address this judgment, the Prosecutor General of Romania updated the Strategy on the Efficiency of the Investigations into allegations of ill-treatment by State agents (Order No. 59/2021 of 9 April 2021 of the Prosecutor's Office attached to the High Court of Cassation and Justice with the previous Order 214/2015 repealed).

23. 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 2021 visit indicate that in 2020 there was a total of 2,940 cases of criminal proceedings initiated against law enforcement officials for alleged ill-treatment. The vast majority of these cases (i.e. 2,237²⁴) concerned police officers accused of abusive behaviour under Article 296 of the CC (i.e. threat, assault or any other acts of violence) while carrying out their duties. However, it should be noted that in 2020, 1,624 criminal proceedings were closed or rejected under Article 16 of the CC, primarily due to the lack of any evidence and only 10 indictments were issued. In 2020, three cases under Article 296 were decided by the Courts, with six police officers acquitted and one sentenced under a plea agreement to a term of 18 months imprisonment (suspended).²⁵

²² 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.

²³ See, for example, the ECtHR judgments of *Bădoiu v. Romania* (Application no [5365/16](#)) of 25 June 2019; *Lingurar and others v. Romania* (Application no [5886/15](#)) of 16 October 2018; and the judgments against Romania of 12 October 2021 in the cases of *Bojani* (Application no. 76393/17), *Mutu* (Application no. 71434/17) and *Baranoschi* (application no. 19928/17).

²⁴ While 262 cases concerned prison staff and 164 cases concerned the gendarmerie.

²⁵ In 2019, of the 2,645 criminal proceedings initiated, 1,945 concerned police officers under Article 296 of the CC; 1,536 (i.e. 79%) of these cases were closed or rejected under Article 16 of the CC, primarily due to the lack of any evidence and 13 indictments were issued. In 2019, eight cases under Article 296 of the CC were decided with three officers acquitted and six officers receiving sentences of between 6 and 20 months, one a fine and one a warning.

Further, in 2020, criminal proceedings were initiated against the police in seven cases under Article 281 (ill-treatment) and in 17 cases under Article 282 (torture) of the CC but no indictments were issued.²⁶

The CPT would like to receive information on the current status and the outcome of the trial of the cases in which 10 indictments were issued in 2020.

24. The CPT's delegation had an opportunity to hold an exchange of views with senior prosecutors in Bucharest and in Ploiești, and to examine a number of files. It was evident in the cases examined that the prosecutors had attempted to collect all the relevant material and to interview potential witnesses even when there was no medical evidence available, but the allegations were credible. This was notably in a case being pursued in Ploiești, where a police officer had allegedly inflicted several blows with a stick to the hands of two young adults and a minor while investigating a case of theft. As regards promptness, there appeared to be an initial delay from the time a complaint was made to the time it was allocated to the relevant prosecutor for investigation, which could have a bearing on evidence being lost.

Prosecutors in Bucharest did not consider that obtaining timely medical evidence posed a difficulty in cases against the police as individuals could always go to the Forensic Medical Institute or the prosecutor could order a forensic medical examination.²⁷ Of course, this did not assist in those cases where the alleged ill-treatment, including verbal abuse or threats, did not leave any visible marks on the victim. Indeed, the prosecutors admitted that the greatest challenge was to evaluate whether the force applied was lawful, necessary and proportionate in the circumstances, especially when there were several police officers recounting one version and the alleged victim a different version of events.

25. The CPT considers that a state's credibility in respect 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. If the emergence of information indicative of ill-treatment is not followed by a prompt and effective response, those minded to ill-treat persons deprived of their liberty will quickly come to believe – and with very good reason – that they can do so with impunity.

Conversely, when officials who order, authorise, condone or perpetrate torture and ill-treatment are brought to justice for their acts or omissions, an unequivocal message is delivered that such conduct will not be tolerated. The Romanian Government has clearly embarked upon such a path. Nevertheless, it would appear that there is a need to further increase the effectiveness of the response of the authorities to alleged acts of ill-treatment by law enforcement officials, given that certain police officers and gendarmes believe that they can still ill-treat persons with impunity (see paragraphs 12 and 13 above).

²⁶ In 2019, criminal proceedings were initiated against the police in 21 cases under Article 281 (ill-treatment) and in 24 cases under 282 (torture) of the CC but no indictments were issued.

²⁷ See also paragraph 20 above on the role of doctors in the DPACs.

26. One important step would be to enhance the independence as well as the thoroughness and promptness of investigations by ensuring that prosecutors have recourse to their own investigators and do not have to rely upon external police officers to carry out certain tasks. This would enable prosecutors to operate more autonomously and to react more promptly in investigating acts of alleged ill-treatment by law enforcement officials as opposed to relying on support, on an ad hoc basis, from officers of the Internal Control Bureau of the Police. This would be particularly beneficial when investigating allegations of ill-treatment which occur in prison establishments. Law 304/2004 provides the basis for the secondment of judicial police officers to Prosecutors' offices, but its general implementation has been pending for more than 15 years.²⁸

Prosecutors charged with investigating such acts should be provided with the necessary resources to carry out investigations which comply with the criteria of effectiveness.

27. The CPT recommends that the Romanian authorities take steps to provide prosecutors charged with investigating allegations of ill-treatment by law enforcement officials with their own investigators as a means to enhance the independence as well as the promptness and thoroughness of the investigations.

Further, it would like to be informed of the progress in the investigations, and of any indictments or court decisions, relating to the five incidents raised in paragraph 13 above. The CPT would be particularly interested to receive detailed information on the investigative steps taken into the intervention of 24 April 2020 by a group of police officers in Bolentin commune, Giurgiu County. In this context, and in light of the *Lingurar* judgment referred to above, the Committee wishes to draw the attention of the Romanian authorities to the Statement by the European Commission against Racism and Intolerance (ECRI) on racist police abuse, including racial profiling, and systemic racism of 2 July 2020.

The CPT would also like to be informed about the case nr. 2316/P/2014 of alleged police ill-treatment dating back to 25 May 2014 on which an indictment against three officers was brought on 16 December 2016. In particular, it would like to know why the court case appears to be so delayed given the facts of the case.

3. Safeguards against ill-treatment

28. In the course of the 2021 visit, the CPT's delegation reviewed the safeguards afforded to persons deprived of their liberty by the police; namely, the rights of such persons to inform a close relative or another third party of their choice of their situation, to have access to a lawyer, and to have access to a doctor. It also examined whether such persons were informed without delay of all their rights and whether the custody records were properly filled out.

The legal safeguards for detained persons are provided for in the Criminal Procedure Code (CCP) and supplemented by Order 14/2018 of the Minister of Internal Affairs on the Regulation on the organisation and functioning of arrest detention centres (ROFCRAP) which came into force on 18 March 2018.

²⁸ Such a secondment has been made for the Anti-Corruption Office (DNA) and the Organised Crime Office (DIICOT).

29. In the course of the visit, most persons met by the delegation stated that they had been orally informed of their rights, notably the right to a lawyer, in the first few hours following their arrest in compliance with Article 210 of the CCP. Nevertheless, a number of persons stated that they had not been orally informed of their rights and no written information was provided to anyone, including persons arrested pursuant to a European Arrest Warrant.²⁹

The CPT recommends that the Romanian authorities reiterate to police officers their obligation to inform all apprehended persons of their rights orally and, thereafter, at the police station to provide them with written information on their rights in a language they understand. Detained persons should be asked to certify with their signature that such information has been provided.

30. Article 210 of the CCP expressly provides 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*”.³⁰ As was the case in 2018, the CPT’s delegation found 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).

31. The CPT recalls that 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.³¹ 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.

The findings from the 2021 visit show that the majority of persons apprehended by the police 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, once again, a number of persons alleged that police officers had refused to let them contact a lawyer when first brought to the police station. Further, in several cases, the delegation received allegations that police officers and even prosecutors (at Craiova and Targoviște) 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. 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.

²⁹ This would represent a violation of Article 5, Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings

³⁰ Pursuant to Article 210, paragraphs 5 and 6, of the CCP.

³¹ See Article 209(8) and (9) of the CCP.

Further, the CPT's delegation found that police officers were generally present and within earshot during conversations between a lawyer and the person suspected of having committed a criminal offence, contrary to the provisions of the CCP (Articles 78, 83, 89 and 209) which provide for the confidential nature of such conversations.

The CPT recommends that the Romanian authorities take practical steps to ensure that whenever a detained person has made a request to have a lawyer present, police officers and prosecutors do not commence the questioning of a suspect until the arrival of the lawyer.³²

Further, the CPT recommends that the Romanian authorities reiterate to police officers that they afford any person deprived of his or her liberty the possibility to talk in private to a lawyer, as provided for in law.

32. As was the case in 2018, 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 their response to the report on the 2018 visit, the Romanian authorities had stated that the proposed draft law no. PL-x 405/2018 (see above) would contain an obligation for police officers to request medical support from specialist services "*if the person identified or taken to the police precinct or to other institutions displays visible signs which indicate the need for emergency medical care*". However, this draft law was rejected by the Romanian Parliament at the beginning of 2021. Consequently, persons apprehended by the police are still only entitled to emergency medical assistance prior to their transfer to the arrest detention centre (i.e. after 24 hours of their deprivation of liberty). **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, as opposed to the obligation for the police to provide medical assistance.**

33. At the time of the visit, not all police stations were equipped with audio/video-recording equipment to record electronically police interviews. **The CPT would like to be informed about the timetable for the installation of such equipment in all police stations as well as of the rules and safeguards surrounding its use, including whether the electronic recordings are made available to the detained persons concerned, and/or their lawyers.**

4. Detention and Preventive Arrest Centres

a. introduction

34. In the report on the CPT's 2018 visit, the CPT reiterated its position that persons on remand should not be held in police detention facilities and that it was not acceptable for the police authorities to continue to hold detainees for months on end. The CPT had emphasised that 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. In their response, the Romanian authorities stated that "the issues raised require a thorough analysis and far reaching legislative and institutional amendments. They are under the scrutiny of the authorities." At the same time, the authorities raised the practical consequences of transferring persons on remand to prisons both in respect of the impact on

³² 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.

overcrowding and that these persons would no longer be located close to the courts or the investigating authorities during the initial weeks following apprehension.

The CPT maintains that the Romanian authorities should continue to give serious consideration to **placing the Detention and Preventive Arrest Centres (DPAC) 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 DPACs, whenever required for the purposes of the investigation, in the relevant interview rooms within the centres which are foreseen by the legislation.**

35. The CPT also notes that in the context of the implementation of the judgment *Rezmiveş and Others v. Romania* of 25 April 2017, the updated Action Plan 2020-2025 submitted by the Romanian authorities sets out that 30 of the 52 DPACs will be newly built and that, in Bucharest, a new single centre will be developed to replace the existing 11 centres. Of the remaining 10 centres, two apparently meet the necessary requirements, four require only maintenance work and four (Galaţi, Iaşi, Maramureş and Alba) have entered into service since the beginning of 2018.³³

Holding persons in remand detention for two months and potentially up to six months requires ensuring that the regime and conditions of detention are of a certain standard which goes far beyond what a police station may offer. In this respect, reference should be made to the 26th General Report of the CPT in which the Committee set out its standards on *Remand detention (CPT/Inf(2017)5-part)*.

36. In the course of the visit, the delegation was informed that certain persons were exceptionally held for longer than 180 days in a DPAC, notably in Bucharest in the context of extradition proceedings to another country. **The CPT would like to receive information on these cases, in particular as regards the legal basis for their continued detention beyond 180 days and whether there is any definitive time limit for being held in a DPAC as well as details about the regime that they are offered, and the number of persons affected during the years 2020 and 2021.**

37. In the course of the 2021 visit, the CPT's delegation carried out follow-up visits to the Bucharest Nos. 1 and 2 and Galaţi DPACs and visited for the first time the centres of Giurgiu,³⁴ and Târgovişte³⁵ (Dambovita Country). The centres of Câmpina (Prahova County) and Craiova (Dolj County) had previously been visited in 2006.

In sum, the CPT's delegation found that none of the centres visited, including the one in Galaţi, could be considered as providing satisfactory conditions or a suitable regime for persons who are detained for periods in excess of a few days (see below for details). The CPT welcomes the fact that new centres will be constructed but notes that most of these will not enter into service for another four to five years.

In the meantime, steps must be taken to ensure the DPACs provide an appropriate regime and adequate conditions. Further, **the CPT wishes to be reassured that the new centres will meet the minimum standards for holding remand prisoners for periods of two months or more and, to this end, it would like to be provided with the plans of a model new centre and an outline of the regime and activities to be offered.**

³³ See Council of Europe Committee of Ministers document DH-DD(2020)1059, pages 14 and 29.

³⁴ The Giurgiu DPAC consisted of seven cells with an official capacity to hold 22 persons.

³⁵ The Târgovişte DPAC consisted of 11 cells with an official capacity to hold 33 persons.

b. regime

38. 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 containing exercise equipment 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 DPACs visited was as impoverished as that encountered during the 2018 visit. It consisted merely of access to a courtyard for one hour or less a day, with detained persons spending 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). 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 small (ranging from 15m² to 21m² at Bucharest No.1 and Craiova centres), austere and oppressive (surrounded by walls and enclosed by one or more layers of low-level metal grilles overhead) and were partially covered by a plexiglas roof panel. The courtyards were generally equipped with exercise bars,³⁶ but several lacked any means of rest (Bucharest No.2, Craiova, Giurgiu). In summary, apart from at the Câmpina and Târgoviște centres, the yards in the other centres visited were not appropriate for daily exercise and access to fresh air. Further, most yards were inaccessible for wheelchair users.

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, eight hours or more, outside their cells, engaged in purposeful activity of a varied nature (work, preferably with vocational value,³⁷ education, sport, recreation/association). To this end, communal rooms should be created at the level of each arrest detention facility where detained persons can spend an amount of time daily in purposeful activities organised by competent staff.

Further, all detained persons, 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, all centres should provide for wheelchair access within the centre and to the courtyards.

³⁶ The exercise bikes and treadmills present in the yards of certain centres, such as Craiova, Galați and Bucharest No.1 and No.2, did not function.

³⁷ 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

39. The Galați DPAC had been refurbished in June 2018 with six of the 12 cells completely renovated. These cells (two single and four triple-occupancy) provide satisfactory conditions in terms of access to natural light and ventilation, state of repair and cleanliness. Nevertheless, the cells had no personal storage space for the detained persons' belongings and the triple-occupancy cells were equipped with a table but no chairs. The men's section at Bucharest No. 1 DPAC was also recently renovated and offered similar material conditions.

The material conditions of detention in the remaining part of Galați arrest detention centre as well as in most of the other centres visited by the CPT's delegation, Bucharest No. 1 (women's section) and 2, Craiova, Giurgiu and Galați arrest detention centres, remained poor. The cells were generally dilapidated and in a state of disrepair (walls, beds, mattresses, lighting), access to natural light was inadequate (window sizes of 30 cm x 40 cm and triple/quadruple rows of grilles/bars in front of and behind the windows) and artificial lighting insufficient. The cells in Bucharest No.2 were notably infested with cockroaches and bedbugs. Further, the cells were also generally poorly ventilated, and many cells had water infiltration along the walls and ceilings (e.g. Bucharest No.2, Craiova and Târgoviște).

Further, apart from at the Câmpina centre, the sanitary annexes remained in a poor state of hygiene, notably at the Târgoviște centre, and the provision of cleaning and personal hygiene products was irregular.³⁸ None of the cells in the centres visited possessed a space or cupboards for storing clothes and other belongings, and many cells did not possess chairs.

Finally, women detained at the Târgoviște and Galați centres complained to the delegation that they had not been provided with adequate quantities of essential hygiene products, such as sanitary towels and tampons.³⁹

40. As was the case in 2018, the Ministry of the Interior is able to monitor the occupancy levels in arrest detention centres with a view to transferring detained persons to other detention facilities in order to ensure a minimum living space of 4m² in multiple-occupancy cells. While the minimum standard was respected at the Craiova⁴⁰ and Târgoviște⁴¹ centres, it was apparent that in many of the centres visited such a minimum standard was not always being respected. For example, at Bucharest No.2 centre, cells of 9m², including an unpartitioned sanitary annexe, contained two sets of bunk beds and were accommodating three (sometimes four) persons.

The Câmpina centre consisted of six cells with a capacity to hold 34 persons and it was accommodating 21 persons, including one woman and one male juvenile, at the time of the visit. However, the capacity was based upon only 3m² of living space.⁴²

³⁸ The cells at the Târgoviște centre did not possess in-cell sanitary facilities which meant that access to the toilet and to wash required a member of the personnel unlocking the cell door upon request. Detained persons in the centre stated that staff responded rapidly to requests to go to the toilet.

³⁹ See Rule 5 of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) and the CPT's "Women in Prison" factsheet (CPT/Inf(2018)5).

⁴⁰ The 16 cells had an official capacity to accommodate 42 persons with two cells of 6.5m²; nine cells of 8.5 to 9.5m² for two persons each; three cells of 12.5m² for three persons each; and two cells of 25.5m² and 32m², respectively, for six and seven persons.

⁴¹ The 11 cells, each measuring 12m², had an official capacity to accommodate 33 persons

⁴² The five cells of 17.5m² (excluding the sanitary annexe) were furnished with three sets of bunk beds and the

41. Each centre possessed a kitchen equipped with a refrigerator, microwave oven and cooking hot plate, which was used to heat meals coming from the prisons or from the local police canteen on a daily basis and for the storage of food purchased by detainees or received from their respective families. Nevertheless, the CPT's delegation again received numerous complaints, in particular from persons held at Bucharest Nos. 1 and 2 and Giurgiu centres, about the quality and quantity of food provided by the prisons (notably, concerning a lack of vegetables and fruit).⁴³

42. The CPT recalls that the conditions of detention in DPACs should comply with the same *minimum* standards which are applicable to persons held in remand detention in prisons. In particular, the minimum personal living space in such facilities should be 6m² for a single-occupancy cell and 4m² per detainee in a multiple-occupancy cell, excluding the sanitary annexe. Further, 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.

Reference should also be made to the CPT's 30th General Report where the Committee sets out "*a decency threshold for prisons – criteria for assessing conditions of detention*" and enumerates the essential elements that are necessary to maintain humane living conditions for prisoners (including remand prisoners). Such a decency threshold is essential for those indigent prisoners who do not have any support from family members.

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

- **offer every detained person at least 4m² of living space in multiple-occupancy cells (Bucharest No. 2, Cămpina and Galați centres);**
- **provide sufficient access to light, natural and artificial, and adequate ventilation in each cell (Bucharest No. 2, Giurgiu and the unrenovated cells in Galați); the surplus multiple grilles/bars on the windows should be removed (and the windows enlarged);**
- **provide every detained person with clean bed linen;**
- **provide every detained person with a cupboard space to keep their belonging;**
- **have fully partitioned (i.e. up to the ceiling) sanitary annexes in the cells (at Bucharest No. 2, Craiova and the unrenovated cells at Galați);**
- **guarantee the regular maintenance and cleanliness of the cells and sanitary facilities;**
- **ensure regular and adequate supplies of personal hygiene products, taking into account the specific needs of women, notably the provision of sanitary towels and tampons free-of-charge;**
- **offer an adequately nutritious diet, which includes fresh vegetables and fruit.**

sixth cell of 13m² (excluding the sanitary annexe) was furnished with two sets of bunk beds.

⁴³ It is positive that detained persons are permitted to bring bedding, hygiene supplies and food items (10 kg of packaged food and 6 kg of fruit and vegetables per month) from home but not all persons in detention have such support from the outside, and it should not in any way diminish the duty of the state to provide minimum conditions of detention for all persons held in DPACs.

d. minors

44. The CPT's delegation again met a number of minors in the various DPACs visited. The vulnerability of minors who are placed in detention is recognised by Law No. 254/2013, and notably in Article 117 which states that minors accommodated in DPACs should be separated from adults, receive the necessary psychological assistance and increased contacts with family members.⁴⁴

In Bucharest, all minors are now held at No.1 DPAC where three cells have been renovated since 2018 to accommodate a maximum of six minors (although each cell was equipped with two sets of bunk beds). The cells were already showing signs of wear and tear. At the Câmpina centre, the single minor was being held together in a cell with adults.

At the Târgoviște centre, the two minors present were being held together in a cell and both of them had been seen by a psychologist a few days prior to the delegation's visit. That said, both boys⁴⁵ were confined to their cell for 23 hours a day with only one hour or a little more in the yard and the possibility to make a 15-minute phone call every day. They were not offered any activities whether educational, sport or recreational. Further, they were not provided with any specific support or care by the staff despite the fact that the 15-year-old boy was clearly distressed by the situation in which he found himself. At the Galați centre, a 14-year-old boy, who was still in a state of shock over the events that had led to his detention, was held together with two unrelated adults and was not provided with any specific support or attention apart from a weekly meeting with a psychologist.

45. The CPT has repeatedly stressed the lack of purposeful activity is especially harmful for minors, who have a particular need for physical activity and intellectual stimulation. Minors 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. They 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 minors in particular should be placed in an environment adapted to their needs. To this end, it would be highly desirable for separate custody areas to be allocated for minors in DPACs with a more open regime. Moreover, whenever their stay exceeds a few days, it would be preferable for them to be transferred to a specialised centre 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).⁴⁶ Further, a minor should not be detained together with unrelated adults.

⁴⁴ See also Article 256 of the Regulation on the enforcement of Law no. 254/2013 and Article 42 of ROFCRAP.

⁴⁵ According to the official register of the centre, one boy had been in detention since 14 April and the second since 20 April 2021 (i.e. almost four and five weeks respectively).

⁴⁶ See Section on [Juveniles deprived of their liberty under criminal legislation](#) in the 24th General Report of the CPT (2015),

46. It is also important that all staff, including those with custodial duties, who are in direct contact with minors should receive professional training in working with young people, both during induction and on an ongoing basis, and benefit from appropriate external support and supervision in the exercise of their duties. In this respect, the CPT recalls that the custody and care of juveniles deprived of their liberty is a particularly challenging task. It should be taken into account that many of them have suffered physical, sexual or psychological violence. The staff called upon to fulfil this task should be carefully selected for their personal maturity, professional integrity and ability to cope with the challenges of working with – and safeguarding the welfare of – this age group.

Even though most minors who are detained in a DPAC only remain in a centre for a week, those first few days in a detention facility tend to be the period when the minors are particularly vulnerable and most in need of support by staff. Further, from the figures provided by the Romanian authorities for the first six months of 2018, it appeared that 266 of the 655 minors (i.e. 40%) were held in a DPAC for longer than a week. An examination of the registers at Craiova DPAC showed that in 2020, several of the 29 minors held in the centre spent longer than two months in detention, with the longest held just over five months, while in the first five months of 2021, a few minors had been held for three weeks in detention and one for seven weeks.

From the findings of the 2021 visit, there did not appear to be any specific policies in place, other than the provision of periodic psychological counselling sessions, to support minors in detention. Each DPAC should have a few staff members who are trained to provide increased support to minors whenever a minor is detained.

47. The CPT recommends that the Romanian authorities take steps in all DPACs to ensure that minors are held in decent conditions in a dedicated custody area 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. In addition, the management of DPACs must ensure that minors are not held together with unrelated adults.

Further, every effort should be made to keep minors in DPACs for the shortest possible period. The CPT would like to be informed of the number of minors held in arrest detention centres in 2020 and 2021 and how many of them were held for periods longer than one week, one month and two months.

e. health care services

48. The provision of health care in DPACs remains under the responsibility of the Medical Directorate of the Ministry of the Interior (MoI) and is regulated by a specific Instruction issued in April 2016⁴⁷ covering the recording of injuries, screening for transmissible and infectious diseases, treatment of drug addiction, hunger strike and access to specialised care as well as by the Implementing Regulation of Law No. 254/2013 on the enforcement of sentences and custodial measures and by ROFCRAP.

⁴⁷ See in particular the Procedure of the Medical Directorate of the MoI PS-01-DM No. 4273029/25.04.2016.

The staffing levels of general practitioners (GP) and nurses present in the DPACs at the time of the visit appeared to be good; at a minimum, a doctor and a nurse were present on working days. A full-time doctor for centres holding less than 40 persons contrasts positively with the situation found in the prisons (see paragraph 96). However, the doctors at the Giurgiu and Târgoviște centres had no back-up and were apparently unable to take time off in over 18 months. Further, the doctor at Giurgiu centre also had to provide care for serving and retired police officers as well as their families, a practice which was supposed to have ended following the re-organisation of the Medical Directorate in 2016. At the Câmpina and Craiova centres, a different doctor was present each day of the week which undermined the continuity of care.

Further, the CPT's delegation noted that health care staff in some of the DPACs visited wore police uniforms which is not conducive to developing a doctor-patient relationship with the detained persons as it reinforces the perception of the lack of independence of health care staff.

The CPT recommends that the working arrangements for healthcare staff in the DPACs be reviewed, in the light of the above remarks. Further, health care staff should not wear police uniforms. The CPT would also like to receive confirmation that doctors working in DPACs are no longer assigned duties to care for Ministry of the Interior personnel.

In addition, the recommendation in paragraph 95 relating to greater oversight by the Ministry of Health applies equally in relation to the provision of health in the DPACs.

49. All detained persons are screened within 24 hours upon arrival at the DPAC, including for injuries and the offer of a systematic chest X-ray screening for tuberculosis. However, no systematic blood check was offered for blood-borne viruses such as hepatitis B (HBV), hepatitis C (HCV) and HIV, not even for high-risk patients such as drug users.

Further, as regards women admitted to a DPAC, there was no systematic screening for sexual abuse or other forms of gender-based violence inflicted prior to admission. Such screening is essential as violence experienced prior to admission is likely to have a direct correlation with the woman's behaviour and even offending behaviour, and should clearly impact on the way in which the care plan for the woman in question is drawn up for her stay in detention (i.e. whether she needs specialised psychological support or counselling).⁴⁸

The CPT recommends that all persons being admitted to a DPAC, in particular those with a history of drug use, should be offered a voluntary blood test for blood borne viruses (HIV, HBV, HCV) and that hepatitis B (HBV) vaccination be offered to HBV negative patients. Further, the gender-specific needs of women requires that screening for sexual abuse or other forms of gender-based violence inflicted prior to entry to a DPAC is carried out.

⁴⁸ See United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) of October 2010 and, in particular, Rule 6,

50. The delegation noted that in the centres visited the various files and registers were well maintained.

The medical room at the Bucharest No.1 was adequately furnished with basic and emergency equipment for the needs of the detained population (such as an ECG machine, defibrillator, oxygen mask and oximeter). At Craiova and Târgoviște DPACs, the medical rooms were similarly well-equipped apart from lacking oxygen, while the Câmpina, Galați and Giurgiu centres contained no ECG and were lacking basic life-saving equipment (e.g. defibrillators and oxygen). There was also no sink and running water for washing hands in the medical room at Craiova.

At all the centres visited, health care staff was distributing medication to detained persons or preparing them in sealed envelopes to be distributed by custodial staff.

The CPT recommends that the medical services of all DPACs be equipped with basic life-saving equipment (i.e. defibrillator and oxygen) and an ECG. Further, the medical room at Craiova DPAC must be provided with access to running water.

51. As was the case in 2018, newly admitted detained persons were routinely asked about substance use and could be referred to the national anti-drug agency (NAA) for the prescription of opioid agonist therapy (OAT).⁴⁹ The NAA is responsible for both the continuation of the substitution therapy for drug users enrolled in an anti-drug programme outside prison prior to their detention or arrest as well as for deciding on the induction and stabilisation of methadone treatment for drug users who need this type of therapy. These programmes are administered out of Bucharest within the structure of the “Dr. Nicolae Kretzulescu” Outpatient Diagnosis and Treatment Centre and, if necessary, users detained in DPACs around the country may be transferred to Bucharest for assessment and OAT. For those persons admitted to a DPAC with an opioid dependence, who are not already enrolled in an anti-drug programme outside prison, psychotropic symptom-relieving medication is prescribed.

For example, a person met at Bucharest No.2 centre with a clear history of opioid addiction had been provided symptomatic treatment upon admission to counter the withdrawal symptoms which had been further increased following a consultation with a psychiatrist. However, despite a request to be tested for HIV and Hepatitis C (HCV), no blood test had been undertaken. Given that the person had had HCV in 2016 and that he was a regular consumer of heroin via intravenous injection, he represents a high-risk patient who should be offered screening for blood borne viral diseases (**see recommendation in paragraph 49 above**).

In the response of the Romanian authorities to the CPT’s report on the 2018 visit, the Romanian authorities stated that a cooperation protocol for providing the necessary assistance for detained persons with a drug addiction was under discussion between the NAA, the Medical Directorate of the Ministry of the Interior and the General Inspectorate of the Romanian Police.

The CPT would like to be informed, for the period 2020 and the first nine months of 2021, of the number of persons who were provided with OAT while held in a DPAC and whether any persons were transferred from a county DPAC to Bucharest to be assessed and provided OAT by the NAA.

⁴⁹ In accordance with Article 241, paragraph 3 of the Implementing Regulation of Law No. 254/2013.

f. other issues

52. As regards searches of detained persons upon admission to the DPACs, the CPT's delegation again found that many persons in all the centres, apart from at Bucharest No.2 and Câmpina, were having to strip completely naked. A number of persons stated that they also had to squat while naked, notably at the DPAC in Galați. Such an approach is not in line with Article 35, paragraphs 2 and 3, of ROFCRAP (the 2018 Regulation on the organisation and functioning of DPACs) which provides that "*detailed body search shall be performed in designated areas with no video surveillance, by a police officer of the same sex as the person being searched, in conditions which do not harm the dignity of the person deprived of liberty and in compliance with his/her right to privacy.*" The CPT considers that 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 reiterates its recommendation that the Romanian authorities take the necessary steps to ensure all Detention and Preventive Arrest Centres comply with the above-mentioned requirements in respect of searches.

53. Given that far fewer women are detained and held in DPACs, it is not unusual that, at times, only one woman will be held in an establishment. This was the case at the Galați DPAC when the CPT's delegation visited the establishment where the single woman was *de facto* being subjected to a regime akin to solitary confinement. No compensatory measures were being taken by staff to engage with this woman or to provide her with any activities. **The CPT recommends that the Romanian authorities ensure that whenever a single woman is held in a DPAC steps are taken by staff to ensure that she is offered purposeful activities and appropriate human contact on a daily basis.**

54. As regards contact with the outside world, the situation remained the same as that observed in 2018. That is, adult remand prisoners were entitled to four visits per month and juveniles to six visits per month, each of 30 minutes duration. The CPT considers that the importance of maintaining contacts with the outside world and that persons in detention should benefit from a visiting entitlement of at least one hour every week. All visits with a family member continued to take place across a screen using a telephone, which meant that there was no physical contact between a detained person and their visitors.

Further, detained persons were offered access to the telephone three times per week (five times for minors) for a duration of 10 to 30 minutes each, in line with the relevant legal provisions.⁵⁰ Most centres offered 25-30 minutes whereas the Craiova centre permitted only 10-minute calls; **efforts should be made to increase the permitted duration of each call at the Craiova DPAC.**

The CPT recommends that, once the Covid-19 pandemic restrictions are lifted, the Romanian authorities institute a rule of open visits for all persons detained on remand, with closed visits as the exception. Further, all persons in remand detention should benefit from a visiting entitlement of at least one hour every week.

⁵⁰ See Article 246 of the 2016 Implementing Regulation of Law No. 254/2013.

B. Prison establishments

1. Preliminary remarks

a. prison reform

55. At the time of the 2021 visit, the challenges facing the Romanian prison system remained extensive: reducing the number of persons in prison, improving the living conditions in which prisoners were held, offering a range of purposeful activities for prisoners to assist them in preparing for reintegration into the community, increasing prison staff numbers and ensuring that health care services in prisons met the needs of prisoners. As described in the report on the 2018 visit,⁵¹ the adoption of new criminal legislation in 2014 and the European Court of Human Rights pilot judgment in the case of *Rezmiveş and Others* of 25 April 2017 provided an impetus to the current reform programme. In November 2020, the Romanian Government submitted to the Committee of Ministers of the Council of Europe an updated [Action Plan for the period 2020-2025](#).

The 2020-2025 Action Plan envisages the modernisation of 946 places and the creation of 7,849 new accommodation places, including the construction of two new prisons.⁵² Emphasis is also placed on enhancing educational and reintegration programmes, and on better management of the current prison population.

56. As pointed out in the report on the 2018 visit, the reform measures resulted in a significant reduction of the prison population from 32,428 persons in June 2014 to 21,342 persons in March 2018 (i.e. the rate of imprisonment dropped from around 160 to 117 per 100,000 inhabitants). This positive trend continued until 31 January 2020 when the prison population stood at 20,570 (i.e. an imprisonment rate of 107). Nevertheless, overcrowding remains a feature of the Romanian prison system and during the Covid-19 pandemic the situation has further degenerated.⁵³

At the time of the May 2021 visit, the prison population had increased to 22,608 (i.e. an imprisonment rate of 118) for an official capacity of 17,779 places.⁵⁴

57. The CPT recalls that overcrowding is an issue of direct relevance to its mandate. All the services and activities within a prison are adversely affected if it is required to cater for more prisoners than it was designed to accommodate; the overall quality of life in the establishment will be lowered, perhaps significantly. Overcrowding entails several features: cramped and unhygienic accommodation; a lack of privacy including when performing basic tasks such as using a sanitary facility; reduced opportunities in terms of employment, education and other out-of-cell activities; increased pressure on health care and social/reintegration services; increased tension and hence more violence between prisoners and between prisoners and staff. This list is far from exhaustive.

⁵¹ See the CPT report on its 2018 visit, CPT/Inf (2019) 7, paragraph 49.

⁵² The prison of Berceni with a capacity of 1,000 and the prison of Unguriu with a capacity of 900, both of which will be largely financed with a loan from the Council of Europe Development Bank.

⁵³ The legal provision (Law 169/2017) which entitled prisoners to an automatic reduction in their prison sentence of six days off for every 30 days served, if they were held in less than 4m² of living space, was abrogated in December 2019.

⁵⁴ Calculated on the basis of 4m² of living space per inmate, the prison system was operating at 127% of its capacity.

The four prisons visited were all overcrowded, with Craiova Prison particularly affected as it was operating at 153% of its official capacity. As it was the case in 2018, the worst overcrowding was found in the closed regime, pre-trial and admission (quarantine) cells. The vast majority of persons held in these sections spent 21 hours or more confined to their cells, which in many cases offered only around 2 m² of living space per prisoner (see below regarding material conditions). 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 prisoners 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.

58. The CPT recommends that the Romanian authorities pursue their reform agenda in order to ensure that all persons in prison are held in decent conditions and with those living in multiple-occupancy cells afforded a minimum of 4m² of living space each (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 a detailed breakdown of the number of persons held in each prison establishment according to regime on a trimesterly basis.

Further, in addition to increasing the capacity of the prison estate, the CPT recommends that the Romania authorities make increased efforts to tackle the phenomenon of overcrowding in the prisons through promoting greater use of alternatives to imprisonment.⁵⁵

b. prisons visited

59. The CPT's delegation carried out visits to Giurgiu and Mărgineni Prisons for the first time, to Craiova Prison (last visited in 2006) and to Galați Prison as a follow-up to the 2018 visit.

Craiova Prison, located in the centre of Craiova,⁵⁶ was opened in 1897 and, while extensive renovations were carried out in the early 2000s, most of the accommodation buildings date back 120 years. At the time of the visit, the establishment was holding 814 men and women for an official capacity of 529 places, (i.e. 53% overcrowded). The population included 77 men and 8 women under the maximum-security regime, 357 men and 41 women under the closed regime and 133 men and five women on remand. Within the closed regime sections, the prison accommodated 98 persons with mental disorders, including those caused by alcohol or psychoactive substances. The management indicated that a new women's wing with 80 places was planned in Ișalnița which would enable the transfer of all women to this site.

The CPT would like to be informed of the envisaged calendar regarding the opening of the new premises and what additional measures (staff resources, reallocation of detained persons) will accompany the expansion of the prison's capacity.

⁵⁵ See, for example, the *White Paper on Prison Overcrowding (op.cit.)*, Recommendation CM/Rec (2017) 3 on the European Rules on community sanctions and measures, Recommendation Rec (2003) 22 on conditional release (parole) and Recommendation Rec (2010) 1 on the Council of Europe Probation Rules.

⁵⁶ A secondary site in Ișalnița, accommodating 75 women in two pavilions (Pavilion A held 50 women in semi-open and open regime and Pavilion B held 25 women in closed regime) at the time of the visit, was not visited by the delegation.

Galați Prison, located in the town of Galați in eastern Romania, was built in the late 19th century and consists of one four-storey accommodation building, with eight sections. At the time of the visit, the prison accommodated 524 adult men (145 on remand and 379 sentenced, including 103 in maximum-security regime) for an official capacity of 377 places (i.e. 40% overcrowded). The facility also held three women on remand and one sentenced woman who were in transit. The construction of two new detention premises (as well as a church) are scheduled in 2022 to increase the detention capacity and the number of activity rooms.

Giurgiu Prison, located in the town of Giurgiu on the border with Bulgaria was opened in 2000 and is the largest prison for men in Romania. The prison has an official capacity of 1,509 places and, at the time of the visit, was holding 1,587 persons, including 595 persons under a maximum-security regime, 707 in closed regime, 197 in open regime and 71 on remand.

Mărgineni Prison, located 20 km west from Ploiești in the Prahova District, consists of a former 19th century Monastery and two additional pavilions. With an official capacity of 482 places, it was accommodating 730 adult men at the time of the visit (i.e. 51% overcrowded), of which 165 under a maximum-security regime, 391 under a closed regime and 100 in pre-trial detention. The large prison carpentry warehouses – of more than 2,500m² – were no longer in use and were in a state of decay. The management stated that the population rose over the last two years due to transfers from other overcrowded prisons from the nearby regions.

2. Ill-treatment

60. In the course of the 2018 visit, the CPT received a considerable number of allegations of ill-treatment of persons by prison staff, notably by members of the masked intervention groups, which was often corroborated by medical evidence and video footage.⁵⁷ The findings of the 2021 visit illustrated that concerted action by the Romanian authorities can have an impact in preventing ill-treatment in the prisons, as was evident from the follow-up visit to Galați Prison. Nevertheless, there can be no room for complacency as the CPT's delegation again received many allegations of ill-treatment by staff, in particular at Giurgiu Prison.

a. ill-treatment of prisoners by prison staff

61. The delegation again met many committed managers and staff dedicated to their work and who were striving to improve the situation in their prisons. Many of the persons interviewed by the CPT's delegation stated that they were treated correctly by prison officers and that relations were based upon mutual respect. This was notably the case at Galați Prison where the climate of fear prevalent at the time of the 2018 visit had dissipated. In the course of the 2021 visit, the CPT's delegation found that detained persons were no longer afraid to talk and that relations with staff appeared calmer and more respectful.

That said, the CPT's delegation once again received a significant number of allegations of ill-treatment of detained persons by prison staff, including by members of the masked intervention groups (EOS), at Giurgiu Prison in particular but also at Craiova Prison. Allegations were also received, to a lesser extent, at Mărgineni Prison and even at Galați Prison. The ill-treatment was said to have been inflicted as a punishment for arguing with custodial staff or infringing the rules.

⁵⁷ See CPT/Inf (2019) 7, paragraphs 54 to 59.

The CPT has noted the clear response of the Romanian Prison Administration (NAP) to its delegation's preliminary observations in which it clearly states that there is no tolerance for any acts of ill-treatment by prison staff and that all allegations will be communicated to the prosecutor's office and thoroughly investigated. Such an approach must be inculcated throughout the prison service.

62. The situation at Giurgiu Prison was alarming, with the CPT's delegation receiving many allegations of ill-treatment by staff which it sought to document.⁵⁸ The prison management team appointed in October 2020 was aware of this situation and was clear in their determination to reduce the level of violence in the establishment. Members of the EOS were often implicated in the alleged ill-treatment, which consisted of punches, kicks and the use of batons and generally took place in staff offices or "club" rooms located on the accommodation wings where there was no CCTV coverage. It should also be noted that the CPT's delegation received several allegations of persons held in maximum-security regime (RMS) and closed regime having been repeatedly subjected to baton blows to the soles of their feet; a torture method known as *falaka*.⁵⁹ The following represents a sample of cases for the purposes of illustration:

- i. A man (AB) alleged that in April 2021, he was pulled out of his cell by six or seven EOS members and taken to an activity room ("the club room"). He was allegedly handcuffed and placed on the floor face down with his lower legs held up in the air while the soles of his bare feet were subjected to blows with a rubber truncheon. Allegedly several members of staff took turns beating the soles of his feet. He also stated that he was punched in the ribs. Apparently, he could not stand or walk properly for a week and had to wear bigger shoes due to the swelling of his feet. Regrettably, despite acknowledging that AB had been the subject of an intervention, the Head of the EOS in the prison could not find the report on the incident.
- ii. Another man (CD) claimed that upon his return from a week in hospital on 17 December 2020, he had decided to go on hunger strike again and had requested to be placed in a dedicated cell. This request was denied and the officer in charge also called the EOS team for support. The EOS members, wearing full personal protective equipment (i.e. body armour, helmets, batons and balaclavas), removed CD from the cell cuffed his hands behind the back and forced him to walk in a painful 90° bent position with the arms pulled upwards in a hyper-extended position forcing his head down. CD claimed that several EOS members had punched him in the head and upper body and kicked him several times while he was being escorted in the corridor and on the stairway between sections E7 and E9.⁶⁰ As a result, he stated that he had bruising and pain on the arms, shoulders and ribs, and that his prosthetic dentures had been broken. He also alleged that he had been denied access to a doctor for almost a month.

Numerous other detained persons, particularly those held in the high-risk maximum-security regime, described having been subjected to punches, kicks and baton blows by members of the EOS and, at times, certain custodial staff, including a specific wing manager. Further, almost all persons who alleged that they had been ill-treated claimed that they had been denied access to the prison's health care service.

⁵⁸ Through individual interviews, eyewitness statements from persons held in other cells and prison records.

⁵⁹ By communication of 28 September 2021, the Romanian authorities stated that they had received no complaints of alleged *falaka* at Giurgiu Prison in 2019 and 2020, and that they considered any such treatment would have been made known to them. At the same time, they did not deny that isolated cases might have occurred.

⁶⁰ The CCTV recording examined by the delegation only showed the end of the incident when the person was being escorted by four EOS members along the corridor to his new cell (i.e. from 22h50-22h54). There was no CCTV of the initial intervention of the EOS when the metal handcuffs were applied (i.e. from 22h42 to 22h50) as recorded in the register on immobilisation.

In addition, a number of persons were reluctant to speak to the CPT's delegation fearing that there would be repercussions. Prisoners were particularly afraid that they might be transferred to another prison or suffer a regime change or their progression to a better regime would be negatively impacted. A couple of prisoners even stated that they were threatened by the custodial staff prior to being interviewed by the CPT's delegation. More generally, they all stated that they were pressured not to file a complaint.

63. At *Craiova Prison*, the CPT's delegation also received numerous allegations of ill-treatment of detained persons by custodial staff, particularly from EOS members. The allegations consisted mainly of slaps, punches and kicks and, on occasion, baton blows to various parts of the body, and generally occurred in places that were not covered by CCTV such as under the staircase at the entrance to Section 6 or in staff offices, activity rooms and empty cells. For example:

- i. Several young adults complained that they were repeatedly subjected to slaps and punches as well as baton blows by prison officers either in their cell or in the corridor outside. Further, many stated that one particular shift of staff regularly entered their large cell and poured water over them while they were sleeping.
- ii. A number of persons with mental disorders stated that they had been punched and kicked by EOS members or masked custodial staff for having refused to obey an order or after some inappropriate behaviour.

64. At *Mărgineni Prison*, a few persons alleged ill-treatment by custodial staff. For instance:

- i. A person (GH) in the maximum-security regime, alleged that in November 2020, after being transferred to a single cell following an incident of inter-prisoner violence, he was taken into the sanitary annexe, handcuffed to the radiator and punched in the chest by a senior member of the prison management.⁶¹ He stated that he was also subjected to repeated kicks to his shoulders and legs by several masked custodial officers. Further, he alleged that in March 2021 he had again been beaten by the same senior member of the prison management and masked officers in the sanitary annexe of his cell. While lying on the floor, he had allegedly been kicked in the head and legs. The following day he had been taken to the health care unit and had apparently informed the duty nurse of the beatings, even though a member of the custodial staff was present. However, his allegations had not been noted down and he had not been examined by the health care staff.

65. At *Galați Prison*, the delegation did not receive any first-hand allegations of ill-treatment while visiting the establishment. However, it did meet a few persons in other prisons who alleged that they had been subjected to ill-treatment during their time in Galați Prison. For example:

- i. A person (IJ) who had previously been held in the maximum-security regime at *Galați Prison*, stated that on 27 September 2020, following a verbal altercation with a custodial officer, the EOS had been called. Subsequently, he alleged that eight masked officers manhandled him, pushing him to the floor, where he was handcuffed while an officer held him down by placing a boot on his neck and that he was kicked multiple times on various parts of his body. He claimed that the beating had triggered an epileptic fit and that he had lost consciousness.⁶²

⁶¹ The CPT's delegation received a couple of allegations that this senior prison officer had taken part in or witnessed directly alleged acts of ill-treatment.

⁶² He was transferred to Mărgineni Prison two days later.

- ii. Another person (KL) who had previously been held in the maximum-security regime at *Galați Prison*, alleged that in mid-February 2020, he had been punched in the jaw and kicked in the ribs and back by a number of custodial officers (of whom at least four were masked) while he was lying on the floor in the corridor of the unit E.1. The ill-treatment was purportedly for having disobeyed the officers' orders. Subsequently, he had been handcuffed and taken to the health care unit, but no medical examination had been carried out. Custodial staff was present in the room during the discussion between the person and health care staff.

66. The CPT reiterates its recommendation that the Romanian authorities hold to account all senior prison staff to ensure they fulfil their basic responsibility of guaranteeing prison staff respect the right of detained persons to physical and mental integrity. 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 under their responsibility and take immediate steps to address any indications that staff are acting inappropriately. 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, 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 any further use of force. In this context, the authorities should ensure that all prison officers are trained in recognised control and restraint techniques.

Moreover, the CPT reiterates its recommendation 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 should not be refused (see also paragraph 107 regarding medical confidentiality).

67. The CPT's delegation again received many allegations of verbal abuse by custodial staff in the four establishments visited. In particular, persons with learning difficulties or mental health disorders complained that prison officers often goaded them and made fun of their disabilities and a number of Roma prisoners complained about staff calling them by derogatory terms.

The CPT recommends that the 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 or mental disorders.

68. The vast majority of persons who alleged ill-treatment stated that their injuries were not recorded by the health care service. Those that were escorted to the doctor or nurse claimed that they were prevented from explaining what had happened to them by the escorting prison staff. At *Craiova Prison*, the CPT's delegation received allegations of ill-treatment by prison officers carried out in front of health care staff. Moreover, when injuries were noted, they were rarely documented properly.

The CPT recalls that a fundamental safeguard against ill-treatment and impunity is the requirement that a thorough medical examination be conducted on a person following a violent incident or use of force within a prison establishment. Persons against whom any means of force has been used have the right to be immediately examined and, if necessary, treated by a medical doctor. The results of the examination should be formally and appropriately recorded and made available to the detained person and transmitted to the prosecuting authorities.

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 detained person 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.

Further, the recommendation contained in paragraph 21 above (police section) applies equally in respect of all prison health care services.

69. 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 allegations of ill-treatment by prison officers come to light, there is an effective investigation, in addition to the recording of injuries.

The CPT's delegation was informed that several criminal investigations were opened regarding possible acts of ill-treatment committed by prison officers at *Giurgiu Prison*.⁶³ However, a review of the cases, including interviews, by the CPT's delegation revealed that investigations into allegations of ill-treatment by prison staff are often undermined by the absence of medical evidence (inadequate recording of injuries by prison health care staff and few examinations carried out by the Institute for Legal Medicine⁶⁴), insufficient video footage evidence and a fear of negative repercussions, including reprisals, by both victims and potential witnesses if a formal complaint was lodged.

According to the figures provided by the Romanian authorities, 1,043 cases of alleged misconduct by prison officers vis-à-vis persons in prison had been referred to the prosecutorial authorities between January 2019 and January 2021. Most of these cases (i.e. 685) were investigated under Article 296 of the Criminal Code (abusive behaviour) and only 220 under Article 281 (ill-treatment) and 86 under Article 282 (torture). These resulted in the indictments of 17 prison officers. Considering the CPT's findings during this visit and in 2018, these statistics demonstrate that further efforts should be made to strengthen the investigations into allegations of ill-treatment in prisons.

The CPT recommends that all investigations into cases of alleged ill-treatment of detained persons by prison staff strictly comply with the criteria of effectiveness. In this context, the CPT would like to be informed of the outcome of criminal investigations and of any criminal or disciplinary proceedings undertaken against custodial staff regarding ill-treatment in the four prisons visited since 2019 (see also paragraphs 22 to 27 above regarding impunity of police officers).

⁶³ The CPT's delegation was informed that at least 13 criminal investigations concerning ill-treatment were ongoing at Giurgiu prison, in the scope of which prison management had received requests for information by criminal prosecution authorities. Ten cases of alleged ill-treatment (5 in 2019, 4 in 2020 and 1 in 2021) were recently reported following internal investigations.

⁶⁴ See also paragraph 105 regarding the cost of the examination.

70. The CPT wishes to emphasise that properly functioning CCTV systems offer a valuable additional safeguard against ill-treatment, as well as providing protection to prison officers against any unfounded allegations of ill-treatment. The systems in place should provide comprehensive video coverage of all areas outside of the cells, including corridors, exercise yards and the entrances to any other rooms in which prisoners may be placed for whatever reason. The goal should be to enable all interactions between prison staff and prisoners outside of their cells to be video recorded. The footage recorded by those cameras should be securely retained for a period of at least one month (and preferably longer) and accessible only to senior managers and those staff members whom they have specifically authorised to view it.

Regrettably, this was not the case in any of the establishments visited, and **the CPT recommends that the CCTV systems in all prisons in Romania be rendered fully operational as a safeguard against ill-treatment, in the light of the above remarks.**

71. The CPT notes that steps were taken to equip EOS members with Body Worn Video Cameras (BWVC) which should systematically be used for all planned operations. A review of the recordings showed that only at Galați Prison could the quality of the images and the documentation of the interventions be considered as good. In the other prisons, as was the case in 2018, the images did not allow for an observer to discern clearly what was happening.⁶⁵ BWVCs can play an important role in the prevention of ill-treatment as well as protecting prison staff from unfounded allegations. Moreover, BWVC should be used by EOS members and prison officers whenever there is any incident or intervention, and its use should be properly regulated.

The CPT recommends that the Romanian authorities make it mandatory for BWVCs to be issued, worn and turned on by all prison staff who may have to intervene in an incident and potentially use force against persons in prison.

b. inter-prisoner violence and intimidations

72. The CPT's delegation found that instances of inter-prisoner violence appeared to be lower in the prisons visited in 2021 by comparison with those visited in 2018. Nevertheless, many persons stated that tensions were exacerbated by the overcrowding, lack of activities and limited access to hot water/showers which did, at times, spill over into violence between prisoners. In each prison, the CPT's delegation received allegations of fights happening mostly in cells and occasionally in the exercise yards. In this context, persons of Roma origin, as well as persons accused or convicted of sexual offences, appeared to be particularly at risk. The situation appeared especially problematic at Galați and Giurgiu Prisons.

As an illustration, at *Giurgiu Prison*, a detained person (MN) died in December 2019 during a violent altercation with a cellmate. More recently, in May 2021, a person stated that he had been assaulted by three cellmates with a crowbar while in the outside yard. Examined six days after the incident by a doctor on the CPT's delegation he still had a reddish/purplish bruise behind the left ear (some 2cm x 1cm) and a crescentic bruise on the left side of the back (some 12cm x 4cm).⁶⁶

⁶⁵ It should be noted that the quality of the images was also good at Giurgiu Prison, but the documentation of the intervention was to be improved.

⁶⁶ The incident was also caught on CCTV and recorded in the medical and administrative files.

73. At *Galați Prison*, a person (OP) of Roma origin in the RMS stated that he had been beaten several times by his cellmates over a period of two months in the spring of 2021. The beatings mainly consisted of punches and kicks and, on one occasion he claimed he was tied to a chair and administered electroshocks. In late April 2021, he stated that he had been burned on the back, and the scars were still clearly visible at the time of delegation's visit. Furthermore, OP alleged that he had been subjected to oral and anal rape. When he apparently reported the incident to the Chief of section officer, he was not initially believed and it was only after OP spoke with the Governor on 22 April 2021, that he was moved to another cell, but the violence was apparently not reported to the police.

In November 2020, a person (ST) in RMS at *Galați Prison* alleged that he had been hit with a chair on his head, punched and kicked by his cellmates in the sanitary annexe of the cell. They further attempted to rape him, reportedly because of the crime he had committed. He stated that his request for a medico-legal examination was refused by the prison doctor, as the injuries were assessed to be minor. He informed the staff about the incident but was kept in the same cell and was only moved to another cell after several days of refusing food.

Another person (QR) at *Galați Prison* stated that he had been subjected to repeated episodes of beatings and violence by his cell mates which had included oral and anal rape. The trauma register set out that on 24 September 2020 he was attacked by three prisoners and that on 27 January 2021 has been assaulted by a cellmate. There were further medical entries for 2021 but they particularly were scant and uninformative. Moreover, in none of the entries was there a description of the injuries. Further, at the time of the visit, QR had a clearly deformed left elbow, apparently caused when his arm had been broken by other prisoners, and he displayed six bruises of varying colours from red to pale blueish on his back which had not been noticed by either health care or custodial staff. The CPT's delegation was particularly concerned that this vulnerable prisoner was not receiving the care and support from staff required to keep him safe. It requested that the prison health care service obtain an orthopaedic review of QR's left elbow. **The CPT wishes to receive information on the steps that have been taken at Galați Prison to ensure that QR is not subjected to violence from other prisoners as well as confirmation that he has had an orthopaedic review of his left elbow.**

74. A person in RMS at *Mărgineni Prison* stated that he was attacked in April 2021 by two other prisoners who punched and kicked him on the chest and ribs and hit him on the head with a chair as he had refused to perform oral sex on another cellmate. Staff intervened rapidly and after returning from hospital, where his injuries were treated, he was placed in another cell. In May 2021, his cellmate subjected him to punches and kicks to various parts of his body because he apparently did not want to share a cell with a person convicted of rape. This case as well as the three cases in paragraph 73 raise issues over the cell share risk assessment that should be carried out before prisoners are allocated to a cell.

Violent incidents also erupted at *Craiova Prison* particularly in the large dormitories in which persons with a mental disorder were accommodated.

Further, as was the case in 2018, vulnerable persons stressed that they were regularly insulted and threatened by other prisoners.⁶⁷

⁶⁷ For example, at Galati Prison, a person stated that he was discriminated against by his cellmates due his sexual orientation and was forbidden from placing his belongings, including his dishes, next to those of other persons in the dormitory.

75. Addressing the phenomenon of inter-prisoner violence and intimidation requires that prison staff be alert to signs of trouble and be both resolved and properly trained to intervene when necessary. The existence of positive relations between staff and detained persons, based on the notions of dynamic security and care, is a decisive factor in this context; this will depend in large measure on staff possessing appropriate interpersonal communication skills. Such a capacity to intervene will of course depend, *inter alia*, on an adequate staff/prisoner ratio. Further, it is essential that detained persons need to be offered a constructive regime, with a range of purposeful activities.

As stated in the report on the 2018 visit, accommodation in large-capacity dormitories puts detained persons in extremely cramped and insalubrious conditions. In addition to a lack of privacy, the risk of intimidation and violence in such dormitories is high, and proper staff control is extremely difficult. Further, an appropriate allocation of detained persons, based on an individual needs' assessment, becomes an almost impossible task. As a consequence, the CPT continues to advocate a move away from large-capacity dormitories towards smaller living units.

The CPT reiterates its recommendation that the Romanian authorities take pro-active steps to combat inter-prisoner violence in light of the above remarks notably by investing far more resources in recruiting additional staff and developing staff professionalism and training as well as offering detained persons a purposeful regime and decent living conditions (see also sections 3 and 4 below).

3. Material conditions

76. The conditions of detention in the four prisons visited could be considered as generally poor, exacerbated by the overcrowding. In each prison certain measures were being taken to tackle the deficiencies; for example, at Galați Prison at least 12 cells were being refurbished every year. Nevertheless, much more concerted action is required to render the conditions appropriate.

77. In each of the four prisons visited, the vast majority of persons were held in less than 4m² of living space per person in multiple-occupancy cells.

As noted above, *Craiova Prison* was severely overcrowded. The pre-trial section (E3) was accommodating 139 persons for a capacity of 80,⁶⁸ with dormitories in the sections for women (E1),⁶⁹ young adults (E4)⁷⁰ and sentenced male prisoners (E5 and E8) being similarly crowded. The conditions in Section 8, which held many persons with a mental disorder,⁷¹ were equally crowded with the largest dormitory of 58m² accommodating 28 persons (i.e. a mere 2m² of living space per person). The cells in the maximum-security section (E6) measured approximately 6.5m² (excluding the sanitary annexe) with the vast majority accommodating two prisoners.⁷² There were not sufficient tables and chairs for all persons, which meant prisoners had to eat their meals on their beds, and many

⁶⁸ One dormitory (E3.17), furnished with 14 sets of bunk beds, measured less than 45m² and was holding 27 men.

⁶⁹ One dormitory (E1.5), furnished with 4 sets of bunk beds and one triple bunk bed, measured 33m² and was holding 11 women.

⁷⁰ One dormitory (E4.32), furnished with 9 sets of bunk beds, measured 30m² and was holding 15 young male adults.

⁷¹ By Government decision #360/20/20 Craiova Prison had been designated as the prison to accommodate persons under a closed regime with a mental disorder.

⁷² A number of these cells were holding three persons (a triple bunk bed) up until around the 7 May when a number of persons were transferred to the maximum-security unit at Mărgineni Prison.

persons were not provided with a personal cupboard or storage space. Further, in all the cells and dormitories visited, the delegation was able to observe that many of the mattresses were worn out and infested with bed bugs and cockroaches. Many complaints were also received about the lack of heating in winter.

The 40 renovated cells at *Galați Prison* offered decent living conditions with modern sanitary facilities, even if the newly installed equipment was already showing signs of wear and tear. By contrast, the conditions in the unrenovated cells were very poor with crumbling mouldy walls and decrepit furniture (rusty beds, broken tables and worn mattresses stained with urine). The deficient ventilation in cells generated constant humidity and mould on the walls and many persons stressed that cells were cold in winter due to insufficient heating and inadequate thermal insulation. Further, cells continued to generally accommodate up to eight persons in 16.5m² (excluding the separate sanitary annexe). The cramped and humid conditions will rapidly degrade the renovated cells unless action is taken to remedy these problems.

Giurgiu Prison consisted of 14 sections with all persons (apart from the separate stand-alone open regime section⁷³) held within the three-storey U-shaped contiguous accommodation blocks. Despite having only opened in 2000, the facilities appeared overused and showed signs of decay. The vast majority of persons were accommodated in multiple occupancy cells of varying sizes such as cells for four, six or nine persons. However, the long narrow individual cells which measured less than 7m²,⁷⁴ including the toilet and basin area situated next to the bunk bed, were mostly accommodating two persons. The CPT considers that all cells should be at least 2m wide which was not the case for these cells. Traces of mould were found in different sections throughout the establishment and there was no storage space for a person's belongings. Moreover, many mattresses were worn and infested with bed bugs and cockroaches.

At *Mărgineni Prison*, conditions of detention were acceptable in Pavilion 3, where persons under an open and semi-open regime were accommodated (adequate lighting; sufficient ventilation and suitably equipped, with the sanitary annexes in a good state of repair). In Pavilion 2, cells had good lighting, were sufficiently ventilated and were relatively clean. However, the cells were crowded with, for example, 18 persons accommodated in some 60m². The most problematic conditions of detention were found in Pavilion 1, the oldest building of the prison, where cells were humid, often dilapidated, including a regular presence of mould, and were allegedly very cold in winter. The vast majority of persons were held in very cramped conditions: for example, 32 persons held in a cell of 44m² (offering only 1.35m² living space per person), 13 persons held in a cell of 23m²; or 18 persons held in a cell of 30m². The atmosphere in these cells was oppressive. The cells used for double- (almost 9m²) and quadruple-occupancy (12m²) were dilapidated but not overcrowded.

78. For a number of persons held in each of the four prisons visited, the cumulative effect of being accommodated in overcrowded cells with poor material conditions, combined with a regime offering extremely limited time-out-of-cell (see below) could amount to inhuman or degrading treatment.

⁷³ The dormitories in the open section provided decent living conditions although efforts should be made to keep the occupancy levels within the 4m² of living space per person standard.

⁷⁴ These cells contained an additional 2m² sterile area at the entrance to the cell which could be closed off by an inner gate, but which were not deployed at the time of the visit.

In addition to the general recommendation above to guarantee at least 4m² of living space to each person held in multiple-occupancy cells, **the CPT recommends that the Romanian authorities take specific steps to improve the living conditions in each of the prisons visited, including by:**

- **rapidly reducing the severe levels of overcrowding at Craiova, Galați and Mărgineni Prisons;**
- **ensuring all cells are appropriately equipped with tables and chairs and personal storage space;**
- **taking measures to tackle the infestations of bed bugs and cockroaches in all cells and to replace worn mattresses;**
- **renovating dilapidated cells and addressing the problem of humidity at Craiova, Galați and Mărgineni Prisons;**
- **ensuring the sanitary facilities in the cells at Giurgiu Prison are partitioned up to the ceiling.**

Similar measures should be taken in all Romanian Prisons facing comparable overcrowding and inappropriate material conditions of detention.

Further, the CPT would like to be informed of the measures taken to ensure that cells are sufficiently heated during winter, notably at Galați and Mărgineni Prisons.

79. In the four prisons visited, hot water was available for a maximum of an hour and half per day. This was often insufficient for the number of persons held in a cell and was a constant source of additional tension. Further, hot water was sometimes only available during the time allocated for outdoor exercise forcing persons to choose between having a shower or accessing outdoor fresh air. The availability of hot water is directly linked to maintaining a decent standard of hygiene and a good state of general health. **The CPT recommends that the Romanian authorities ensure that persons in all prisons have regular access to hot water, both for personal hygiene reasons as well as for washing clothes and dishes.**

80. As regards hygiene, the supply of detergent and personal hygienic products was insufficient (e.g. two rolls of toilet paper and a small soap per month) to maintain personal and in-cell hygiene. Unrenovated sanitary facilities were often in an extremely poor state of repair (dirty, dilapidated and, in many cases, humid and mouldy with rusty pipes, broken toilets or sinks, dripping taps or missing showerheads) in all four prisons.

At Mărgineni Prison, the collective shower room of E4 section consisted of a dirty and dark room with a rusty pipe below the ceiling distributing water. The only access to the exercise yard for the section was through the shower room making it totally unhygienic despite the efforts of the staff. It is undignified for persons to have to shower in such conditions.

The CPT recommends that the Romanian authorities take further steps to renovate the sanitary facilities in the four prisons visited. Priority should be given to repairing damaged equipment and closing down the E4 section shower room at Mărgineni Prison, once a solution had been found to provide them with an alternative means of taking a shower. In addition, detained persons should be provided with appropriate quantities of detergent and hygiene products.

81. The CPT notes that the budget for food was substantially increased from 3.76 Lei in 2018 to 5.94 Lei (per adult per day) at the time of the visit. Nevertheless, many persons complained about the quality and the quantity of the food served, and most persons stated that they relied upon parcels of food (including vegetable and fruit) from home.

In its 30th General Report, the CPT insisted that a wide variety of foods should be made available in the right proportions to enable prisoners to maintain an adequately nutritious, sufficiently calorific and well-balanced diet, as well as access to plenty of fluids.⁷⁵ **The Committee encourages the Romanian authorities to ensure that persons in prisons are offered food of both a sufficient quantity and an adequate nutritional value.**

82. In the four prisons visited, exercise yards were austere, composed of concrete and metal grille mesh and often lacked a means of rest and a shelter from the rain and sun.

At *Craiova Prison*, there were several outdoor yards of various sizes; all of them were too small to exercise properly considering the number of detained persons allowed to use them. The ground was uneven, they were covered by at least a metal grille mesh offering no horizontal view and limited view to the sky. Eight very small concrete walled spaces covered with metal grilles of different shapes were reserved for persons in RMS but infrequently used due to their oppressive design.

At *Galați Prison*, the exercise yards remain as described in the report on the 2018 visit.⁷⁶ They were really cold in winter and unbearably hot in summer, according to both prisoners and staff, and emitted a foul smell in the absence of toilets. Many persons stated that they did not go outside as they considered them akin to animal cages, which is not an inaccurate description of them. The CPT's delegation was informed that all the yards will be demolished and replaced with the construction of the new premises (see paragraph 59).

At *Giurgiu Prison*, the large outdoor yards situated within the U of the prison structure were of a sufficient size to exercise and were appropriately equipped (exercise bars, benches and shelter). On the other hand, the multiple metal-barred cage-like exercise yards on the roof of the building housing the RMS prisoners were somewhat demeaning.

At *Mărgineni Prison*, the six outdoor yards were all of a reasonable size allowing persons to exercise fully, although they were uninviting and offered no horizontal views.

83. For the CPT, outdoor yards should be at least equipped with a protection against the rain or the sun and a means of rest in sufficient number to allow the majority of persons present to sit if they so desire. The yards should be spacious enough to give detained persons a real opportunity to exert themselves physically, e.g. to walk, run or play a game, and equipped with sport equipment. Their design should enable persons to have a view of the surroundings. Further elements such as a telephone, toilets and access to water should also be made available, when appropriate.

The CPT recommends that all courtyards be equipped with a means of rest and shelter against inclement weather. They should be of reasonable size, offering a view on the surroundings and suitably decorated. It would also like to receive information on the proposed modernisation of the exercise yards at Giurgiu Prison.

In this context, the smallest yards at Craiova and Galați Prisons should no longer be used and RMS detained persons be offered the possibility to exercise in the larger yards.

⁷⁵ See 30th General Report of the CPT, CPT/Inf (2021) 5, paragraphs 70 and 71.

⁷⁶ See CPT/Inf (2020) 7, paragraph 98.

4. Regime

84. The four different detention regimes (maximum security, closed, semi-open and open) for sentenced persons remain the same as described in the report on the 2018 visit,⁷⁷ as does the composition and mandate of the Regime Board in each prison establishment⁷⁸ which decides on the applicable regime at the end of the admission period of 21 days. The Regime Board's decisions can be appealed to the supervisory judge. The Regime Board reviews the applicable regime after a set initial period⁷⁹ and, thereafter, at least annually.

However, as was the case in 2018, sentence plans were very rudimentary, drafted without sufficiently involving the person concerned and did not establish clearly defined and individualised goals to achieve. The plans merely focused on earning credits through written tests or participating in activities to gain a privilege (e.g. an additional visit) or to pay back the deficit of points resulting from a disciplinary offence. Several persons in prison stressed that the number of credits lost for a particular disciplinary offence was disproportionate in comparison with the opportunities for earning credits. This was notably the case during the Covid-19 pandemic when most activities were either stopped completely or severely limited.

Moreover, persons in prison were still not systematically heard when their case was reviewed by the Regime Board, and a number of those that were heard stated that the hearing before the Regime Board was purely formalistic, simply informing them of the decision. Further, the Regime Board decisions reviewed by the CPT's delegation focused on the crime committed and the length of the sentence rather than on the behaviour of the person and the implementation of the sentence plan.

The CPT recommends once again that the Romanian authorities review the way in which the individual prisoner sentence plans and “regime” reviews are drafted and carried out, in the light of the above remarks. The “Board for the establishment, individualisation and alteration of sentence enforcement regimes” should always provide a written reasoning for the continuation or progression of regime for each prisoner and the procedure should include an exchange of views with the person concerned.

85. In the course of the 2021 visit, the CPT's delegation examined again the activities on offer to persons in prison, the evaluation of participation in an activity to the progression in regime status and the link to the individualised sentence plan. To begin with, despite the elaboration of a sentence plan based upon 207 questions, the actual plan consisted of only a one-page summary of the main lines of action and the plan did not include an input from the prisoner concerned. Second, the offer of activities and means available were far too sparse to meet the real needs. For example, at Giurgiu Prison, there were only 36 places in the school for a prison population of over 1,500 and the “club” rooms on the wings were equipped with desks and chairs suitable for children rather than adults. Further, the activities proposed did not seem to be oriented to any identified need to assist persons with their preparation to reintegrate into the community. Both prisoners and staff told the delegation that participation in activities was motivated by a desire to earn some points which were necessary to cancel out a disciplinary sanction and to earn an additional visit and, more generally, to progress to a better regime. In addition to the activities having no value for the prisoners, the points system was considered as unjust. For example, a prisoner was docked 75 points for a disciplinary offence but in more than four years could only earn 50 points from various activities.

⁷⁷ See CPT/Inf (2019)7, paragraph 79.

⁷⁸ Composed of the prison director, the head of treatment, a psychologist, an educational officer and a secretary.

⁷⁹ The first revision occurs after a fifth of the sentenced is executed and after 6,5 years for persons sentenced to life imprisonment or earlier at the request of the disciplinary board.

The CPT considers that the points system is undermining the work of the socio-educative teams in prisons and that it does not treat persons in prison as responsible adults. Progression in prison should be based upon genuine participation in activities which have a beneficial impact on a person's preparation for reintegration into the community. Further, the imposition of negative points for a disciplinary offence acts as a double punishment and undermines a prisoner's motivation for self-improvement.

The CPT recommends that the Romanian authorities replace the points system with a more qualitative assessment of the activities undertaken by the socio-educative team in each prison. Such an approach should be accompanied by an increase in the offer of purposeful activities that persons in prison can undertake.

86. The disciplinary board had the possibility of recommending a change of regime, in addition to imposing a disciplinary sanction.⁸⁰ As an illustration, there were 44 of such change of regime in 2021 at Giurgiu Prison (including 30 from close to RMS and one from open to RMS and) and seven at Galați Prison (six from close to RMS and one from semi-open to RMS). According to the findings of the CPT's delegation, change of regime recommendations were systematically validated by the Regime Board. This additional measure was considered by staff as an appropriate way to maintain order and discipline and all detained persons met stressed that the change of regime was a harsher sanction than any disciplinary punishment. As an illustration, a request for a change of regime was made by a disciplinary board in one of the establishments visited for an act of self-harm. In several other cases, the change was requested following possession of prohibited objects. **The CPT invites the Romanian authorities to ensure that any imposition of a more restrictive regime remains proportionate to the gravity of the disciplinary offences committed by the detained person.**

87. In the four prisons visited, a number of persons were classified as vulnerable. These persons were held separately from the rest of the prison population in collective cells, had distinct hours for accessing the outdoor yards or the prison shop, and were not engaged in any work. The Regime Board could decide to classify a prisoner as vulnerable at any time it was considered that a person was a danger to her/himself, to others or to the security of the establishment. The vulnerability is determined based on criteria established by Law.⁸¹ The management of the prisons visited paid a particular attention to this classification trying to balance between the need to protect certain persons and the necessity not to segregate them from the rest of the establishment. The CPT's delegation noted that these measures were beneficial to protect certain persons. However, these persons were often held in the RMS wings and confined to their cells for 22 hours a day with few activities offered. **The CPT recommends steps be taken in all the prisons visited to offer persons classified as vulnerable a range of purposeful activities.**

⁸⁰ In accordance with Section 40 (6) of Law 254/2013.

⁸¹ The criteria are defined by Section 34 of Law 254/2013 as "sexual orientation, disabilities, mental disorders, ethnicity, HIV/ AIDS infection, committing crimes against minors or against the sexual integrity and freedom, special socio-familial situation, lack of support from their supportive environment, diminished socio-economic status or well above average socio-economic situation, profession or job held prior to arrest, providing information to the public order and national security institutions regarding a crime commission or disciplinary offenses, any other such situations, conditions or circumstances that may make the inmate vulnerable."

88. The regime offered to persons on remand remains very poor with pre-trial detained persons in the prisons visited locked in their cells for 22 or more hours a day for months on end with hardly any access to purposeful activities. While it is positive that Article 122 (2) 2 of the Law 254/2013 is now implemented in practice, much more needs to be done to ensure that persons on remand can access work and other purposeful activities. For example, only 5 out of 126 persons at Galați Prison and only 16 out of 141 persons at Craiova Prison worked. Otherwise, remand prisoners were only offered access to outdoor exercise for one to two hours per day and a few hours of educational classes every month. Having in mind the extreme overcrowding described above whereby remand prisoners were, at times, held in only 2m² of living space per person, the need for more out-of-cell time was essential.

The CPT considers that it is not acceptable to lock up persons in their cells for 22 hours or more a day and to leave them without any structured activity. As stated in the report on the 2018 visit, the aim should be for persons on remand to be 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 reiterates its recommendation that the Romanian authorities take steps to offer a comprehensive regime of out-of-cell activities for remand persons (the aim should be for prisoners to spend eight hours out of their cells every day). An immediate step would be to offer, daily, at least two hours of outdoor exercise in appropriate yards as well as one hour of structured activity.

89. As indicated above, the applicable regime for sentenced persons depends on their classification. In the four prisons visited, they were offered access daily to outdoor exercise for one to three hours, and occasionally gym or sport activities with an instructor for one hour. Sentenced persons were offered a few social courses (improving relations with the family and children; preparation for release) usually lasting an hour as well as a weekly educational programme (geography, history, literature, politics, etc.) with a quiz allowing them to earn credits. Each prison also had a psychological service that offered various behavioural courses (such as addressing addiction, aggression, violence and personal choices) to a limited number of persons (due to staff shortages) which were usually taking place on a weekly basis in individual sessions or in small groups.

90. At *Craiova Prison*, 95 persons were enrolled for the school year 2020/2021 and 51 had passed the first semester. Several educational, religious or artistic activities, usually lasting an hour per week, were also organised in small groups. Further, 95 sentenced persons (including 12 under RMS) worked in prison-related jobs (cleaning, kitchen and maintenance).⁸²

At *Galați Prison*, an increased attention was put on education with schooling provided by teachers from the community and the possibility to pass vocational baccalaureates. At the time of the visit, 14 persons were registered in primary school, 14 in second degree and 12 in high school⁸³ and 13 persons attended literacy classes in 2021. Further, the two sports instructors offered daily programmes to small groups of detained persons. In addition, 97 sentenced persons worked (including 5 under RMS).

⁸² Work provided by National Prison Administration is remunerated through a reduction of 2 to 3 days (per month worked) in the prison sentence.

⁸³ A total of 65 persons had been registered in educational activities for the academic year 2020/2021.

At *Giurgiu Prison*, 202 persons worked (including 41 under RMS) in various jobs provided by the prison and 12 persons in the open regime for a private company, at the time of the visit. They were also offered social, educational and psychological activities in the form of individual sessions or in small group classes.

At *Mărgineni Prison*, 124 detained persons were enrolled in a job provided by the prison. As regards education, 33 persons were attending primary school classes. Vocational trainings (carpenter and builder) were also offered, and 13 detained persons had obtained a diploma in 2020.

However, the lack of resources and inadequate staffing combined with the Covid-19 pandemic constraints reduced even further the level of activities on offer. For example, the number of persons allowed to participate in a classroom activity had to be divided by two or three and private companies almost stopped completely offering work opportunities.

91. The CPT recommends that the Romanian authorities increase their efforts to offer purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association) which are essential for preparing persons in prison for reintegration into the community as well as contributing to developing a more secure environment within prison. The aim should be for prisoners to spend eight hours out of their cells every day.

92. Persons serving long sentences are still systematically held in RMS sections based exclusively on their sentence, at least for a fifth of their sentence. After this initial period, a revision of placement is now carried out every 6 months as recommended in the CPT's 2018 visit report. However, decisions were rarely based on the continuous assessment of the person's behaviour and focused mostly on the crime committed and length of the sentence.

The CPT recalls that the length of the sentence does not necessarily bear any relationship to the level of risk a person may represent inside a prison. Instead, the placement in a stricter regime should be decided after a period of assessment in an ordinary regime, and in all cases, on the basis of a full psychological and, if necessary, psychiatric evaluation of the prisoner.⁸⁴

The CPT recommends once again 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.

⁸⁴ See Recommendation CM/Rec (2014) 3 of the Committee of Ministers of the Council of Europe concerning dangerous offenders and the 25th General Report of the CPT published in April 2016 concerning the situation of Life-sentenced prisoners – CPT/Inf (2016) 10, paragraphs 74 to 82.

93. The findings of the 2021 visit showed that the vast majority of persons held in maximum-security regime (RMS) in the four prisons visited spent 22 hours per day in multi-occupancy rooms and had very limited interaction with custodial or other staff.

In brief, the situation had not evolved since the 2018 visit. The CPT considers that within their wings, persons in RMS should be able to meet other detained persons in the wing and be granted a satisfactory programme of activities with a view to developing a good internal atmosphere. The aim should be to build positive relations among them and with staff. The activities provided should be as diverse as possible (education, sport, work of vocational value, etc.) and work offered should, as much as possible, not be of tedious nature.

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

94. The CPT's delegation found that, as was the case in 2018, placing a person into the high-risk category of maximum-security regime⁸⁵ appeared to be precipitous at times, often based on an individual incident - which did not systematically involve any physical aggression - rather than a thorough individual risk assessment. The regime applied to designated high-risk detained persons is particularly strict with persons held in cells either alone or with one other prisoner within a RMS wing, with no possibility of work, few activities and reinforced security measures such as escorting by two members of EOS and hand- and, at times, ankle-cuffing outside of the cell. The minimum period for the measure was six months but it appeared to be usually extended and often lasted for several years with each review referring to the initial placement reason rather than the present behaviour of the person.

Further, the CPT wishes to recall that within the secure environment of the RMS regime and the prison, the application of handcuffs should be an exceptional measure and not routine for high-risk prisoners. RMS high-risk prisoners are already unlocked and escorted by several prison officers within the wing, including members of the EOS. Likewise, high-risk RMS prisoners should not be handcuffed during medical consultations.

The CPT recommends once again that the Romanian authorities review the manner in which high-risk detained persons are designated and the length of the measures applied. Further, it recommends again that the policy of hand (and ankle)-cuffing 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. 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.

⁸⁵ The definition of high risk is set out in Art 24 of Law No. 254/2013 and Article 27 of its Implementing Regulation. The decision of placement in this category is taken by the Regime Board.

5. Health care services

a. introduction

95. The findings of the 2021 visit showed that there had been some progress in the provision of health care in prisons, notably in the administrative independence of prison health care services and personnel from prison management and custodial staff. It is also positive that health care staff no longer wore the same uniforms as prison officers. Nevertheless, the continued habitual breaches of clinician-patient confidentiality undermined the position of health care services in the prisons visited. As noted in the report on the 2018 visit, 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 (see paragraph 126). Further, there is still 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.

Moreover, clinical staff still need to demonstrate their true independence from prison staff when dealing with ill-treatment allegations which requires them to adequately document any injuries. The CPT acknowledges that neither the Ministry of Justice nor the Ministry of Health consider it appropriate to transfer the responsibility for clinical staff to the Ministry of Health, given the structure of the health care service in the country. Nevertheless, improved coordination between the prison administration and local public health services would 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. Further, the Ministry of Health ought to have an oversight of health care services in prisons including diseases prevalence and staffing resources.

In this context, the CPT has taken note that in September 2021 a two-year project with the Council of Europe on “Strengthening health care and mental health care in Romanian prisons” was launched which *inter alia* will support the development of a human resources strategy for health care in prisons as well as address issues such as medical ethics, confidentiality and recording of injuries. The Committee looks forward to following the progress of this project.

The CPT recommends that the Romanian authorities pursue their efforts to ensure that health care services in prisons are truly independent.

Further, it recommends that steps be taken to enhance the coordination between prisons and local public health services and to put in place a system of oversight of prison health care services by the Ministry of Health in conjunction with the Ministry of Justice.

b. staff and access to health care

96. At each of the four prisons visited, the number of health-care staff *in situ* was clearly insufficient.

At *Craiova Prison*, there was only one full-time equivalent (FTE) general practitioner (GP) working at the time of the visit; the chief doctor and another GP were on medical leave. Eight nurses were employed full-time (two being contractual) with one absent on maternity leave.⁸⁶ For a diverse male and female prisoner population of more than 750 persons, including the special “unit” for detained persons with mental disorders (see paragraph 110), three FTE GPs is appropriate but there should be an increase in the number of nurses, particularly nurses with a mental health specialisation.

At *Galați Prison*, the single GP was absent at the time of the visit and the health care service was being run by the prison dentist. They were supported by 10 FTE nurses working in shifts, with two nurses on duty each weekday from 8h00 to 15h00 and one nurse on duty at all other times. Five FTE nurses posts were unfilled. For a prisoner population consistently above 450, there is a need for an increased presence of a GP as well as to ensure that there is always GP cover when the full-time doctor is absent.

At *Giurgiu Prison*, the health care team consisted of three FTE GPs and nine FTE nurses with five GP posts and one nursing post vacant. For a prisoner population of 1,576, there is a need to increase significantly the number of nursing posts and to ensure that the prison has access to the resources of at least five FTE GPs.

At *Mărgineni Prison*, there was one FTE GP supported by 10 nurses (three of whom were working part-time). For a prisoner population of 730 persons, there is a need to recruit at least one additional GP and increase the number of nurses, especially those with a mental health specialisation.

97. On a positive note, staff shifts were organised at each of the prisons to ensure that a nurse was always present in the premises. All the prisons also had at least one hygienist nurse, one pharmacy nurse and one dental technician.

However, the lack of GPs impacted negatively on the care provided as GPs in the prisons visited had to prioritise the consultations and limit their duration. Further, doctors were not replaced when on holiday or sick leave even if the prison was left without any GP cover. As an illustration, there was no qualified medical doctor providing a service at Galați Prison at the time of the delegation’s visit; the GP had been absent for the previous two days and it was anticipated that the absence would be prolonged for two weeks. Further, the delegation’s doctors identified situations of medical neglect with patients no longer receiving their essential medical treatment (in connection, for example, with diabetes or cardiac diseases) and were not considered as priority cases by the health care services.

98. Apart from Galați Prison, none of the establishments visited had a functioning dental service. At *Mărgineni Prison*, the management stated that an agreement has been reached with a local dentist to consult one day every two weeks; while certainly an improvement it nevertheless does not sufficiently address the very real needs of the prisoner population to have access to a dentist. Prisoners in all the establishments visited complained of their inability to get any dental care, including for urgent extractions. The provision of dental care appears to have deteriorated further since the 2018 visit, with many prisoners manifesting a poor state of oral hygiene, cavities and gum disease. Some prisoners had apparently resorted to extracting their own teeth due to the lack of dental care while others stated that they had difficulties to eat any food due to continual toothache.

⁸⁶ One nurse was permanently on duty taking the temperature of all persons entering the establishment, which was a waste of her precious time, given that such a task could have been performed by an administrative member of staff.

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

- **at Craiova Prison, the three full-time equivalent general practitioners' posts are filled and the number of nurses significantly increase, notably nurses with a mental health qualification;**
- **at Galați Prison, the presence of an additional general practitioner should be sought;**
- **at Giurgiu Prison, the five full-time equivalent general practitioners' posts should be filled, and the number of nurses significantly increased, including nurses with a mental health qualification;**
- **At Mărgineni Prison, at least two full-time equivalent general practitioners are in place and the nursing complement is reinforced with nurses having a mental health qualification.**

In addition, steps should be taken to ensure that appropriate GP and nursing cover is in place for any prolonged absences. Further, the CPT recommends that urgent measures be taken at Craiova, Giurgiu and Mărgineni Prisons to ensure that adequate dental care provision is offered.

100. The CPT's delegation again found that access to the health care service in the prisons visited was managed by custodial staff. In their response to the 2018 visit report, the Romanian authorities had stated that it was not feasible to 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 and with such requests being collected by members of the health care staff at the end of each day (e.g. when the final round of medication is distributed).

The CPT reiterates that it is not appropriate for custodial staff to filter requests from prisoners to see the health care service. On occasion, prisoners even had to reveal the reason for their requests. Such a system must change with the health care service registering all the requests it receives from prisoners for a consultation and the custodial staff, at the request of the health care service, being responsible for ensuring prisoners are escorted to the health care unit to attend their appointments on time. Any existing rules and regulations should be changed to ensure that this new system can be put in place.

Further, on those days when a particular unit was not scheduled to have access to a doctor (i.e. "the doctor day" as described by many prisoners and custodial staff), arrangements must be put in place to ensure that those prisoners requiring urgent access to the doctor are promptly seen. The existing problem of prisoners being refused access to a doctor outside of the official "doctor day" will be resolved with the change of system of access to the health care service as it will be health care staff who triage the patients based upon the requests made.

The CPT reiterates its recommendation 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.

101. The CPT's delegation again found that prison health care services were poorly equipped⁸⁷ and that none of them possessed basic emergency medical equipment such as a defibrillator, oxygen, nebuliser or electrocardiography (ECG) machine. The Committee was surprised by the response to the 2018 visit report which stated that such equipment was not part of the "minimum mandatory equipment required for receiving operation permits needs to comply with the provisions of Order no. 153/2003 of the Ministry of Health".⁸⁸ Urgent steps should be taken to remedy this situation.

The CPT reiterates its recommendation that at a minimum every prison be equipped with a defibrillator, nebuliser and oxygen as well as an ECG machine.

102. In all prisons visited, medication was distributed by nursing staff three times per day. While psychotropic medicine was given supervised, other medication such as antihypertensive drugs were given in possession, notably at Mărgineni Prison. Basic treatments were provided free of charge.

c. medical screening on admission, recording of injuries and medical files

103. The policy regarding medical screening on admission, observed during previous visits, has remained unchanged. All newly admitted persons, whether coming from the community or being transferred from a police establishment or prison, were screened by a nurse on the day of their arrival and reviewed by a doctor, in principle, within 72 hours of their arrival. However, due to the lack of medical staff in the prisons visited, the admission screening by a doctor was sometimes delayed several days or even weeks (until the return of the doctor from holidays for example) or filtered by nurses.

The proforma template for initial screening covered general health issues, mental health, infectious diseases and injuries. The form was not systematically used or filled out completely. Newly arrived persons were screened for syphilis and tuberculosis, if they had not already been tested in a Detention and Preventative Arrest Centre. As it was the case in 2018, voluntary screening for blood-borne viruses (hepatitis B and C or HIV) was not always offered.

The CPT's delegation found once again that there was still no specific screening for women upon their entry to prison 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 issues.

The CPT recommends that the Romanian authorities ensure that all prisons carry out a comprehensive medical screening on admission. All newly admitted persons should be offered a systematic, voluntary blood test for blood borne viruses, vaccinations (hepatitis A and B) and treatment when appropriate.

In addition, the CPT recommends that a gender-specific medical screening on admission should be introduced at every prison accommodating women. Such screening should allow for the detection of vulnerabilities, including a history of 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.⁸⁹

⁸⁷ Limited to a sphygmomanometer, a stethoscope, a thermometer and a blood glucose machine.

⁸⁸ See CPT/Inf (2019) 8, page 124.

⁸⁹ Reference should be had to be Bangkok Rules and, in particular to Rule 6 e): "Rule 6. The health screening of

104. Important efforts were made to record injuries after each incident, notably in case of violence among detained persons. The traumatic injury form contained several boxes to describe lesions as well as predefined topographical anatomic drawings. However, as was the case in 2018, injuries sustained in prison were often not correctly recorded - or even not recorded at all in the prisons visited (see also the paragraph below regarding the confidentiality of the examination) and the clinician's report did not contain the allegations made by the concerned person. They lacked detailed description and precise information regarding the type and the size of the injuries. This was particularly obvious when comparing them with subsequent forensic medical certificate when they existed (see paragraph below). The CPT recalls that the lack of proper recording of injuries undermines the ability to report and investigate cases of alleged ill-treatment.

The recommendation contained in paragraph 21 above applies equally to prison health care services.

105. Following any incident resulting in injury, whether as a result of use of force by prison staff or inter-prisoner violence, detained persons have the right to be examined by a forensic doctor. However, it appeared that they tended to refuse the offer of such an examination as they would have to pay for it,⁹⁰ unless they were recognised as indigent, and due to the fact that they were not able to access a forensic doctor rapidly. To ensure that such examinations are timely and effective, **the CPT recommends that the Romanian authorities offer the possibility of such a forensic examination free of charge to prisoners who have received injuries following a violent incident in prison.**

106. Regrettably, health care services continued to record patient information in a variety of paper registers. An individual paper medical file was opened for every newly admitted person and usually contained the admission proforma, and any hospital correspondence and test results. Daily interventions by nursing and medical staff were recorded in a daily journal and traumatic lesions in a dedicated register. It was therefore impossible to form a complete picture of the health care condition of a patient without reference to a multitude of files, records, journals, and registers. Nurses and medical staff interviewed were unable to recall the medical history of their patients.

Further, most of the clinical notes in the medical records were of poor quality, incomplete and clearly insufficient to properly trace the medical history of a patient.

The CPT recommends once again that the current practice of using multiple registers to record patient information be phased out and replaced by a centralised paper or electronic data system. Further, health care staff should be reminded, once again, of the importance to record properly and in full the findings from a consultation with a patient; appropriate trainings should be organised if necessary.

⁹⁰ women prisoners shall include comprehensive screening to determine primary healthcare needs, and also shall determine: [...] (e) Sexual abuse and other forms of violence that may have been suffered prior to admission".
The cost was some €20.

d. confidentiality

107. The CPT's delegation again found that the confidentiality of medical consultations in prisons was not being guaranteed.

Medical examinations, especially relating to traumatic injuries, continued to be performed in the presence of custodial staff.⁹¹ In such circumstances, it is not feasible to establish a therapeutic doctor/nurse-patient relationship; trust in the health care service is diminished and the potential for complicity between health care staff and prison officers is increased. Alternative solutions must be found to reconcile legitimate security requirements with the principle of medical confidentiality. As suggested in previous CPT reports, the installation of an alarm system, whereby a doctor would be in a position to rapidly alert prison officers, could be envisaged.

Once again, the CPT calls upon the Romanian authorities to ensure that all medical examinations be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise on an exceptional basis – out of the sight of non-medical staff. The necessary measures should include instructing the custodial staff that no pressure should be exercised on health care personnel to force them to conduct medical examinations in their presence as it is detrimental to the establishment of a therapeutic doctor/nurse-patient relationship and unnecessary from a security point of view, except in exceptionally rare circumstances.

108. With the exception of *Galați Prison*, persons with HIV-infection were held together as “vulnerable prisoners” (see paragraph 87), clearly identified and known by custodial staff in the three other establishments. Indeed, an A4 poster marked “HIV” was even displayed on certain cell doors at Giurgiu and Mărgineni Prisons stigmatising these persons even further. Several indicated having been bullied by other persons and custodial staff (verbal abuse, threats, and occasionally physical violence) due to their HIV-infection. They were constantly in fear of being aggressed outside of their cells.

The CPT considers that the approach to identify detained persons by certain pathology is stigmatising and a breach of confidentiality. There is no necessity for non-health care staff to be systematically informed about whether a person 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.

The CPT recommends once again that measures be taken to ensure the strict confidentiality of medical information in light with the above remarks. Further, an information programme should be put in place for staff and persons in prison on transmissible diseases and notably on HIV. Clear instructions should be issued to ensure that HIV-infected persons are treated equally and have access to the same regime as other persons.

⁹¹ Consultation of body-worn cameras of staff accompanying prisoners from the maximum-security regime clearly showed that the presence of custodial staff was routine.

e. mental health care

109. The CPT's delegation met many prisoners who were suffering from a mental illness and/or a personality disorder, and who were not being provided with the appropriate care. For example, at Mărgineni Prison, 109 persons received psychotropic medication, but no psychiatrist visited the establishment while at Giurgiu Prison, 398 persons received psychotropic medication, with a psychiatrist present only one day per week. Further, detained persons in need of psychiatric care had to cope with conditions of detention which had a negative impact on their mental and physical health: most of them were held in large collective dormitories. Often such an environment exacerbated their condition and made it harder for them to adapt to prison life which resulted in conflict with other prisoners and bullying by staff. As a consequence, they were moved from one dormitory to another with their mental health deteriorating further. For many of these prisoners, a more therapeutic environment was necessary.

The CPT recommends once again 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.

110. The National Prison Administration, recognising the need to provide increased psychiatric care in prison, decided to establish four units for the accommodation of vulnerable inmates who suffer from serious mental illnesses. The CPT was informed that a unit for each regime category had been established in the prisons of Iași (open), Craiova (closed), Gherla (maximum security) and Bucharest-Jilava (semi-open).

However, at *Craiova Prison*, the CPT's delegation found that no dedicated unit existed and that the 98 persons identified as having a severe and enduring mental health disorders, including seven under a court-imposed measure, were held in cells together with other persons in the closed regime section. Moreover, the single psychiatrist had left his full-time position and was only working 20% of FTE at the establishment since May 2020. Therefore, at the time of the visit, a psychiatrist visited the establishment one day per week which is clearly insufficient. Not surprisingly, the CPT's delegation found many patients who had been neglected and whose mental health was deteriorating. Further, most of them were held in large dormitories which were inappropriate considering the patients' physical and mental capacities.

For example, the CPT's delegation met a young woman who was unable to look after herself and was living in unhygienic conditions in dirty clothes in a filthy cell with dirty bedding. She had a number of skin lesions caused by bedbugs and acts of self-harm. According to her medical files, a psychiatrist considered that she needed to be placed in "an environment providing psychological protection and support" whereas she was held in an RMS cell with another person with whom she had limited interaction. Diagnosed with a severe personality disorder and psychosis, and most likely an intellectual disability, she had not seen a psychiatrist for 12 months.⁹²

This situation demonstrates the incapacity of Craiova Prison to provide for the essential needs of patients with a severe mental health disorder and the extent of neglect to which this woman is exposed which could amount to inhuman and degrading treatment. **The CPT recommends that this person be rapidly transferred to an appropriate facility (e.g. mental health facility or social care home) where she will receive appropriate care.**

⁹² The delegation met another woman with a severe mental health disorder in a similar situation at Craiova Prison.

111. Persons with mental health disorders should not only receive pharmacotherapy nor be warehoused in prison cells or dormitories, but should be provided with psycho-social therapy and appropriate occupation. Moreover, all sentenced persons under Article 109 of the Criminal Code who require mandatory psychiatric treatment should be treated in a hospital and not in prison. The CPT recalls that, to be meaningful, dedicated prison psychiatric units must be appropriately staffed with clinical psychologists and mental health nurses, under the regular supervision of a psychiatrist. They should further offer activities and care targeted to the needs of the patients.

By communication of 28 September 2021, the Romanian authorities informed the CPT that, in response to the delegation's preliminary observations, an expert commission had been sent to Craiova Prison to evaluate the care of mentally ill prisoners in the establishment. The commission identified 48 prisoners with a psychiatric pathological history of whom 14 had a serious mental illness and were transferred to a prison hospital. The remaining 34 prisoners were apparently relocated to prisons where they could be held in appropriate conditions.

The CPT recommends that the Romanian authorities review the operation of the special units for persons with a mental health disorder to ensure that they are properly staffed and are able to offer a range of activities to cater to the needs of the patients. To this end, the CPT would like to be informed in detail of the steps taken at Craiova Prison to develop a dedicated unit for persons with a mental health disorder and to provide appropriate treatment and living conditions for those patients assigned to the unit.

The CPT would also like to be informed of the prison establishments to which the above-mentioned 34 prisoners were transferred and of the health care and living conditions afforded to them.

112. Mechanical fixation to a bed could be applied to detained persons within a prison setting. The measure was not resorted to frequently and in the first four and half months of 2021, the CPT's delegation only came across three cases in the prisons visited, one at Giurgiu Prison, one at Craiova Prison in January and a third at Galați Prison in April. In the latter two cases, the measure was imposed with the authorisation of a doctor (GP or psychiatrist).⁹³ The persons were immobilised and strapped to a bed by the ankles, the body and the hands - in hyperextension - by EOS members. However, in both cases, the measure was applied for more than five hours and without constant staff supervision.

In the CPT's view, mechanically restraining a person to bed is a potentially damaging measure both physically and psychologically. Therefore, key safeguards should be applied in order to respect the dignity of the person concerned. The measure should be as short as possible and last minutes rather than hours. A person should only be restrained as a measure of last resort; an extreme action applied in order to prevent imminent injury or to reduce acute agitation and/or violence. This was not the case regarding either the case at Craiova Prison or at Galați Prison.⁹⁴ The application of the measure at Craiova Prison was clearly an informal punishment for the cheeky behaviour of the prisoner in knocking a small flowerpot off a ledge outside his cell which landed on a prison officer's shoulder and showered him with earth.

⁹³ In accordance with Section 214 (b) of the Regulation on the organisation and functioning of detention and remand establishments, Ministerial Order 14/2018.

⁹⁴ Both persons walked normally to the room in which they were to be fixated and appeared calm and engaged with staff while being fixated to the bed.

The CPT has examined the issue of fixation of detained persons in many countries and has concluded that if such a measure is necessary, it should be applied in a medical setting by trained health care staff. It should also be surrounded by a series of safeguards, including continuous and direct supervision by a member of staff who engages verbally with the person.

In the light of the findings from the 2021 visit, **the CPT recommends that the Romanian authorities end the resort to mechanical fixation in prisons in a non-medical setting.** Given how infrequently the measure is applied, such a recommendation should not be difficult to apply for prison managers.

f. drug use and transmissible diseases

113. The attitude of the health care services regarding drug use in the prisons visited appeared to be one of denial; substance abuse does not occur, thus there is no need for any specific measures. Detained persons with opioid addiction were referred to a Penitentiary Hospital for evaluation and treatment, in accordance with the national program. Therefore, medical staff in the prisons visited had no mandate to initiate an Opioid Agonist Therapy (OAT) even in urgent situation of withdrawal. Further, no harm reduction measures were in evidence such as a needle and syringe exchange programme (NSP) or prevention group discussions. Condoms were only made available to detained persons having intimate visits and not for any consensual sexual relations between prisoners.

The approach towards drug use in prison should have as its goals, inter alia: eliminating the supply of drugs into prisons; dealing with drug use through identifying and engaging drug users, 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 once again 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. Access to OAT should be facilitated and be managed by health care providers in the prisons (e.g. the GP's). Harm reduction measures (i.e. condom distribution, needle exchange programmes) should be introduced forthwith in all prisons.

114. As regards hunger strikes, the CPT's delegation found that the situation had not evolved since 2018. Any prisoner considered to be on hunger strike (i.e. defined as refusing three meals in a row)⁹⁵ would be moved to a designated cell without any of their belongings, where they would be offered only water and denied any activity. All such persons would be seen daily by a nurse and all the relevant information was recorded in a dedicated register. Most hunger strikes lasted only a few days.

The CPT continues to consider that separating persons on hunger strike and preventing them from participating in activities is unnecessary and manifest a punitive approach. In this context, they should not be held in conditions inferior to those of other detained persons, should be offered food every day, allowed to have food in their cell and have access to the same activities and contact with the outside world.

⁹⁵ At Giurgiu Prison, prisoners who refused one meal were considered as being on a hunger strike.

The CPT reiterates its recommendation that persons 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. Article 54 of Law no. 254/2013 and other pertinent prison regulations should be amended accordingly.

6. Other issues

a. prison staff

115. The CPT's delegation found that, as was the case in 2018, the staff in the prisons visited was insufficient to cope with the number and type of persons detained. In the four prisons visited, it was frequent that due to the lack of custodial staff, one junior officer was on duty for more than 60 prisoners (one section), often supported by a senior officer who was also responsible for a second section. As a consequence, staff often delegated certain administrative tasks, including maintaining good order, to a prisoner - called "head of the cell" - in each of the larger multiple-occupancy cells.

At *Craiova Prison*, the number of custodial staff had increased by 37 to 312 in 2021 but that was still 56 persons below the official number foreseen and other departments such as health care and social reintegration were also understaffed with an overall 93 of the 527 posts needing to be filled. And that was for a population of 529 persons not the actual 814 prisoners.

At *Galați Prison*, only 299 out of 377 posts were filled, with 43 posts vacant among the 254 custodial staff (including 9 out of 31 EOS posts) for a population of 528.

At *Giurgiu Prison*, only 304 custodial staff (including managers, external security, escorts and the 19 EOS members), were responsible for the 1,576 prisoners. Even if the unfilled 46 posts were filled, the number of custodial officers would remain dangerously low. Staffing deficiencies were apparent across all the prison departments with, overall, 124 of the official 530 posts unfilled.

At *Mărgineni Prison*, 110 posts out of 417 were vacant at the time of the visit including four posts at the health care unit and four others within the education Department for a population of 730 men. The security of the Prison was ensured by a total of 153 custodial staff with 33 posts vacant.⁹⁶

116. The CPT notes that the overall situation within the National Prison Administration (NPA) has further deteriorated since 2018 with only 11,786 posts filled as of October 2020. There were now over 2,000 vacant posts⁹⁷ with the number of prison employees needed estimated to be closer to 20,000.

⁹⁶ Six out of 42 posts in the intervention group were unoccupied.

⁹⁷ By communication of 28 September 2021, the Romanian authorities informed the CPT that 1,400 custodial officer positions had been advertised in 2020 and 2021. Further, in October 2020, 236 custodial officers had graduated from the National School for Prison Officers at Târgu Ocna and that, in September 2021, another 242 officers had graduated.

The CPT's delegation was also informed that due to the staff shortages, the initial training programme was shortened in order to get the newly recruited personnel rapidly deployed to the prisons. To compensate for this lack of initial training, staff members in direct contact with detained persons are required to participate in two inter-personal skills trainings per year since 2020.⁹⁸ However, there was a concern, notably in Giurgiu Prison, that the general lack of training resulted in these newer staff members overreacting to any challenging behaviour by prisoners due to their inexperience. Concern was also raised that there was a much higher turnover of staff in recent years.

Following the CPT's visit to Galați Prison in 2018, measures had been taken to develop, at local level, a training program for the whole staff aiming at improving professional practices. The program focused primarily on the development of inter-personal and communication skills and the role of each professional in detention.

117. As stated in the report on the 2018 visit, an inadequate staff/prisoner ratio generates an insecure environment for both staff and prisoners. Therefore, adequate recruitment and training of prison staff are essential. 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 or her relations with detained persons. In this regard, developed interpersonal communication skills are a key aspect of the make-up of such staff. 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, due to the shortage of staff, ongoing training courses on interpersonal skills were rarely organised.

The CPT reiterates its recommendation that the Romanian authorities take urgent measures to recruit additional staff after carrying out a review of the current staffing levels. In carrying out this review, the role and duties of prison staff should be taken into consideration (see also section b. below regarding prison intervention groups). The Committee would like to be informed of the outcome of the review and, more specifically, of the evolution of staffing numbers (custodial, treatment, etc.) in each of the four prisons visited.

Further, the Committee recommends that high priority should be given to the development of prison staff training, both initial and ongoing. In this respect, it is important that newly recruited staff receive the necessary professional training before being deployed in a prison and that once deployed, they are offered the necessary mentorship by experienced officers during an initial period.

118. The uniform of each custodial officer had a visible personal identification number, which is positive. However, the delegation observed prison officers openly carrying a baton in the detention areas in all the prisons visited. The open display of batons is not conducive to developing positive relations between staff and detained persons. In fact, the visible wearing of batons in a prison setting could well be seen as a sign of weakness rather than one of strength, demonstrating a lack of confidence in the ability of prison officers to control a situation without possible recourse to such a means. The CPT has long advocated that prison officers should not be routinely equipped with batons and **it recommends that the Romanian authorities phase out the carrying of truncheons by custodial staff in detention areas.**

⁹⁸ In accordance with Decree 3513/2020 of the Ministry of Justice.

119. As noted above, staff shortages were evident across all departments in the prisons visited, and this was particularly true of the psychosocial team at Giurgiu Prison where only four of the 12 posts were filled, and which was manifestly insufficient to address the needs of more than 1,500 detained persons. Further, the delegation noted that educators, social workers and psychologists wore the same uniform as custodial officers, which generated confusion among prisoners and could negatively influence interaction.

The CPT recommends that steps be taken to fill the vacancies in the psychosocial team at Giurgiu Prison as soon as possible. Further, it would be preferable that members of the psychosocial and education team do not wear the same uniform as custodial officers.

b. prison intervention groups

120. In its report on the 2018 visit, the CPT was highly critical of the *raison d'être* and *modus operandi* of the masked intervention groups (EOS) that operate in those establishments which accommodate prisoners under the maximum-security regime. The CPT recommended that the groups be dissolved in those prisons where they operated and that, instead, the staffing complement of the maximum-security wings be augmented and a dynamic security approach be adopted.⁹⁹ Further, the CPT recommended that pending the review of the use of the masked intervention groups, immediate steps be taken to end the wearing of balaclavas by all members of these groups when on duty and that the 24-hour shift system for the groups be ended.¹⁰⁰

In their response to the 2018 visit report,¹⁰¹ the Romanian authorities argued that the masked intervention groups were a feature of the dynamic security in the maximum-security areas of prisons, facilitating a climate of order and discipline and contributing to the de-escalation of conflictual situations. Further, the Romanian authorities argued that as the members of the intervention group have to use force and restraint techniques to control prisoners, it is necessary to protect their identity and for them to wear balaclavas and helmets when on duty. It was also stated that the 24-hour working shift was in accordance with labour law.

The CPT wishes to recall that the underlying rationale for its recommendations was to prevent ill-treatment of detained persons, diminish a climate of fear, promote staff-prisoner relations and, by consequence, contribute to fostering not only a better environment based upon a dynamic security approach but also to supporting the path towards preparing persons in prison for reintegrating into the community.

121. In the course of the 2021 visit, the CPT's delegation again observed the operation of the masked intervention groups in all four of the prisons it visited. The mandate and the role of the EOS have not evolved since the 2018 visit. During their 24-hour shifts, much of the time of the EOS members is spent exercising with weights and waiting to be called to intervene on the wings,¹⁰² which often involved them merely standing around in their full kit (body armour, balaclavas, helmets, gloves, batons) with limited or no interaction with detained persons.

⁹⁹ See CPT/Inf (2019) 7, paragraphs 62 to 64.

¹⁰⁰ *Op.cit.* paragraph 65.

¹⁰¹ See CPT/Inf (2019) 8, pages 69 to 75.

¹⁰² At Mărgineni Prison, the management highlighted their willingness to reduce the number of operations carried out by EOS.

It was evident from observing EOS members and from speaking with staff and detained persons, that their role is to control and to ensure passive security with no emphasis on knowing persons in prison. They are clearly not a component of the dynamic security which should be the development by staff of positive relationships with detained persons based on firmness and fairness, in combination with an understanding of their personal situation and any risk posed by individual prisoners. Instead, their appearance and the way they intervened were designed to intimidate detained persons while providing them with a certain feeling of impunity.

122. As outlined in the ill-treatment section above, the CPT's delegation received many allegations of ill-treatment by EOS members in all the prisons visited and notably at Craiova and Giurgiu Prisons. The CPT recognises that many members of the EOS are carrying out their functions professionally and are not intent on ill-treating prisoners. However, the *modus operandi* of the EOS results in them being predisposed to using excessive force on occasion and their mere presence heightens rather than diminishes tension on the wings. This appeared to be evident from the tense situation found in the women's wing at Craiova Prison, where EOS members were carrying out some of the routine tasks of prison staff such as the daily roll count.

The CPT remains of the opinion that the prison-based intervention groups should cease to exist and that instead it would be far more beneficial to increase the numbers of custodial staff present on the maximum-security wings.

123. As stated in the report on the 2018 visit, good 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. Further, experience has shown that, in many instances, specialised units often intervene too late and more forcefully than circumstances require, and that their presence is an aggravating factor rather than a mitigating one, as confirmed by videos consulted by the delegation.

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 timelier 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 CPT reiterates its recommendation that the Romanian authorities dissolve the intervention groups in each of the prisons where they are currently operating. Instead, the staffing complement on the maximum-security regime wings should be augmented and a dynamic security approach be adopted.

124. In their communication of 28 September 2021, the Romanian authorities informed the CPT that they were evaluating how to use the intervention groups for external escorts and other work outside the prison with any intervention within an establishment exceptional. The CPT welcomes this review. Nevertheless, pending the review to reassign the special intervention groups, **the CPT recommends once again that the Romanian authorities immediately end the wearing of balaclavas by all members of the intervention groups.** The Committee reiterates that there is no good reason for the faces of members of the intervention groups to be hidden. On the contrary, the removal of the balaclavas would help to combat impunity and prevent ill-treatment while allowing a less intimidating approach and facilitating human contacts and exchanges.

Further, the arguments for ending the 24-hour shifts remain pertinent regardless of whether labour legislation permits it. No staff can operate effectively for 24 hours, even less so if they are expected to de-escalate potential conflicts and to apply any force based on the principles of legality, necessity and proportionality. In addition, once prisoners are locked in their cells at night, there is little resource justification to have an EOS team on duty. **The CPT reiterates its recommendation that the Romanian authorities end the 24-hour shift system for members of the intervention groups.**

c. discipline

125. The legal provisions relating to discipline and its procedure remain unchanged since 2018.¹⁰³ In all the four prisons visited, the CPT's delegation formed the impression that the disciplinary procedure was correctly applied. Detained persons were systematically interviewed, decisions were reasoned and notified, and detained persons were informed of the appeal procedure and used it. The whole procedure was monitored by the supervisory judge. Further, in the prisons visited there was no excessive use of disciplinary procedures and sanctions.

126. That said, the CPT's recommendations to amend the relevant provisions of Law No. 254/2013 in relation to self-harming and the withdrawal of visiting rights as disciplinary offences have not been implemented.

The CPT's delegation met numerous persons in the prisons visited who had been disciplined for having committed an act of self-harm when they clearly required psychological support.¹⁰⁴ The Committee has repeatedly emphasised that acts of this kind very often reflect psychological or psychiatric difficulties which should be dealt with from a therapeutic rather than punitive angle. Prison managers met agreed with this principle but continued to sanction such acts because "the law requires it". The time has come for the Romanian authorities to change their approach towards the way acts of self-harm and/or attempted suicide are dealt with.

¹⁰³ See CPT's report on the 2018 visit, CPT (2019) 7, paragraph 129.

¹⁰⁴ For example, during the first four and half months of 2021, 63 persons had a disciplinary procedure opened for self-harm at Mărgineni Prison.

Further, in Galați, Giurgiu and Mărgineni Prisons, the sanction of the withdrawal of the right to visits for a period of up to three months as a disciplinary sanction was applied regularly regardless of the offence committed.¹⁰⁵ The Committee recalls, once again, that 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.¹⁰⁶ 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.

By communication of 28 September 2021, the Romanian authorities informed the CPT at present the only alternative to the sanction of the removal of visiting rights was that of solitary confinement which they considered disproportionate. The CPT agrees that solitary confinement is not an appropriate alternative. However, there exist a series of graduated sanctions that could be applied as an alternative to removing visiting rights as occurs in many other European jurisdictions.

The CPT reiterates its recommendation that the Romanian authorities take immediate steps to ensure that acts of self-harm are no longer considered as a disciplinary offence and that the right to visits is no longer suspended as a disciplinary punishment, in the light of the above remarks. Further, Law 254/2013 and its implementing Regulation should be amended accordingly.

127. In the course of the visit, the CPT’s delegation met many prisoners who complained that they did not understand why they had been transferred from one prison to another. The CPT recognises that it may be necessary to transfer prisoners from one establishment to another for administrative reasons such as the good order of the prison, a desire to be closer to family, in order to partake in particular courses or due to overcrowding.¹⁰⁷ Nevertheless, it is important that such transfers should not be perceived as an informal punishment or as being arbitrary. Prisoners who are transferred should receive clear reasons for the transfer as well as information on how to appeal such a decision. **The Committee would appreciate the comments of the Romanian authorities on this matter** (see also paragraph 84 regarding the credits system).

d. contact with the outside world

128. The rights and modalities for the operation of prisoner visits and correspondence are set out in Law No. 254/2013 and its implementing Regulation of 2016, as described in the report on the 2018 visit.¹⁰⁸ Article 139 of Government decision 157/2016 provides the possibility, exceptionally, for open visits to be granted to persons in closed and maximum-security regimes. However, it appeared that neither prisoners nor staff were fully aware of this possibility in the prisons visited.

¹⁰⁵ The Romanian authorities informed the CPT’s delegation of their intention to amend the national legislation. Further, in the response to the CPT’s 2018 visit report, it is stated that the National Prison Administration had proposed to the Ministry of Justice to amend the legal framework - CPT/Inf (2019) 8, page 141.

¹⁰⁶ See also Rule 60.4 of the European Prison Rules (2020) “Punishment shall not include a total prohibition on family contact”.

¹⁰⁷ By communication of 28 September 2021, the Romanian authorities informed the CPT that between 2019 and July 2021, 12,284 persons had been transferred to other places of detention and that, during the same period, 1,822 persons had been transferred between Craiova, Giurgiu, Galați and Mărgineni Prisons.

¹⁰⁸ See CPT/inf (2019) 7, paragraphs 139 and 143.

The CPT recalls that the starting point should be to offer all prisoners “open” visits around a table which allows detained persons to have physical contact with their families. This is especially important for promoting and maintaining contacts with children,¹⁰⁹ as well as for facilitating the process of progression to a less restrictive regime. In exceptional circumstances, for example for security-related reasons or to protect the legitimate interests of an investigation, visits could take place in booths and/or monitored. Any decision to impose closed visits must be well-founded and based on an individual assessment of the potential risk.

The CPT recommends once again that the Romanian authorities authorise, as a matter of principle, open visits for all detained persons, with closed visits as the exception based on an individual assessment of risks.

129. Following the outbreak of the Covid-19 pandemic, open visits in prisons were stopped. All four prisons visited took compensatory measures to reorganise their visit facilities and to equip them further with computers in order to offer more Voice over Internet Protocol (VOIP) contacts. In addition to screened visits, detained persons could benefit from up to an hour per week of visio-conference meeting with their relatives. Sentenced persons could also continue to benefit from a conjugal visit of three hours every three months. The CPT welcomes these measures.

However, contacts were limited notably to due to relatives lacking the necessary IT equipment or being reluctant to travel to the prison “only” for a screened visit. Further, many sentenced persons stated that the benefits of a conjugal visit had to be set against having to quarantine alone for 7 days afterwards. Further, parents, and especially detained women, stressed that they did not have the possibility of having any physical contact with their children since the beginning of the pandemic, which they found more and more difficult to cope with.

Considering the importance of contacts with outside world, **the CPT encourages the Romanian authorities to further their efforts to promote persons in prison maintaining contacts with their relatives, including through retaining the offer of access to VOIP and visio-conferencing after the pandemic ends. Covid-19 related restrictions should be reviewed regularly and lifted as early as possible.**

130. Regarding access to telephone, almost all cells were equipped with a telephone that detained persons could use whenever they wanted, with a limit of 10 calls of up to one hour per day, which is positive. Phone booths in the wing corridors and the yards had remained in service providing potentially more privacy than calls from the cells. Further, the CPT welcomes the normative amendments which means that indigent persons in prison can now make free of charge phone calls on a regular basis, as recommended by the Committee in 2018.

¹⁰⁹ 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.

e. complaints mechanisms

131. The situation regarding complaints remains the same as observed during the 2018 visit. The CPT's delegation again met a number of persons in prison who stated that they had little trust in the complaints system and were even afraid that the lodging of a complaint would aggravate their situation. This was notably the case at Giurgiu Prison. Further, no improvement was discernible regarding accessibility to the complaints system; many persons still did not have paper and pen with which to complain, and complaints boxes were not present in all sections of the prisons visited. In several cases, persons stated that they were pressured by custodial staff (e.g. threats of a transfer, a change of regime or of physical violence), to withdraw a complaint made to the administration or a judicial authority. Indeed, the CPT's delegation noted from the records consulted that persons who had initially complained about an incident of alleged ill-treatment later withdrew their complaint which stopped the procedure or any meaningful investigation.

The CPT recognises that avenues to make a complaint exist and that the supervisory judge is present to control the legality of the functioning of each establishment. However, as long as there is no trust in these avenues and the supervisory judge is not perceived to be effective, the complaints system will not accurately reflect the problems in the prisons, notably as regards issues of violence.

The CPT recommends that the Romanian authorities improve the access to complaint mechanisms. Further, steps should be taken to promote trust in the fairness of the complaints system among persons in prison (see also the recommendation in paragraph 66 regarding reprisals).

APPENDIX I

LIST OF THE ESTABLISHMENTS VISITED BY THE CPT'S DELEGATION

Police establishments

- Central detention facility No. 1 at Bucharest Municipal Police Headquarters
- Detention facility No. 2 at Bucharest Regional Transport Police
- County Detention facility, Câmpina
- County Detention facility, Craiova
- County Detention facility, Giurgiu
- County Detention facility, Galați
- County Detention facility, Târgoviște

Penitentiary establishments

- Craiova Prison
- Galați Prison
- Giurgiu Prison
- Mărgineni Prison

APPENDIX II

LIST OF AUTHORITIES AND ORGANISATIONS MET BY THE CPT'S DELEGATION

A. National authorities

Ministry of Justice

Stelian Cristian Ion	Minister of Justice
Lorin Ursa	Adviser to the Minister of Justice
Mădălina Manolache	Head of European Affairs and Human Rights Department
Alina Barbu	CPT Liaison Officer, European Affairs and Human Rights Department
Dan Halchin	Director of the National Prison Administration
Ioana Morar	Deputy Director of the National Prison Administration
Laurenția Ștefan	Director of the Medical Supervision Department, National Prison Administration

Ministry of Internal Affairs

Lucian Nicolae Bode	Minister
Bogdan Despescu	Secretary of State
Bogdan Iaru	Director of the Coordination Service for Detention and Preventive Arrest Centers
Cătălin Necula	Director of the General Directorate for European Affairs, Schengen and International Relations

State Prosecutor

Gabriela Scutea	General Prosecutor
Dimitrie Bogdan	Deputy General Prosecutor
Cătălin Popescu	Prosecutor, Prosecutor's Office attached to the High Court of Cassation and Justice

Aurelian Mihaila	Deputy General Prosecutor at Court of Appeal, Ploiesti
Bogdan Staicu	Chief Prosecutor attached to the Court of Bucharest
Codruț-Dumitru Popoiu	Chief Prosecutor of the Criminal Investigation Section of the Prosecutor's Office attached to the Bucharest Tribunal

People's Advocate (National Preventive Mechanism)

Cleopatra Heroi	Delegated with the duties of the Head of NPM—advisor
Aliab Aron	Advisor
Izabela Cernavodeanu	Advisor
Nicoleta Constantinescu	Team coordinator
Mihaela Sirbu	Advisor

B. Non-governmental organisations

Apador-CH (Association for the Defence of Human Rights in Romania-the Helsinki Committee)