



## **Response**

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

**from 10 to 21 May 2021**

The Government of Romania has requested the publication of this response. The CPT's report on the 2021 visit to Romania is set out in document CPT/Inf (2022) 06.

Strasbourg, 14 April 2022



*Bucharest, March, 2022*

**The response of the Romanian Government to the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), following the ad hoc visit to Romania on 10-21 May 2021, adopted in the CPT plenary meeting held on 29 October 2021**

#### **I. General aspects**

The Romanian authorities have noted with satisfaction the positive developments found and included in the CPT report on Romania, which reflects the careful involvement and professional presentation of the aspects following the visit during 2021. The Romanian authorities are fully aware that there are still problematic issues and continues the efforts to improve the material conditions, the infrastructure, but also the procedures applicable to the persons deprived of liberty. We reiterate the commitment of the authorities to ensure the responsible administration of places where persons deprived of their liberty are detained, in accordance with international and European recommendations, the conditions of full respect for human rights, without prejudice to human dignity.

Overcrowding - as a structural problem - calls for an accelerated pace of implementation of the measures, which is why we will continue to support the implementation of those measures approved by the Romanian Government in the Action Plan for 2020-2025, developed to implement the pilot decision Rezmiveş and others against Romania, as well as the judgments handed down in the Bragadireanu group of cases against Romania, approved by the Romanian Government by Memorandum, on November 18, 2020.

Moreover, the overcrowding of penitentiaries and the increase of the population in penitentiaries is a major challenge for the administration of penitentiaries and the criminal justice system as a whole, both from the perspective of respecting human rights and of the penitentiary unit management. The basis for managing such a situation is the respect for human dignity, the commitment of the management of the units to a humane and positive treatment, the knowledge and deepening of the roles that employees in the system have in the process of positively influencing the behaviour of detainees and of modern and efficient administrative approaches.

The Romanian authorities reiterate the message of **zero tolerance** for aggressive behaviour, violence between detainees or against them. This message represents a constant in the penitentiary units in Romania, being the central element of the set of *systemic imperatives* for the way of carrying out the activity of the penitentiary policemen, transmitted repeatedly, constantly, to all those entrusted by the state in organizing and managing places of detention.

The legislation regulating the execution of penalties corresponds to the criminal reform adopted in Romania, which came into force on February 1, 2014, the specific provisions of the penitentiary system being regulated in Law no. 254/2013 on the execution of sentences and custodial measures ordered by the judicial bodies during the criminal process, respectively in the Regulation for the application of Law no. 254/2013, approved by Government Decision no. 157/2016, and in their subsequent acts (orders of the Minister of Justice, decisions of the Director General of the National Administration of Penitentiaries, internal regulations of places of detention).

Improving this legislation, especially by amending and supplementing the framework law in enforcement-criminal matters, namely the Law no. 254/2013, must take into account multiple standards, requirements and recommendations, including: the recommendations of the Ombudsman, the decisions of the Constitutional Court, the findings of the CPT Reports on Romania, the findings of the United Nations Subcommittee on Prevention of Torture (UN-SPT), relevant decisions of the European Court of Human Rights, as well as the reports of non-governmental organizations working in this field. A rigorous, integrated and in-depth analysis of them is envisaged, so that the choice of the best legislative solutions will have a positive impact in the medium and long term on persons deprived of liberty, the issue of amending this specific legislation being a complex one, with multiple implications, both in terms of the activity of the structures called to guard persons deprived of liberty, and in terms of the state's criminal enforcement policy, requiring a unified approach and an assumption of vision and position in this area by the Romanian authorities.

The penitentiary system in Romania has experienced, in recent years, an extensive process of development both in terms of legislation and in terms of investments in the physical infrastructure of places of detention. Institutional progress and efforts to improve the quality of life in prisons have been in line with the standards promoted at European level by the CPT. The National Administration of Penitentiaries has taken steps to implement the recommendations made by the CPT in the penitentiary system, and in this context, it should be noted that each mission in Romania has supported, through the findings contained in the Visiting Reports, improved internal rules and procedures.

The mission of the penitentiary units to assist persons deprived of their liberty for social reintegration is closely related to the treatment of places of detention for inmates, the aim of the National Administration of Penitentiaries being to improve the quality of life in the penitentiary and respect human rights through all material conditions provided, as well as educational and psychosocial services and activities made available.

#### **Regarding paragraph 5**

Based on the legal provisions applicable to the execution of sentences or custodial measures, the penitentiary system **guarantees** the possibility for inmates to complain to national and international bodies, about any aspects resulting from detention, without any repercussions on them.

Moreover, the approach of the penitentiary system management is to capitalize on the areas of improvement/remediation that result from the analysis/verification of any type of complaint. If there is a breach in the duties of the staff, measures shall be taken promptly accordingly.

**In the context of the CPT's comments contained in para. 5 and 62, the National Administration of Penitentiaries reiterated that such a practice is not tolerated in the Romanian penitentiary system and that addressing the needs of inmates must be ensured professionally by identifying those better solutions according to the law, not by hiding possible complaints.**

#### **Regarding paragraph 6**

The penitentiary system has evolved rapidly in recent years, with the development of national legislation and procedures underlying the recommendations of the European institutions and bodies, as well as models of good practice at international level.

Specifically, the issues regarding the application of the maximum safety regime, the organization of intervention groups and the provision of medical care are set out below, corresponding to each issue addressed.

#### **Regarding paragraph 7**

##### ***A. Persons deprived of their liberty:***

As of 31.01.2022, 319 persons deprived of liberty confirmed with SARS-CoV-2 infection were monitored and medically cared for, of which 254 persons deprived of liberty were admitted to COVID-19 support hospitals.

During 2021, among the persons deprived of liberty, a number of 3,000 cases of COVID-19 were registered. We specify that, from the beginning of the pandemic in the penitentiary system (September 24, 2020) until 31.02.2022, a total number of 4495 COVID-19 cases were registered.

The number of persons deprived of their liberty immunised against COVID-19 (vaccination and passing through the disease) on 31.01.2022, was 79.46% (of which 76.38% were vaccinated).

## ***B. Prison staff:***

The situation of COVID-19 on 31.01.2022 - total positive staff in isolation -233.

During 2021, a number of 1,582 COVID-19 cases were registered among the staff. We mention that, from the registration of the first case among the staff (April 2020) until 31.01.2022, there are a total of 3,400 cases.

It should be noted that the number of SARS-CoV-2 infections among persons deprived of their liberty, as well as staff, corresponds to the rapidly rising trend of positive cases confirmed with SARS-CoV-2, including the new Omicron variant, of the fifth wave of the COVID-19 pandemic in Romania.

## ***C. From the perspective of the Ministry of the Interior***

Considering the international epidemiological context caused by the propagation of the SARS-CoV-2 virus, proactive and prophylactic measures were gradually adopted at the level of the Romanian Police in order to prevent the disease and protect its own personnel, in relation to the evolution of the epidemics at national level.

Initially, these were general actions for epidemiological prevention, such as: enhanced use of epidemiological screening, implementation of medical prophylactic measures, distribution and use of protective equipment by third parties which are potential contacts of persons infected with Covid-19, proper disinfection of common areas (including furniture and specific equipment) and of the vehicles used for the transport of persons deprived of their liberty; ensuring, in all circumstances, the exercise of visitation rights for persons deprived of their liberty, while limiting their physical contact with third parties; hearing the persons held in detention centers by means of videoconference at the place of their detention; individual accommodation of persons at epidemiological risk, with separate circuits and activities from other persons deprived of liberty (with mandatory wearing of protective equipment); ensuring that the exercise of their rights in the detention centers is conducted separately from the other persons deprived of liberty (contingent upon wearing the mask and disinfection of the relevant spaces); dissemination of informational and educational materials regarding the epidemiological context and adequate protection measures to limit the spread of the virus, both with the centers' staff and the persons held in custody.

Moreover, under the provisions of art. 6 para. (3) of the Regulation on the organization and operation of detention and pre-trial detention centers, as well as the measures necessary for their safety, approved by the Order of the Minister of Internal Affairs no. 14/2018, (hereinafter referred to as ROF CRAP<sup>1</sup> or the Regulation), detention rooms/detention centers were established at the level of detention and pre-trial detention centers for the reception of all persons deprived of liberty arrived/handed over/extradited from areas at epidemiological risk for COVID-19 or which, prior to admission to the center, had direct contact with persons coming from areas with an epidemiological risk for COVID-19/tested positive for SARS - CoV-2.

We mention that, at the level of Bucharest General Directorate of Police there are 11 detention and pre-trial detention centers (CRAP), out of which CRAP no. 6 at Police

<sup>1</sup> CRAP- the Romanian terminology for Detention and Pre-trial detention centers

Station no. 9 and CRAP no. 7 at Police Station no. 12 were designated as reception centers for the above-mentioned persons.

Considering the subsequent evolution of the epidemiological situation determined by the spread of SARS-CoV-2 virus at national level, which led to the establishment of a state of emergency in Romania, in the detention and pre-trial detention centers managed by the General Inspectorate of Romanian Police (IGPR), general epidemiological prevention measures in place have been supplemented with measures designed to prevent any risk situations generated by the spread of the virus (including psychological assistance activities, as a priority); these measures were tailored with reference, on the one hand, to the restrictions imposed on the exercise of certain legal rights of the persons deprived of their liberty by the aforementioned regulations and, on the other hand, with reference to the relevant criminal law provisions.

In this regard, the measures focused on two distinct levels, namely to ensure effective cooperation between structures/bodies with responsibilities in the relevant field, on the one hand, and, on the other hand, efficient and timely management of specific epidemiological events, with minimal consequences in regard to the epidemiological risk for the persons deprived of their liberty and CRAP centers' personnel.

Thus, in addition to the above-mentioned measures, in order to strictly enforce epidemiological safety measures for the prevention of disease and spreading of COVID-19 infection among the staff and persons held in detention and pre-trial detention centers operated by the Ministry of Internal Affairs/detention units, at the level of the Romanian Police a prompt, two-way communication was established between the compartments within units, especially between medical staff and detention centers' staff, and between the local level units and IGPR.

Also, taking into account that criminal investigation activities and the custody of persons deprived of liberty are among the responsibilities of the operational structures of the Romanian Police, with assistance from the support structures in the fields of logistics and information technology and communications, uniform management rules for all risk situations were established at the level of the Romanian Police.

In this regard, IGPR established a permanent exchange of information with the other institutions with responsibilities in carrying out criminal prosecution and custody of persons deprived of liberty, such as prosecutor's offices, courts, Medical Directorate of the Ministry of Internal Affairs, National Administration of Penitentiaries, the National Union of Bars in Romania, in order to keep these bodies informed concerning the measures adopted in the current epidemiological context, so that they may implement them properly.

Thus, starting with March 20th, 2020, the judicial bodies can make use of hearing by videoconference, as opposed to the physical presence of the persons deprived of liberty held in custody before the judicial body, as a temporary preventive measure designed to eliminate any risk, both for detained persons and escort service staff and for the judicial body and auxiliary staff, the audience or any potential contacts of persons diagnosed with Covid-19.

The targeted approach of the epidemiological risk situations involved rapid implementation of prevention measures (related to the epidemiological evolution) in those detention and pre-trial detention centers where infections with the SARS - CoV - 2 were suspected (for both their own staff and detained persons). A series of measures were adopted in order to ensure the continuation of ongoing judicial activities in the territorial and administrative area of the centers concerned and to prevent the spread of SARS - CoV2 infection among centers' staff and persons in custody, by preventing direct contact for these categories with any potential contacts of persons diagnosed with Covid-19.

Thus, in addition to the strict enforcement of institutional measures to limit possible risk situations caused by the spread of the virus (with reference to the epidemiological situation and the particularities and specific activities of the system for enforcing preventive custody and monitoring the persons held in custody), administrative measures were implemented, such as: suspending the transfer of persons deprived of their liberty

from/to other centers; restricting the transfers of persons deprived of their liberty to penitentiaries until their medical condition is determined, according to medical advice; holding persons deprived of their liberty against whom preventive custodial measures were taken/are about to be taken (within the jurisdiction of the centers concerned), separately from the other persons already detained in the center, in strict compliance with prophylactic and epidemiological safety regulations; ensuring, if needed, continuity of the service in the center concerned, according to the relevant legal provisions regarding the regime of enforcing preventive measures of deprivation of liberty; immediate notification of the territorial public health directorate and county medical service regarding the situation in the center concerned and for the timely testing of contacts.

Furthermore, we would like to emphasize that, in Government Decision no. 1031/2020 on the approval of the Strategy for Vaccination against COVID-19 in Romania, the category of persons deprived of liberty was included in Stage III of vaccination; consequently, at the level of police units appropriate measures were introduced for establishing working arrangements with representatives of structures subordinate to the Medical Directorate/Public Health Directorate for the vaccination of detainees held in detention and pre-trial detention centers, as well as for informing detainees and disseminating information on the strategy of vaccination against COVID-19.

The staff of the Medical Directorate and its subordinated units made great efforts to properly manage, from a medical and epidemiological perspective, the custodial population and the police officers working in the centers, managing to avoid any deaths due to SARS - CoV - 2 infection among the above-mentioned categories for the entire duration of 2021.

Last year, 338 suspected cases of SARS - CoV - 2 infection were reported among detainees, of which 243 cases were confirmed. Of these, 195 persons deprived of liberty were monitored in centers, 66 patients were transferred to suitable health units, depending on the evolution of their condition, and 18 cases were referred to the relevant county public health directorates for monitoring (when the persons concerned left the centers as a result of the preventive measure being changed).

At the same time, 130 centers' employees were tested positively for SARS-CoV-2.

In order to mitigate the impact of the SARS-CoV-2 epidemic on the centers, last year 465 persons deprived of liberty were inoculated with the full vaccination course, according to their expressed options; at the same time, 373 police officers were inoculated in the centers opened by the Ministry of Internal Affairs as well as in other centers, according to the availability in the territory and their preferences.

## II. Specific aspects

### A. Concerning the aspects related to the Ombudsman` activity

**A.1.** The Ombudsman is the national institution for the promotion and protection of human rights, in the sense established by the Resolution of the General Assembly of the United Nations (UN) no. 48/134 of December 20, 1993, by which the Paris Principles were adopted. It is a public authority autonomous and independent from any other public authority, in accordance with Law no. 35/1997 on the organization and functioning of The Ombudsman. The Ombudsman may not be subject to any mandatory or representative mandate; no one may compel the People's Advocate to obey his instructions or orders. In 2014, The Ombudsman, through *the Field on the Prevention of Torture in Detention Places*, was designated as the only national structure fulfilling the specific attributions of the National Mechanism for the Prevention of Torture in Detention Places (NMP), within the meaning of the Optional Protocol to the Convention against Torture and other cruel, inhuman or degrading treatment or punishment (OPCAT).

In accordance with art. 35 of Law no. 35/1997, NMP regularly monitors the treatment of persons in detention in order to strengthen their protection against torture and inhuman

or degrading treatment and punishment and to exercise without discrimination their fundamental rights and freedoms, mainly by:

- visiting, announced or unexpected, the places of detention in order to verify the conditions of detention and the treatment applied to persons deprived of liberty;
- formulating recommendations to the management of the places of detention visited following the visits;
- formulating proposals for amending and supplementing the legislation in the field or comments on the existing legislative initiatives in the field;
- formulating proposals and observations regarding the elaboration, modification and completion of public strategies and policies in the field of prevention of torture and inhuman or degrading treatment or punishment, in accordance with the law;
- coordinating the organization of information, education and training campaigns in order to prevent torture and cruel, inhuman or degrading treatment or punishment.

In order to comply with the provisions of OPCAT and to carry out the recommendations of CPT (formulated following the visit in 2018) and SPT (Subcommittee on Prevention of Torture and Punishment or Cruel, Inhuman or Degrading Treatment) regarding the preventive role of NMP, by the Ombudsman Order no.8/14 February 2018 it was established that complaints regarding acts of torture, cruel, inhuman or degrading treatment in places of detention are resolved, depending on the type of place of detention, by the fields of activity of the Ombudsman, which meet reactive role.

Thus, the notifications of persons deprived of liberty in penitentiaries and detention and pre-trial detention centers (types of places of detention visited by CPT in 2021) are solved by the *Field on the Army, Police, Justice, Penitentiaries* which is organized within Ombudsman institution. There is a close collaboration between the above Field and the NMP, through information on the issues raised during visits/investigations carried out in these places of detention and recommendations made to improve the conditions of detention and treatment of persons deprived of their liberty.

Regarding the recommendations made by the CPT on the occasion of the ad-hoc visit in 2021, we specify that the issues contained in them are largely found in the recommendations in the visit reports prepared by the NMP and in the recommendations of the Field on the Army, Police, Justice, Penitentiaries places of detention where there were carried out investigations. We mention, for example:

- MNP recommendations regarding: non-sanctioning of acts of self-aggression of persons deprived of liberty; performing the body search in two stages; inadequate accommodation conditions (overcrowding, lack of walk-in courtyards, etc.); moreover, one year after its establishment, in 2015, the NMP drew up a special report on the conditions in prisons and detention and pre-trial detention centers;
- recommendations of the Field on the Army, Police, Justice, Penitentiaries regarding: medical assistance - it was recommended to the Ministry of Health to take all necessary measures for persons deprived of liberty to benefit from specialized consultation, investigations or hospitalization in medical units in the public health system, in depending on the urgency established by the doctor, according to his recommendation, in order not to endanger their life or to worsen their health - a recommendation that was adopted by the Ministry of Health; inadequate accommodation conditions (overcrowding, lack of adequate food, etc.); endowment of special vehicles intended for the transport of detainees with means of audio-video monitoring, etc.

We also specify that the aspects found by CPT and the recommendations formulated during the ad-hoc visit to Romania, were analyzed by the those mentioned two Fields organized within the Ombudsman institution and will be taken into account during the visits of NMP, respectively investigations of the Field of Army, Police, Justice, Penitentiaries, which will be performed in the units visited by CPT in 2021, but also in other units of this type in the country.

**A.2. Regarding the CPT recommendation on NMP (paragraph 8 of the CPT Report), we state the following:**

According to the provisions of art. 39 para. (2) of Law no. 35/1997, the visiting team has at least one doctor, depending on the necessary specialization, and a representative of the non-governmental organizations active in the field of human rights protection.

Regarding doctors, the same normative act provides for 4 positions of doctors within the MNP, one position for each zonal center (Bucharest, Alba, Bacău and Craiova). During 2021, all 4 positions became vacant, by resignation, the doctors employed within the MNP facing the possible loss of their right to free practice, due to the impossibility to effectively practice their profession (because there are incompatibilities provided by law). Currently, there is only one doctor's position, the one within the Alba Zonal Center (position occupied following the competition organized in August 2021). A competition will be organized in March 2022 to fill the other 3 vacant doctor positions (Bucharest, Bacău, Craiova).

External collaborating doctors may also be co-opted for MNP visits, based on service contracts. External collaborators are selected by the Ombudsman, based on the proposals received from the Romanian Medical College.

The lists of external collaborators are periodically re-evaluated, for this purpose, at the beginning of each year, an announcement is posted on the website of the Ombudsman institution regarding the necessary conditions to participate in the selection for external collaborator of NMP. In 2021, NMP had 12 external medical collaborators.

**Regarding the NGO representatives, in accordance with Law no. 35/1997, (art. 36 para. 4),** representatives of non-governmental organizations active in the field of human rights protection, selected on the basis of activity, by the Ombudsman, participate in the activity of preventing torture. Collaboration Protocols are currently being concluded with 27 non-governmental organizations.

**Meetings are organized periodically with NGO representatives, the last being in January-February 2022, at the level of all 4 NMP Zonal Centers. On this occasion, they expressed their intention to continue working with the Ombudsman, stating that due to the small number of staff in non-governmental organizations and their involvement in various projects, there is the possibility of not meeting all NMP requests.**

## **B. Regarding the Public Ministry**

The paragraphs that directly concerned the activity of this institution, as well as the answer to them, are as follows: **para.23** - Annex no. B1 (updating of information on lawsuits, officers and police officers); **para. 27** - Annexes No. B2 (information on the May 2014 incident), B3 (information on the April 2021 incident), B4 (information on the March 2021 incident), B5 (information on the September 2020 incident), B6 (information on the May 2020 incident), B7 (information on the April 2020 incident); **para. 36** - Annex no. B8 (persons remanded in custody for periods over 180 days in the context of extradition proceedings); **para.69** - Annexes no. B9 (updating the information regarding the lawsuits - penitentiary policemen) and B10 (updating the information regarding the deeds committed by the penitentiary policemen at the Craiova, Giurgiu, Mărgineni, Galați Penitentiaries); **para. 17 and 31** (training of magistrates), **26** (secondment of judicial police officers and officers), **21, 68 and 105** (forensic examination) - Annex B11.

### **ANNEX B1**

#### **Para. 23 of the CPT Report**

*Updated information on the 10 indictments registered in 2020 (police officers).*

In the previously submitted information, 10 indictments ordered in 2020 for the offence under Article 296 of the Criminal Code were mentioned.

Their situation on the date of verification (15.01.2022) is shown in the table below.

With regard to the judgment in the last column, we note that the court ordered the postponement of the sentence of 5 months' imprisonment against the defendant, a police officer, for the offence of abusive conduct under Article 296(2) of the Criminal Code.



Year R/AR V	Offence	Status of the defendant	Number of persons	Status after referral to court				
				Preliminary chamber	First instance	Appeal	Return / referral to prosecutor	Final decision acquittal/conviction
2020	Art. 296	police man	10	1	3	4	1	1

## ANNEX B2

### Para.27 of the CPT Report

*Information on case file no. 2316/P/2014 in which an indictment was issued on 16.12.2016 concerning an incident of 25 May 2014*

The file was registered with the Bucharest Tribunal on 22.12.2016, following the Preliminary Chamber procedure governed by the provisions of Articles 342-347 of the Criminal Procedure Code. Thus, in Preliminary Chamber file no. 46813/3/2016/a1 were granted 5 (hearing) terms, as follows:

At the hearing term of 14.02.2017, the court admitted the request made by the party with civil liability, the Ministry of Internal Affairs, and ordered that the General Directorate of Police of the Municipality of Bucharest (DGPMB) be brought into the case, also as a party with civil liability, in view of the subordinate relationship, as well as the fact that this unit has legal personality and can stand alone in the trial.

This party was legally summoned for the hearing term of 28.03.2017, when, in order to ensure its right of defence by acknowledging the indictment, a new hearing term was admitted for 11.04.2017. At this trial date, the court admitted the request made by the DGPMB to admit a new hearing term to prepare its defence.

At the hearing term of 25.04.2017, the Preliminary Chamber judge considered the requests and objections submitted by one of the defendants and by the party with civil liability, the Ministry of Internal Affairs, and set a hearing term for 09.05.2017, when, rejecting the requests and objections submitted, he ordered the beginning of the trial.

The decision of the Preliminary Chamber remained final by non-challenge and the first trial term was set for 30.01.2018.

At the hearing term of 30.01.2018, the first hearing on the merits of the case, the case was postponed for 27.02.2018, as it was found that there was a lack of procedure with one of the defendants and it was ordered that a letter be sent to the University Emergency Hospital so as to inform the court of the amount of the sum that it understood to register with as a civil party in the case.

On 27.02.2018, the court found a lack of proceedings with the same defendant, who also made a request for postponement of the case as he was hospitalised.

On 24.04.2018, the court found that the four defendants agreed to give statements in the case, denying having committed the offences, and one of the defendants requested a new (hearing) term to submit their request to become a civil party. Noting the lack of defence of one of the defendants, as his chosen defence counsel was unable to appear at this term, the court has granted a new trial term on 05.06.2018.

On 05.06.2018, the court found that it was objectively impossible for the defence counsel of one of the defendants to appear and therefore admitted another trial term for 11.09.2018.

At that term, the court had to grant another trial term, as the chosen lawyer of one of the defendants was unable to attend, and a trainee lawyer was present in his place.

One of the defendants was heard at the hearing term of 06.11.2018, and for the continuation of the judicial inquiry, a term was set for 04.12.2018, the court asking the parties to submit their requests for evidence.

The requests for evidence made by the defendants were examined at the hearing term on 04.12.2018, and a term was granted for the continuation of the judicial inquiry on 23.01.2019 in order to hear the witnesses mentioned in the indictment.

Some of the witnesses mentioned in the indictment were heard on 23.01.2019, and for the continuation of the judicial inquiry, a term was set for 15.02.2019, when addresses were issued to two hospitals so that they submit the medical records of one of the defendants, who became a civil party.

Four more witnesses were heard on 15.03.2019 and it was ordered that the defendant/civil party returned with a letter for the completion his medical history.

On 09.04.2019 the case was postponed, as one of the defendants, who was in hospital, expressed his wish to be present during the trial.

Two witnesses were heard at the hearing on 07.05.2019, and a term was granted on 04.06.2019 for the continuation of the judicial inquiry.

At this term, another witness was heard and a term was granted for 03.07.2019, to issue a writ of summons for one of the witnesses and to discuss the expertise requested by the defendant civil party and its objectives.

At the hearing term on 03.07.2019, the court found that the witness could not be brought in as he was hospitalised following a heart attack. In order to hear this witness, a term was granted until 17.09.2019.

The aforementioned witness was heard on 17.09.2019 and a new trial term was granted until 15.10.2019, in order to summon a witness at the police station, having also supplemented the evidence at the request of the defence with the hearing of a witness for the same trial term.

The two witnesses were heard on 15.10.2019. Also, after the parties had discussed the matter, the court allowed the evidence of a forensic medical report, in accordance with the provisions of Article 172 of the Criminal Procedure Code, as, from the moment the forensic report was made during the criminal proceedings until now, the defendant/civil party has submitted additional medical documents, and the court itself has taken steps in this regard. At the same time, the objectives of the expert's report were established, after having discussed those specified by the defendant/civil party and the one suggested by the court *ex officio*. The defendant/civil party was asked to submit further medical documents, if he still had any, and another defendant, who had requested an expert party, was asked to submit the identity of the latter by the next term.

At the hearing of 26.11.2019, taking note of the appointment of the expert party, the court ordered the issuance of a letter to the I.N.M.L.<sup>2</sup> with the request to carry out a forensic expert report, and enclosed the case file as well.

At the hearing term of 21.01.2020, following the address submitted by INML, the court stated that the forensic institution is requested to carry out an expert opinion, given that the previous one is contested by the defence, as well as the fact that new circumstances have arisen, the medical record of the defendant/civil party and the surgeries.

At the hearing term of 03.03.2020, the court ordered the issuance of an address to the INML with the request to submit the report of the new forensic expert, to communicate the amount of the fee and to return the file to the court, allowing a term for 28.04.2020.

At this term, it was found that the case was suspended *de jure* on the basis of Article 43 para. 2 of the Decree of the President of Romania 195/2020 on the establishment of a state of emergency on the territory of Romania, for the duration of the state of emergency.

At the hearing of 26.05.2020, the case being resumed after suspension, it was found that there was a lack of proceedings with the party with civil liability DGPMB, and a new trial date was therefore granted. Also, given that the defence of one of the defendants

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<sup>2</sup> INML - the Mina Minovici Institute of Forensic Medicine

indicated that it had objections to the forensic expert report, it was requested to submit such objections in writing by 23.06.2020.

On 23.06.2020, it was acknowledged the attachment of written notes by the party with civil liability the Ministry of Internal Affairs, a separate expert opinion by the expert party of one of the defendants, objections to the expert report made by the other two defendants, as well as the lack of procedure with the party with civil liability DGPMB, as the proof of notification of the summons was not returned, and a term was therefore granted on 21.07.2020.

On 23.06.2020, in view of the fact that the conclusions of the new forensic expert report were contested, the court admitted the request for the hearing of the expert made by the defence counsel of one of the defendants, with the mention that, with a view to ensuring equality of arms, it was ordered the hearing of both the expert party and one of the three experts who had carried out the new expert report from the INML, and in this regard a new trial term was granted for 18.08.2020.

At this trial term, the two experts were heard, and it was extended the ruling on the requests for a new expert report, a supplementary expert report and the referral to the superior forensic committee.

On 15.09.2020, as the defence counsel for the defendant/civil party indicated that in the next few days he would submit to the court file an opinion of another forensic expert, who could provide relevant, conclusive arguments, given that at the previous hearing term the expert party argued that the spleen should not have been removed, the court granted a hearing term on 13.10.2020.

At the hearing of 13.10.2020, the court rejected the requests for a declaration of absolute nullity of the new forensic expert report, but admitted the request for the opinion of the Higher Forensic Medical Board [of the INML], ordering the issuance of a notification to this purpose.

At the hearing on 24.11.2020, as for objective reasons the President of the full court was unable to preside over the hearing, in order to ensure continuity, the hearing was adjourned to 19.01.2021.

In view of the absence of the opinion of the Higher Forensic Medical Board and of the court file, which was at the INML, a hearing term was granted on 16.02.2021.

For the same reasons, a new hearing term was allowed on 30.03.2021.

In view of the lack of opinion of the Higher Forensic Medical Board, a new hearing term was granted on 25.05.2021.

A new hearing term was granted for 22.06.2021 in view of the absence of the Board's opinion and of the court file.

In the absence of the opinion of the Higher Forensic Medical Board of the INML, several terms were granted, on 16.07.2021, 28.09.2021, 26.10.2021 and 07.12.2021.

At the hearing of 07.12.2021, the request of the defence counsel of one of the defendants for a polygraph test to be carried out with regard to the other defendants was discussed and rejected by the court as it would have required their consent, which they did not give. At the same court hearing, the issue of the hearing of the defendant, who had initially reserved his right to remain silent, was discussed, and the court decided that his hearing would take place at the next court hearing, on 01.02.2022, before considering the requests for changing the legal classification.

## **ANNEX B3**

### **Para. 27 of the CPT Report**

*The event of 16 April 2021, in which a 63-year-old man died after being thrown to the ground and restrained by several police agents/gendarmes at a bus stop in Pitesti. The incident, which was filmed, was the subject of a case that was being dealt with at the time of the CPT's visit.*

The file was initially registered at the Public Prosecutor's Office attached to the Pitesti District Court/Court of First Instance under number 2234/P/2021. By order no.

2234/P/2016, it was ordered the initiation of criminal proceedings for the offence provided for in Article 192 of the Criminal Code (manslaughter).

By order of 16.04.2021, the case was taken to the Prosecutor's Office attached to the Tribunal of Argeş County where it was registered under number 199/P/2021.

By order no. 199/P/2021 of 16.04.2021, the Public Prosecutor's Office attached to the Tribunal of Argeş County ordered the extension of the criminal prosecution with regard to the offence provided for in Article 296 of the Criminal Code (abusive conduct).

By order of 18.04.2021 it was ordered the change of the legal classification from the offence provided for in Article 192 of the Criminal Code (manslaughter) to the offence provided for in Article 195 of the Criminal Code (battery or bodily harm causing death).

By order of 18.04.2021 of the Prosecutor's Office attached to the Tribunal of Argeş County, it was ordered the continuation of the criminal proceedings against AB, for the offences of abusive conduct and assault or injury causing death, acts provided for by Article 296 para. (2) in relation to Article 193 para. (1) of the Criminal Code and Article 195 of the Criminal Code, and CD, for the offences of abusive conduct and battery or bodily harm causing death, as referred to in Article 296 para. (2) in relation to Article 193 para. (1) of the Criminal Code and Article 195 of the Criminal Code.

By order no. 199/P/2021 of 19.04.2021, it was ordered the initiation of criminal proceedings against the suspects CD and AB, with regard to the two offences held against each of them.

By analysing the criminal prosecution acts carried out in the case, it was found that the Public Prosecutor's Office attached to the Tribunal of Argeş County [PT Argeş] had no jurisdiction to carry out the criminal prosecution, since, according to Article 37 para. (1) of the Code of Criminal Procedure, *'the military tribunal examines in first instance all offences committed by servicemen up to and including the rank of colonel'* and Article 56 para. (6) of the Code of Criminal Procedure states that *'the prosecutor of the prosecutor's office of the corresponding court which, according to law, examines the case in first instance, has the competence to conduct or supervise the criminal investigation'*.

For this reason, it was ordered to decline jurisdiction to deal with the case in favour of the Military Prosecutor's Office attached to the Bucharest Military Tribunal [PMTM] by order no. 199/P/2021 of 20.04.2021.

At the Military Prosecutor's Office attached to the Bucharest Military Tribunal:

By order of 21.04.2021, it was ordered the extension of the criminal prosecution in the case with regard to the commission of the offences of abusive conduct, provided for in Article 296 para. (2) sentence II of the Criminal Code, and battery or bodily harm causing death, provided for by Article 195 of the Criminal Code (concerning the conduct of Sgt. Maj. IJ) and abusive conduct, provided for by Article 296 para. (2) of the Criminal Code (concerning the conduct of Sgt.Maj. GH).

By order of 21.04.2021 it was decided the continuation of criminal proceedings against suspects IJ and GH.

By order of 21.04.2021, it was disposed the initiation of criminal proceedings against defendant IJ, for committing the offences of abusive conduct, provided for in Article 296 para. (2) of the Criminal Code, and battery or bodily harm causing death, provided for in Article 195 of the Criminal Code, both with the application of Article 38 para. (2) of the Criminal Code (multiple offences).

Preventive measures were ordered against three defendants (two at PT Argeş, the third at PMTM Bucharest), and currently (date of verification 04.01.2022) they are under judicial supervision.

## ANNEX B4

### Para. 27 of the CPT Report

*The event on 5 March 2018<sup>3</sup>, seven police agents were filmed punching a handcuffed man in a large room in Section 16 of the Police Station.*

<sup>3</sup> There is a material error in the Report to this incident, as referring to the year 2021 instead of 2018

The Public Prosecutor's Office attached to the Bucharest Court of Appeal has announced that the checks carried out show that this event took place on the night of 2/3 May 2018. The case was initially registered under no. 2910/P/2018 at the Public Prosecutor's Office attached to the Bucharest Tribunal (to which the file no. 3396/P/2018 of the Public Prosecutor's Office attached to the District 4 Bucharest Court of First Instance was also attached), and subsequently it was decided a declination of jurisdiction (on 26.11.2018) in favour of the Military Prosecutor's Office attached to the Bucharest Military Tribunal (as some of those indicated as perpetrators of the offence were gendarmes).

By order no. 1354/P/2018 of 27.03.2019 of the Military Prosecutor's Office attached to the Military Tribunal of Bucharest, the case was closed for the offences of torture, unlawful deprivation of freedom, bodily harm, ill-treatment, creating false documents [intellectual forgery], failure to report, aiding and abetting the perpetrator and destruction.

The complaint lodged by the injured party against this solution was rejected as unfounded by the preliminary chamber judge of the Bucharest Tribunal, by the conclusion of the hearing of 21.11.2019, delivered in case no. 176/753//2019.

Evidence adduced: witness statements, reports, video camera recordings (street, of the intervention team and those installed inside Section 16 Police), medical and forensic documents, documents on the organisation of the public safety and patrol structure, and findings.

## **ANNEX B5**

### **Para.27 of the CPT Report**

*On 1st September 2020, two persons drew the attention of a group of police agents to the fact that they should wear masks; the police arrested the two persons, and one of them was taken to a field on the outskirts of Bucharest, where they allegedly hit him repeatedly over his body, head, upper and lower limbs, fingers and soles. On 3rd March 2021, the prosecutor detained 9 police agents for unlawful deprivation of freedom, torture and complicity in torture.*

File no. 4836/P/2020 of the Public Prosecutor's Office attached to Bucharest Tribunal, concerning the offences committed on 01.09.2020 (defendant AA and others from Section 16 Police) relates to the described event.

By the indictment of 06.07.2021 of the Public Prosecutor's Office attached to Bucharest Tribunal, 9 defendants (all police agents) were sent to trial, for having committed the offences of illegal deprivation of freedom (8 defendants), torture (6 defendants), abusive conduct (1 defendant) and aiding and abetting the perpetrator (1 defendant).

AA, investigated under pre-trial detention, for having committed the offences of:

- unlawful deprivation of freedom, as provided for in Article 205 para. 1 and 3 (a) of the Criminal Code, with application of Article 77 (a) of the Criminal Code (injured person V1),
  - torture, as provided for in Article 282 para. 1 (b) of the Criminal Code, with application of Article 77 (a) of the Criminal Code (injured person V1),
  - instigation to unlawful deprivation of freedom, provided for in Article 47 of the Criminal Code in relation to Article 205 para. 1 and 3 (a) of the Criminal Code (injured person V2),
  - abusive conduct, as provided for in Article 296 para. 2 of the Criminal Code, in relation to Article 193 para.1 Criminal Code (injured person V2),
- each with the application of Article 38 para. 1 of the Criminal Code.

BB, investigated under house arrest, for having committed the offences of:

- unlawful deprivation of freedom, as provided for in Article 205 para. 1 and 3 (a) of the Criminal Code, with the application of Article 77 (a) of the Criminal Code,
  - torture, as provided for in Article 282 para. 1 (b) of the Criminal Code, with the application of Article 77 (a) of the Criminal Code,
- each with the application of Article 38 para. 1 of the Criminal Code.

CC, investigated under house arrest, for having committed the offences of:

- unlawful deprivation of freedom, as provided for in Article 205 para. 1 and 3 (a) of the Criminal Code, with the application of Article 77 (a) of the Criminal Code,
  - torture, as provided for in Article 282 para. 1 (b) of the Criminal Code, with the application of Article 77 (a) of the Criminal Code,
- each with the application of Article 38 para. 1 of the Criminal Code.

DD, investigated under judicial supervision, for having committed the offences of:

- unlawful deprivation of freedom, as provided for in Article 205 para. 1 and 3 (a) of the Criminal Code, with the application of Article 77 (a) of the Criminal Code,
  - complicity in torture, provided for by Article 48(1) of the Criminal Code in relation to Article 282 para. 1 (b) of the Criminal Code, with the application of Article 77 (a) of the Criminal Code,
- each with the application of Article 38 para. 1 of the Criminal Code.

EE, investigated under judicial supervision, for having committed the offences of:

- unlawful deprivation of freedom, as provided for in Article 205 para. 1 and 3 (a) of the Criminal Code, with the application of Article 77 (a) of the Criminal Code,
  - complicity in torture, provided for by Article 48(1) of the Criminal Code in relation to Article 282 para. 1 (b) of the Criminal Code, with the application of Article 77 (a) of the Criminal Code,
  - creating false documents [intellectual forgery], provided for in Article 321 of the Criminal Code,
- each with the application of Article 38 para. 1 of the Criminal Code.

FF, investigated under judicial supervision, for having committed the offences of:

- unlawful deprivation of freedom, as provided for in Article 205 para. 1 and 3 (a) of the Criminal Code, with the application of Article 77 (a) of the Criminal Code,
  - complicity to torture, provided for by Article 48(1) of the Criminal Code in relation to Article 282 para. 1 (b) of the Criminal Code, with the application of Article 77 (a) of the Criminal Code,
- each with the application of Article 38 para. 1 of the Criminal Code.

GG, investigated under judicial supervision, for having committed the offence of:

- unlawful deprivation of freedom, as provided for in Article 205 para. 1 and 3 (a) of the Criminal Code,

HH, investigated under judicial supervision, for having committed the offence of:

- unlawful deprivation of freedom, as provided for in Article 205 para. 1 and 3 (a) of the Criminal Code,

JJ, investigated under judicial supervision, for having committed the offence of:

- aiding and abetting, provided for in Article 269 para. 1 of the Criminal Code, with the application of Article 35 para. 1 of the Criminal Code (4 material actions).

The file case was registered at the Bucharest Tribunal, Criminal Section I, under no. 20112/3/2021/a1.

By the conclusion of 03.12.2021, the Preliminary Chamber judge rejected, as groundless, the requests and exceptions made by the defendants HH, AA, EE, JJ, through their defence counsels. By virtue of Article 346 para. (2) of the Criminal Procedure Code, [the judge] found the legality of indictment no. 4836/P/2020 of 07.07.2021 of the Public Prosecutor's Office attached to the Bucharest Tribunal, Criminal Prosecution Section, being in compliance with the provisions of Article 328 of the Criminal Procedure Code, the legality of the administration of evidence, in compliance with the provisions of Articles 114-123 of the same code, as well as the actions of criminal prosecution. It ordered the beginning of the trial in the case trial.

The defendants lodged an appeal against this conclusion, and the appeal is pending before the Bucharest Court of Appeal.

## **ANNEX B6**

### **Para. 27 of the CPT Report**

*The event of 29 May 2020 in which a young man claims that he was beaten in the police headquarters of Pârscov, Buzău County, for not having observed the 14-day isolation measure imposed on him after his return from a trip abroad, and that he presented himself to the Emergency Unit of Buzău Hospital with a broken leg and several broken ribs. A local newspaper published an article about the incident.*

Regarding this event, case file no. 422/P/2020 of the Public Prosecutor's Office attached to the Pătărlagele Court of First Instance was registered, in which it was ordered the initiation of criminal proceedings *in rem* for the offence of abusive conduct, provided for by Article 296 of the Criminal Code.

On 26.05.2020, the police were informed in a first phase by telephone, about the possibility that a person driving a Cielo car with the registration number XXX, was carrying a weapon, as previously the latter had made threats of violence against PV.

On 12.05.2021, the Buzău County Hospital was requested to provide a copy of the complete observation sheet no. 10995/2020, and by order of 30.06.2021, a forensic expert evaluation was asked for in order to establish, both by clinical examination (as requested by DD) as well as from the medical records: the injuries presented and the mechanism of their occurrence; the number of days of medical care; the date of the injuries.

By address no. Al/105/2844 of 08.07.2021 of the Forensic Medicine Service of Buzău County (SJML Buzău), it was communicated that in order to carry out the requested forensic expertise, the presence of DD is required at the SJML Buzău headquarters as of 02.08.2021 on any day from Monday to Friday, between 09:00-12:00 hrs in order to be clinically forensically examined.

Following the above-mentioned address, the prosecutor's office directly informed the person in question that he was obliged to go to the SJML Buzău (the notification was received by his mother, FF, on 10.08.2021), as well as through the police forces of Braiești Police Station, who found out on the occasion of a visit to his home that he had left the country.

From the address no 2844 of 20.12.2021 of the SJML Buzău it appears that DD did not show up at the forensic institution, which is why the forensic expertise could not be carried out.

Given the lack of forensic conclusions on the mechanism the injuries occurred (in order to determine whether they could have been caused while using force and means of restraint), the seriousness and intensity of the injuries in relation to those claimed by the injured person, versus the injuries inherent in an action of immobilisation (given that the video images made available show that DD is resisting being taken to the police station), no solution has yet been found in the case, and an address will be returned to the injured party with a view to his presentation to the Forensic Medicine Service of Buzău County, and, if not, the forensic expertise will be carried out solely on the basis of the medical documents made available.

## **ANNEX B7**

### **Para. 27 of the CPT Report**

*The events of 18 April 2020, during the police intervention in Bolintin, Giurgiu County. Persons wearing uniforms of the Ministry of Internal Affairs were filmed while applying blows with batons and using racist language against several Roma ethnic people who were lying on the ground with their hands tied behind their backs. The video published on YouTube shows several people in uniform kicking the victim on the soles of the feet, a method of torture called falaka.*

The case is registered under no. 167/P/2020 at the Prosecutor's Office attached to the Giurgiu Tribunal.

On 23.04.2020, the Prosecutor's Office attached to the Bolintin Vale District Court observed ex officio the offence of abusive conduct, provided for by Article 296(2) of the Criminal Code, following images broadcast by Romania TV station, from which it appears that, on 18.04.2020, in order to extinguish a conflict in the town of Bolintin Vale, police officers who went to the scene have exercised violence on several people.

By Ordinance no. 1754/II/2020 of 23.04.2020 of the First prosecutor of the Prosecutor's Office attached to the Giurgiu Tribunal, it was ordered the take-over of case no. 650/P/2020 of the Prosecutor's Office attached to the Bolintin Vale District Court.

The case was registered under no. 167/P/2020 at the Prosecutor's Office of the Giurgiu Court.

The Prosecutor's Ordinance of 23.04.2020 ordered:

1. The extension of the criminal proceedings in rem under the aspect of committing 6 (six) additional offences of abusive conduct, provided for by Article 296(1),(2) of the Criminal Code, with reference to Article 193(1) of the Criminal Code, with respect to the injured parties V1, V2, V3, V4, V5, and the person known as "R".

2. A change in the legal classification of the offence for which criminal proceedings in rem were initially ordered, from the offence of abusive conduct under Article 296(2) of the Criminal Code to that of abusive conduct under Article 296(2) of the Criminal Code with reference to Article 193(1) of the Criminal Code, the investigations being aimed at the offence committed against the injured party V6.

By Ordinance of 24.04.2020, it was ordered to extend the criminal proceedings in rem under the aspect of committing 3 (three) more offences of abusive conduct, provided for by Article 296(1),(2) of the Criminal Code with reference to Article 193(1) of the Criminal Code, with regard to the injured parties V7, V8 and V9.

By Ordinance of 28.04.2020, it was ordered to extend the criminal proceedings in rem under the aspect of committing the offence of abusive conduct, provided for by Article 296(1),(2) of the Criminal Code with reference to Article 193(1) of the Criminal Code, with regard to the injured party V10.

By Ordinance of 11.05.2020, it was ordered to extend the criminal proceedings in rem under the aspect of committing the offence of abusive conduct, provided for in Article 296(2) of the Criminal Code with reference to Article 193(1) of the Criminal Code, with regard to the injured party V11.

By Ordinance of 24.04.2020, it was ordered that the criminal proceedings against AB be continued, as proceedings against him are currently underway under the aspect of committing the offences of abusive conduct, provided for in Article 296(2) of the Criminal Code with reference to Article 193(1) of the Criminal Code, the injured party being V9, and abusive conduct, provided for in Article 296(2) of the Criminal Code with reference to Article 193(2) of the Criminal Code, the injured party being V12, both with application of Article 38(1) of the Criminal Code.

In fact, it was held that on 17.04.2020, between the families of PV1, on the one hand, and PV2, on the other hand, from Bolintin Vale, Giurgiu County, there was a conflict that required the deployment of several members of the police forces from the Bolintin Vale Town Police to the area of Sabarului Street, where the families in conflict lived. As a result of the police intervention, the conflict between the two families was resolved.

However, the next day, on 18.04.2020, the conflict between the two families started again, requiring the deployment of several members of the police forces. PV2 and PV1 were handcuffed, after which the police forces divided into groups and went in search of the members of the two families who in the meantime had fled and scattered in the neighbourhood.

During the search, V1, V2, V3, V4, V5, V6, V12, V7, V8, V9, V10 and V11 were assaulted by the police/gendarmerie forces.

No criminal proceedings were initiated and no preventive measures were ordered in this case.

Evidence adduced: statements of the injured parties, statements of the witnesses, statements of the defendants, audio-video recordings, viewing reports, image decomposition into frames, technical report on the identification of persons, forensic reports, medical documents, documents drawn up by the Giurgiu Police Department, Intervention and Special Actions Service, and the Gendarmerie Inspectorate of Giurgiu County.

The case is being investigated by the prosecutor.



## ANNEX B8

### Para. 36 of the CPT Report

*Persons remaining in provisional custody for periods of more than 180 days in the context of extradition proceedings.*

Having analyzed the proceedings registered at the Prosecutor's Office attached to the Court of Appeal of Bucharest concerning extradition requests in which the provisional custody of the requested person was ordered for more than 180 days during the period 2020-2021, the Head of Service Prosecutor of the Special Procedures Section of the aforementioned Prosecutor's Office found three such situations:

1. AB, case registered at the Prosecutor's Office attached to the Court of Appeal of Bucharest under no. 3606/II-5/2020, concerning the request of the American judicial authorities for urgent provisional custody in view of extradition of the above-mentioned person. By its decision of 19.11.2020, the Court of Appeal of Bucharest, Criminal Section II, ordered in case no. 6723/2/2020 the provisional custody for a period of 30 days, until 18.12.2020 (inclusive).

By criminal sentence no. 51F of 01.03.2021, the Court of Appeal of Bucharest ordered the extradition and surrender to the judicial authorities of the United States of America of the requested person AB, and subsequently, on 07.05.2021, by criminal sentence no. 96F, it was found that there was an impediment to surrender, generated by the decision of the European Court of Human Rights not to remove the above-mentioned person from the territory of Romania during the proceedings before the Court (following the complaint of the requested person registered under no. 19124/21 at the European Court of Human Rights and to which the Court granted priority treatment, pursuant to Article 41 of the ECHR Rules of Court).

Subsequently, by criminal decision no. 752/14.09.2021, delivered by the High Court of Cassation and Justice, Criminal Section, the measure of provisional custody was replaced by the measure of house arrest for a period of 30 days, until 13.10.2021 (inclusive).

2. CD, case registered at the Prosecutor's Office attached to the Court of Appeal of Bucharest under no. 3608/II-5/2020, concerning the request of the American judicial authorities for urgent provisional custody in view of extradition of the above-mentioned person. By its decision of 19.11.2020, the Court of Appeal of Bucharest, Criminal Section II, ordered in case no. 6721/2/2020 the provisional custody for a period of 30 days, until 18.12.2020 (inclusive).

By criminal sentence no. 50F of 01.03.2021, the Court of Appeal of Bucharest ordered the extradition and surrender to the judicial authorities of the United States of America of the requested person CD, and subsequently, on 05.05.2021, following request no. 20183/21, in the Case *Lazăr v. Romania*, the European Court of Human Rights decided that the claimant shall not be removed from the territory of Romania for the duration of the court proceedings.

By decision no. 567 of 08.06.2021, delivered by the High Court of Cassation and Justice in case no. 3546/2/2021, the measure of arrest of the extradited person CD was replaced by the preventive measure of judicial control for a period of 60 days.

3. EF, case registered at the Prosecutor's Office attached to the Court of Appeal of Bucharest under no. 3610/II-5/2020, concerning the request of the American judicial authorities for urgent provisional custody in view of extradition of the above-mentioned person. By its decision of 19.11.2020, the Court of Appeal of Bucharest, Criminal Section I, ordered in case no. 6722/2/2020 the provisional custody for a period of 30 days, until 18.12.2020 (inclusive).

By criminal sentence no. 55F of 05.03.2021, the Court of Appeal of Bucharest ordered the extradition and surrender to the judicial authorities of the United States of America of the requested person EF, and subsequently, on 05.05.2021, in the Case *Johnson v. Romania*, the European Court of Human Rights decided that the claimant shall not be removed from the territory of Romania for the duration of the court proceedings.

By decision no. 753 of 14.09.2021, delivered by the High Court of Cassation and Justice in case no. 3546/2/2021, the measure of provisional custody of the extradited person EF was replaced by the measure of house arrest for a period of 30 days, and by closure of 9.12.2021 it was ordered to replace this measure with that of judicial control for a period of 60 days.

It should be noted that the measure of custody was maintained after the 180 days period, the reasoning of the court being that this period, provided for by the provisions of Article 43(3) of Law no. 302/2004, republished, refers to the provisional custody of the extraditable person during the processing of the extradition request. After the extradition request has been granted, by final sentence of the Romanian court, the provisions of Article 43(6),(7) of Law no. 302/2004 become applicable, which provide that, once the extradition request has been admitted, by sentence, the court shall also order the custody of the extradited person for the purpose of surrender and that this measure shall cease automatically if the extraditable person is not taken over by the competent authorities of the requesting State within 30 days from the date agreed for surrender, except in the case provided for in Article 57(6) of Law no. 302/2004, republished. It is also stated in the grounds that, in accordance with the provisions of Article 52(3) of Law no. 302/2004, republished, once the extradition request is granted, the provisional custody is also ordered until the surrender of the extradited person, according to Article 57 of the same Law.

## **ANNEX B9**

### **Para.69 with reference to para. 22-27 of the CPT Report**

*Updated information on the indictments for the period 2019-2021, prison staff.*

In the previously submitted information there were mentioned four indictments (four prison staff defendants in two cases) for the offence under Article 296 of the Criminal Code and for the offence under Article 281 of the Criminal Code.

The cases were verified on 31.01.2022.

The first case is registered at the District Court of Iași, under no. 10762/245/2019 of 03.04.2019, is in its first instance prosecution stage and has the next term on 15.02.2022.

The second case is before the District Court of District 5 of Bucharest, where it was registered under no. 22784/302/2019 of 27.09.2019, is in its first instance prosecution stage and has the next term on 07.02.2022.

In the latter case, the court of first instance ordered, at the term of 20.01.2022, on the basis of Article 386 of the Code of Criminal Procedure, the change of legal charges for two defendants, from the offence of submission to ill-treatment to the offence of abusive conduct, in relation to acts committed against two civil parties. In relation to one civil party, the legal charge remained that of submission to ill-treatment, an offence under Article 281 of the Criminal Code.

## **ANNEX B10**

### **Para. 69 of the CPT Report**

*Updated information on the files related to offences committed in Craiova Prison, Giurgiu Prison, Mărgineni Prison and Galați Prison by prison staff (Art. 296, Art. 281, Art. 282 of the Criminal Code), from 2019 (inclusive) to date.*

#### **A. Craiova Prison.**

In Craiova there are three prisons bearing the same name. In view of the description in paragraph 59 of the Report, information was requested from the Prosecutor's Office attached to the Court of Appeal of Craiova regarding the Craiova Maximum Security Prison which uses the buildings described in that paragraph of the Report.

The Prosecutor's Office attached to the Court of Appeal of Craiova and its subordinate prosecutors' offices registered 8 such cases in the period 2019-2021. Of these, 5 have been closed and 3 are ongoing.

Year	Legal classification	Date of the offence <sup>4</sup>	Prosecution stage	Solution/ongoing	Grounds, if the solution is closure
2019	Art. 296(2)		in rem	closure	Art. 16(a)
2019	Art. 296(2)		in rem	closure	Art. 16(a)
2019	Art. 296(2)		in rem	closure	Art. 16(a)
2019	Art. 296(2)	01.09.2018	in rem	closure	Art. 16(a)
2020	Art. 296(2)	02.09.2018	in rem	ongoing	
	Art. 281(1)				
2021	Art. 296	20.05.2021	in rem	ongoing	
2021	Art. 281(1)		in rem	ongoing	
	Art. 297				
	Art. 298				
2021	Art. 281(1)	2020	in rem	closure	Art. 16(a)
	Art. 282				
	Art. 296				
	Art. 298				

#### B. Giurgiu Prison.

All the files concerning Giurgiu Prison staff have been identified at the Prosecutor's Office attached to the Giurgiu Tribunal. In the period 2019-2021, 56 such files were registered at this prosecutor's office, of which 38 have been closed and 18 are ongoing.

Complaints have been lodged with the preliminary chamber judge against two closure solutions, pursuant to Article 340 of the Code of Criminal Procedure. Both complaints were rejected as unfounded.

Year	Legal classification	Date of the offence	Prosecution stage	Solution/ongoing	Grounds, if the solution is closure
2019	Art. 281	20.07.2018	in rem	closure	Art. 16(1)(a)
2019	Art. 296	14.12.2018	in rem	closure	Art. 16(1)(c)
2019	Art. 296	02.02.2019	in rem	closure	Art. 16(1)(a)
2019	Art. 296	20.06.2018	in rem	closure	Art. 16(1)(a)
2019	Art. 296	31.12.2018	in rem	closure	Art. 16(1)(a)
2019	Art. 296	05.12.2018	in rem	closure	Art. 16(1)(a)
2019	Art. 296	14.02.2019	in rem	closure	Art. 16(1)(a)
2019	Art. 296	07.03.2019	in rem	closure	

<sup>4</sup> The date of the offence is mentioned where it can be inferred from the ordinances or from information sent by Prosecutor's offices.

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Year	Legal classification	Date of the offence	Prosecution stage	Solution/ongoing	Grounds, if the solution is closure
	Art. 281				Art. 16(1)(a)
	Art. 282				
2019	Art. 296	09.02.2019	in rem	closure	Art. 16(1)(a)
2019	Art. 296	15.11.2018	in rem	closure	Art. 16(1)(a)
2019	Art. 281	2015-2018	in rem	closure	Art. 16(1)(i),(a)
	Art. 282				
2019	Art. 296	27.05.2019	in rem	closure	Art. 16(1)(a)
2019	Art. 296	10.10.2017	in rem	ongoing	
2019	Art. 296	29.12.2017	in rem	closure	Art. 16(1)(a)
2019	Art. 296	29.12.2017	in rem	closure	Art. 16(1)(a)
2019	Art. 296	06.03.2019	in rem	closure	Art. 16(1)(a)
2019	Art. 296	22.02.2017	in rem	ongoing	
2019	Art. 296	02.03.2019	in rem	closure	Art. 16(1)(a)
2019	Art. 296	21.08.2019	in rem	closure	Art. 16(1)(a)
2019	Art. 296	04/05.08.2019	in rem	closure	Art. 16(1)(a)
2019	Art. 296	20.06.2019	in rem	closure	Art. 16(1)(a),(b)
2019	Art. 296	01-03.06.2017	in rem	closure	Art. 16(1)(a),(b)
	Art. 297				
	Art. 267				
	Art. 281				
2019	Art. 296	19.09.2019	in rem	closure	Art. 16(1)(d)
2020	Art. 281	November-December 2019	in rem	closure	Art. 16(1)(a),(b)
	Art. 282				
2020	Art. 281	04.02.2020	in rem	closure	Art. 16(1)(a)
	Art. 282				
	Art. 296				
2020	Art. 296	19.01.2020	in rem	closure	Art. 16(1)(a)
2020	Art. 281	December 2019-January 2020	in rem	closure	Art. 16(1)(a)
	Art. 282				
2020	Art. 281	February-March 2020	in rem	closure	Art. 16(1)(a)
	Art. 282				

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Year	Legal classification	Date of the offence	Prosecution stage	Solution/ongoing	Grounds, if the solution is closure
2020	Art. 296	2020	in rem	closure	Art. 16(1)(a)
2020	Art. 296		in rem	ongoing	
2020	Art. 281	01.03.2020	in rem	closure	Art. 16(1)(a),(b)
2020	Art. 281		in rem	closure	Art. 16(1)(a)
2020	Art. 282		in rem	closure	Art. 16(1)(a)
2020	Art. 296	03.02.2020	in rem	closure	Art. 16(1)(a)
2020	Art. 296	09.08.2020	in rem	closure	Art. 16(1)(a)
2020	Art. 296	01.09.2019	in rem	ongoing	
2021	Art. 296	12.02.2021	in rem	closure	Art. 16(1)(a)
2021	Art. 296	October-December 2020	in rem	closure	Art. 16(1)(a)
2021	Art. 296	01.12.2020	in rem	closure	Art. 16(1)(a)
2021	Art. 296	20.07.2020	in rem	ongoing	
2021	Art. 296	02.04.2021	in rem	ongoing	
2021	Art. 296	2018	in rem	ongoing	
2021	Art. 296	02.10.2020	in rem	ongoing	
2021	Art. 296	02.10.2020	in rem	ongoing	
2021	Art. 296	15.07.2021	in rem	ongoing	
2021	Art. 296	01.07.2021	in rem	ongoing	
2021	Art. 281 Art. 282	15-17.09.2021	in rem	ongoing	
2021	Art. 296	26.03.2021	in rem	ongoing	
2021	Art. 296	October 2020 and December 2020	in rem	ongoing	
2021	Art. 296	01.12.2020	in rem	closure	Art. 16(1)(a)
2021	Art. 296	March-April 2021	in rem	ongoing	
2021	Art. 296	25.10.2021	in rem	ongoing	
2021	Art. 296	01.09.2021	in rem	ongoing	
2021	Art. 296 Art. 281	17.12.2020	in rem	closure	Art. 16(1)(a),(b)
2021	Art. 281		in rem	ongoing	

Year	Legal classification	Date of the offence	Prosecution stage	Solution/ongoing	Grounds, if the solution is closure
2021	Art. 281	2013-2016 and August-September 2019	in rem	ongoing	

### C. Galați Prison.

The files concerning Galați Prison staff were registered at the Prosecutor's Office attached to the Court of Appeal of Galați and at the Prosecutor's Office attached to the Galați Tribunal. Of the 29 such files, seven were ongoing at the time of the audit (28.01.2022) and 22 had been closed.

Year	Legal classification	Date of the offence	Prosecution stage	Solution/ongoing	Grounds, if the solution is closure
2019	Art. 281	2018	in rem	closure	Art. 16(1)(a)
2019	Art. 296	04.03.2019	in rem	closure	Art. 16(1)(a)
2019	Art. 296	2016-2018	in rem	closure	Art. 16(1)(a)
2019	Art. 296	02-03.11.2018	in rem	closure	Art. 16(1)(a)
2019	Art. 296	May 2018	in rem	closure	Art. 16(1)(e)
2019	Art. 281	05.01.2019	in rem	closure	Art. 16(1)(b)
2019	Art. 281	21.11.2018	in rem	closure	Art. 16(1)(a)
2019	Art. 296	02.10.2018	in rem	closure	Art. 16(1)(b)
2019	Art. 296		in rem	ongoing	
2019	Art. 296		in rem	ongoing	
2019	Art. 296	2018-2019	in rem	closure	Art. 16(1)(a)
	Art. 282				
	Art. 281				
2020	Art. 281	09.08.2020	in rem	closure	Art. 16(1)(a)
2020	Art. 296		in rem	ongoing	
2020	Art. 296		in rem	ongoing	
2020	Art. 296	June 2020	in rem	ongoing	
2020	Art. 296		in rem	ongoing	
2020	Art. 296	29.03.2019	in rem	closure	Art. 16(1)(a)
2021	Art. 281	November 2020	in rem	closure	Art. 16(1)(a)
2021	Art. 296	16.09.2020	in rem	closure	Art. 16(1)(a)
2021	Art. 296	20.04.2020	in rem	closure	Art. 16(1)(a)
2021	Art. 296	15.03.2021	in rem	closure	Art. 16(1)(a)
2021	Art. 281	October 2020	in rem	closure	Art. 16(1)(a)
2021	Art. 296	03/04.04.2021	in rem	closure	Art. 16(1)(a)

Year	Legal classification	Date of the offence	Prosecution stage	Solution/ongoing	Grounds, if the solution is closure
2021	Art. 296		in rem	ongoing	
2021	Art. 281	25.11.2020	in rem	closure	Art. 16(1)(a)
2021	Art. 281	01.02.2020	in rem	closure	Art. 16(1)(a)
2021	Art. 281	19.02.2021	in rem	closure	Art. 16(1)(a)
2021	Art. 281	18.12.2020	in rem	closure	Art. 16(1)(a)

#### D. Mărgineni Prison.

The files were registered at the Prosecutor's Office attached to the Court of Appeal of Ploiești and at the Prosecutor's Office attached to the Dâmbovița Tribunal.

Out of the total of 41 files registered at the Prosecutor's Office attached to the Court of Appeal of Ploiești, 39 have been closed, 1 is under indictment, and 1 is ongoing. A complaint was lodged with the preliminary chamber judge against only one closure. The complaint was rejected as unfounded.

In the case referred to the court, a prison officer and a non-commissioned officer were prosecuted for the offence of misconduct, under Article 296(1) in relation to Art. 193(1) of the Criminal Code.

In fact, it was held that on 02.06.2019 they hit the detainee VAM, after the latter tried to escape from the walking yard F3 bis of Mărgineni Prison.

At the Prosecutor's Office attached to the Dâmbovița Tribunal, 30 cases have been identified, none of them being closed.

Year	Legal classification	Date of the offence	Prosecution stage	Solution/ongoing	Grounds, if the solution is closure
2019	Art. 296	20.11.2018	in rem	closure	Art. 16(1)(a)
2019	Art. 282		in rem	closure	Art. 16(1)(a)
	Art. 281				
2019	Art. 296	02.06.2019	initiating criminal proceedings	indictment on 04.01.2022	
2019	Art. 296	16 and 17.02.2019	in rem	closure	Art. 16(1)(a)
2019	Art. 296	21.07.2019	in rem	closure	Art. 16(1)(a)
2019	Art. 296		in rem	ongoing	
2019	Art. 296		in rem	ongoing	
2019	Art. 296		in rem	ongoing	
2019	Art. 296		in rem	ongoing	
2019	Art. 296		in rem	ongoing	
2020	Art. 281	2020	in rem	closure	Art. 16(1)(b)
2020	Art. 281	2020	in rem	closure	Art. 16(1)(b)

# MINISTERUL JUSTIȚIEI

Year	Legal classification	Date of the offence	Prosecution stage	Solution/ongoing	Grounds, if the solution is closure
2020	Art. 281	2020	in rem	closure	Art. 16(1)(b)
2020	Art. 281	2020	in rem	closure	Art. 16(1)(b)
2020	Art. 281	2020	in rem	closure	Art. 16(1)(b)
2020	Art. 281	2020	in rem	closure	Art. 16(1)(b)
2020	Art. 281	2020	in rem	closure	Art. 16(1)(b)
2020	Art. 281	2020	in rem	closure	Art. 16(1)(b)
2020	Art. 281	2020	in rem	closure	Art. 16(1)(b)
2020	Art. 281	2020	in rem	closure	Art. 16(1)(b)
2020	Art. 281	2020	in rem	closure	Art. 16(1)(b)
2020	Art. 281	2020	in rem	closure	Art. 16(1)(b)
2020	Art. 296	19.07.2020	in rem	closure	Art. 16(1)(a)
2020	Art. 281	2020	in rem	closure	Art. 16(1)(b)
2020	Art. 296	21.09.2020	in rem	closure	Art. 16(1)(a)
2020	Art. 281	18.09.2020	in rem	closure	Art. 16(1)(a)
2020	Art. 281	17.11.2020	in rem	closure	Art. 16(1)(a)
2020	Art. 296				
2020	Art. 296		in rem	ongoing	
2020	Art. 296				
2020	Art. 281		in rem	ongoing	
2020	Art. 282				
2020	Art. 296		in rem	ongoing	
2020	Art. 281				
2020	Art. 282		in rem	ongoing	
2020	Art. 281				
2020	Art. 282		in rem	ongoing	
2020	Art. 281				
2020	Art. 296		in rem	ongoing	
2021	Art. 296	2020	in rem	closure	Art. 16(1)(a)
2021	Art. 296	20.08.2020	in rem	closure	Art. 16(1)(a)
2021	Art. 296	26.12.2020	in rem	closure	Art. 16(1)(a)
2021	Art. 296	09.11.2020	in rem	ongoing	
2021	Art. 296	04.12.2019	in rem	closure	Art. 16(1)(a)



# MINISTERUL JUSTIȚIEI

Year	Legal classification	Date of the offence	Prosecution stage	Solution/ongoing	Grounds, if the solution is closure
2021	Art. 281	February-August 2020	in rem	closure	Art. 16(1)(b)
2021	Art. 281	28.01.2021	in rem	closure	Art. 16(1)(a)
2021	Art. 282		in rem	closure	Art. 16(1)(b)
2021	Art. 281		in rem	closure	Art. 16(1)(b)
2021	Art. 282		in rem	closure	Art. 16(1)(b)
2021	Art. 281		in rem	closure	Art. 16(1)(b)
2021	Art. 281		in rem	closure	Art. 16(1)(a)
2021	Art. 281		in rem	closure	Art. 16(1)(a)
2021	Art. 281		in rem	closure	Art. 16(1)(b)
2021	Art. 281		in rem	closure	Art. 16(1)(b)
2021	Art. 282		in rem	closure	Art. 16(1)(b)
	Art. 281				
2021	Art. 281		in rem	closure	Art. 16(1)(b)
2021	Art. 281		in rem	closure	Art. 16(1)(b)
2021	Art. 281		in rem	closure	Art. 16(1)(b)
2021	Art. 281		in rem	closure	Art. 16(1)(b)
2021	Art. 281		in rem	closure	Art. 16(1)(b)
2021	Art. 296		in rem	ongoing	
2021	Art. 281		in rem	ongoing	
2021	Art. 296		in rem	ongoing	
2021	Art. 296		in rem	ongoing	
2021	Art. 296		in rem	ongoing	
2021	Art. 281		in rem	ongoing	
	Art. 282				
2021	Art. 281		in rem	ongoing	
	Art. 282				
2021	Art. 281		in rem	ongoing	
2021	Art. 281		in rem	ongoing	
2021	Art. 281		in rem	ongoing	
2021	Art. 281		in rem	ongoing	
2021	Art. 281		in rem	ongoing	
	Art. 282				

Year	Legal classification	Date of the offence	Prosecution stage	Solution/ongoing	Grounds, if the solution is closure
2021	Art. 296		in rem	ongoing	
2021	Art. 296		in rem	ongoing	
2021	Art. 296		in rem	ongoing	
2021	Art. 296		in rem	ongoing	
2021	Art. 296		in rem	ongoing	

## ANNEX B11

### Para. 17 of the CPT Report

National Institute of Magistracy (INM) has included in the calendar of continuing vocational training activities topics such as "Hearing techniques in criminal proceedings" and "Ethics of evidence management in criminal proceedings". The objectives of the training activities are: acquiring and applying knowledge in the framework of criminal prosecution and trial activity, in strict compliance with procedural rules and best methods of forensic tactics and technique and judicial psychology; familiarising with and analysing cases of miscarriages of justice; identifying and discussing legal provisions that may give rise to problems of application; observing ethical and deontological principles in the application of the law.

Prosecutor's Office attached to the High Court of Cassation and Justice requested INM (December 2021) to include among the topics of continuous training, *inter alia*, measures of streamlining investigations in cases where State agents (police, gendarmes, staff of the National Administration of Prisons) are investigated for acts of ill-treatment of persons in the custody of State institutions, including with respect to the Istanbul Protocol - Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1999, recommended by United Nations General Assembly resolution 55/89 of 4 December 2000.

In February 2019, PICCJ disseminated the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (known as the *Istanbul Protocol*) to prosecutors' offices attached to courts of appeal, advising that it should be taken into consideration when training prosecutors assigned to prosecute cases involving ill-treatment by State law enforcement agents in the performance of their duties.

### Para. 26 of the CPT Report

The provisions of Law no.304/2004 on the judicial organisation<sup>5</sup> set limits to the areas in which officers and agents of the judicial police can work on secondment to the prosecutor's offices, so that this normative act cannot currently be used for the secondment of police forces in cases of ill-treatment.

The prosecutor's offices have taken organisational measures to ensure the functional independence of the investigator from the person under investigation in criminal investigations in cases of ill-treatment by State law enforcement agents. In general, this is achieved by taking over cases from the prosecutor's offices attached to tribunals and courts of appeal.

<sup>5</sup> Article 120<sup>2</sup> - (1) In order to carry out the activities of detection and prosecution of economic, financial, fiscal and customs offences in a timely and thorough manner, officers and agents of the judicial police are seconded to the prosecutor's offices of the tribunals, within the limits of the posts approved by law.

On the other hand, a better allocation of resources for the investigation of this type of crime is necessary so that the requirements of an effective investigation within the meaning of ECHR case law may be ensured.

## **Para. 31 of the CPT Report**

See references to para. 17 - Vocational training in interviewing techniques and ethics of evidence management. The allegations in the final paragraph are rather too general to be verified. Prosecutors comply with the legal provisions providing for legal assistance to the defendant.

## **Para. 21 + 68 of the CPT Report**

The offences of abusive investigation, ill-treatment, torture and abusive conduct provided for in Articles 280, 281, 282 and 296 of the Criminal Code are subject to the principle of officiality, so that the prosecution authorities carry out investigations regardless of the existence of a complaint by the injured party. Whenever prosecutors become aware of the existence of such actions from sources other than the injured party's notification, a criminal investigation will be initiated.

Physicians in police detention and remand centres and those in prisons are obliged to bring to the attention of the judicial authorities those reasonable suspicions of physical violence committed against persons deprived of their freedom following their examination and based on their medical findings. Moreover, under certain conditions, this omission may be regarded as an offence under criminal law<sup>6</sup>.

Injured persons have the right to a forensic medical examination ordered by the prosecuting authority in accordance with the provisions of the Code of Criminal Procedure and of Government Ordinance no.1/2000.

In the course of the criminal investigation in such cases, medical documents are requested, including the observation sheet or the equivalent document drawn by the physician when entering the detention and remand centre or prison.

## **Para. 105 of the CPT Report**

According to the current legal framework, after the registration of the notification to the prosecution, the injured person has the right to a forensic medical examination without paying the legal fee when the judicial body has ordered the forensic medical examination.

## **C. Regarding the issues related to the penitentiary system - National Administration of Penitentiaries (NAP)**

### **Para.58 of the CPT Report**

Between June 2021 and September 2021, a team from the National Administration of Penitentiaries visited the penitentiary system in all 44 detaining places, in order to analyse the situation of accommodation capacity, to make more efficient the use of space and to optimize the distribution of inmates. This activity led to the decongestion of **857** accommodation places, calculated at 4 m<sup>2</sup>/inmate.

In addition, in order to reduce the congestion and achieve the balancing process of the number of persons deprived of liberty between places of detention, **between May 2021**

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<sup>6</sup> Article 267 - Omission to notify the judicial bodies

(1) The act of a public servant who, becoming aware of the commission of an offense criminalized by law in connection with the service where they work, omits to immediately notify the criminal investigation body, shall be punishable by no less than 3 months and no more than 3 years of imprisonment or by a fine.

(2) If the act is committed with basic intent, the penalty shall consist of no less than 3 months and no more than 1 year of imprisonment or a fine.

and January 2022, the transfer to other profile units was ordered, for a number of **2,343 persons**.

At the same time, it should be noted the upward trend of the number of inmates, their number registering a significant increase, **1,300 inmates since the beginning of 2021**. Therefore, if on **31.12.2020**, there were **21,753** people in places of detention under the National Administration of Penitentiaries deprived of liberty, on **31.01.2022**, **23,010** people were kept in custody, thus increasing the occupancy rate at the level of the penitentiary administration system.

On the same date, the structure depending on the execution regime, is as follows:

- a) Special destinations - 1625;
- b) Pre-trial detention - 2726;
- c) Open regime - 3534;
- d) Semi-open regime - 7824;
- e) Closed regime - 5123;
- f) Maximum safety regime - 1569;
- g) Detention centre - 382;
- h) Educational centre - 227.

Of the **1569** persons deprived of their liberty classified in the maximum security regime, a number of **74** present a risk for the security of the place of detention.

**In the context of the accommodation deficit, the medium and long term solution for the Romanian penitentiary system is the new places assumed by the Action Plan for the period 2020-2025, developed for the execution of the pilot decision Rezmiveş and others against Romania, as well as the decisions pronounced in the group of cases Bragadireanu against Romania, approved by the Government of Romania by Memorandum.**

#### **Para.59 of the CPT Report**

Corresponding to the Action Plan for the period 2020-2025, developed for the execution of the pilot decision Rezmiveş and others against Romania, as well as the decisions pronounced in the group of cases Bragadireanu against Romania, approved by the Romanian Government by Memorandum, through investments in their physical infrastructure, **meaning that the National Administration of Penitentiaries has assumed that, by the end of 2025, to create a number of 7,849 new accommodation places and to modernize 946 accommodation places.**

**The investment objectives to be achieved at the level of the penitentiary system involve the creation of new accommodation, in accordance with European standards, ensuring a minimum of 4sqm/inmate.** Regarding the state of the investment objectives provided in the Memorandum, we specify that most are in the feasibility study phase or technical project, in 2021 the works will be contracted for 4 investment objectives, through which **230 new accommodation places will be created and 218 accommodation places will be modernized.**

In particular, regarding the **Craiova Penitentiary**, through the Norwegian Financial Mechanism 2014-2021, an investment objective is underway, at the Işalniţa External Section, at the technical project and execution details phase, through which 80 new accommodation places will be created, a walking yard and a greenhouse. Regarding the calendar of commissioning the 80 new accommodation places, we mention the fact that, at the end of December 2021, the procurement procedure for the execution of the works was launched, with the deadline for submitting bids on 28.01.2022.

The procurement procedure was cancelled due to the fact that no offer was submitted, this being resumed on 09.02.2022. Depending on the submitted bids, we estimate the conclusion of the works contract by the end of April 2022, the completion of the works will be completed within 12 months from the date of issuance of the order to start the works, respectively by May 2023.

From the existing staff at the level of Craiova Penitentiary, penitentiary police officers will be co-opted for the activities carried out within the Ișalnița External Section. Depending on the number of inmates in custody and the number of activities carried out, at that time, the opportunity to supplement with positions for the Ișalnița External Section will be analysed.

In order to efficiently use all the available spaces, starting with September 2021, female inmates within the Craiova Penitentiary were relocated in profile units and the capacity for custody of male, adult, classified persons was increased in closed regime with 30 seats (calculated at 4 sqm), by reshaping the E1 section. At this moment, the Craiova Penitentiary is guarding only females at the Ișalnița Exterior Section.

## **Para. 60, 61 and 62 of the CPT Report**

The National Penitentiary Administration does not tolerate such behaviour by staff members and completely prohibits the imposition of any person serving a sentence or other measure of deprivation of liberty on torture, inhuman or degrading treatment or other ill-treatment. In the event that the penitentiary administration becomes aware of a possible abuse by the staff, it has the obligation to notify the competent bodies in order to investigate the event in all aspects.

If any act is found to provoke a person deprived of liberty, with intent, pain or suffering, in order to obtain certain information or to apply a physical correction, the management of the penitentiary is obliged to order the legal measures accordingly, by the notification of the prosecutor's office and of the disciplinary commission for the staff members, constituted at the level of the penitentiary.

At the same time, during the execution of custodial sentences, inmates have the opportunity to bring to the attention of the judge for supervising the deprivation of liberty, the administration of the penitentiary, the persons appointed by the director of the unit or the competent bodies, any aspect of inappropriate behaviour of a staff member, infringement or abuse of rights.

It should be noted that the judge supervising the deprivation of liberty represents the professional entity that has the office in each place of detention in the penitentiary system and carries out its activity, on a permanent basis, in the place of detention.

According to the Romanian Constitution and the Law on the execution of sentences and custodial measures, the right to petition is *guaranteed*. At the level of the National Administration of Penitentiaries, 16 situations were identified in 2019, respectively 5 situations in 2020, in which the inmates, from Giurgiu Penitentiary, complained of alleged assaults by staff, of which 0 (zero) cases reported by "falaka". It is obvious that persons deprived of their liberty have multiple possibilities to address all state bodies. The National Administration of Penitentiaries will further investigate this atypical hypothesis, however, considering it unlikely that such conduct existed on the part of the staff and was not reported/notified by the inmate/inmates concerned or their witnesses, taking into account of the many ways in which inmates can exercise the right to petition (telephone in the room, personal access to the mailbox, etc.).

Without denying the possibility of the existence of isolated cases, we appreciate that, institutionally, the current monitoring mechanism allows a proper management of this issue, at national level. Moreover, we reiterate the firm commitment of the National Administration of Penitentiaries to continue to closely monitor compliance with the established mechanisms and to supervise the compliance of staff with the principle of **zero tolerance** for any aggressive behaviour in the detention environment.

## **The implementation of the operational chamber:**

Starting with **01.02.2022**, the **operational chamber** was set up at the level of the National Penitentiary Administration, which is a mechanism by which specialist officers verify all incidents in subordinate units, how to manage them, captured video images and the compliance of documents.

The staff assigned to this operating room decides when a negative event can be declared resolved, and in cases where additional checks are required or the transmission of new documents and video images, they have the possibility to order the penitentiary police officers from the territory not to leave the service until the incidents are clarified in all respects.

## **Implementation at the level of the penitentiary system of the computer application regarding the transfer of inmates:**

In order to optimize and streamline the transfer activity, it was approved the piloting, between November-December 2021, between the National Administration of Penitentiaries and the Timișoara Penitentiary of the computer application TMS (Transfer Management System).

As the pilot period has been completed, and its implementation at the level of all places of detention is a component of digital transformation and a predictable tool that leads to the realization of the transfer activity, exclusively online, starting with 11.01.2022, the transfer requests of persons deprived of their liberty and the transfer proposals formulated by the subordinated units are analysed both at the level of places of detention and at the level of the National Administration of Penitentiaries, **only** through the computer application TMS.

The inserted data in the computer application is operated by several workers from specific sectors of activity (inmate records, penitentiary regime, security of detention, medical sector) and creates a definite overview of the transfer opportunity. In this context, it is not possible to use the transfer procedure as a means of intimidation, and the transfer decision is ordered at the level of the National Administration of Penitentiaries knowing all the necessary details.

## **Para. 63, 64 and 65 of the CPT Report**

The negative events registered at the level of places of detention, reported to the dispatcher of the National Administration of Penitentiaries, are checked daily, being ordered, each time, the legal measures that are required, according to the regulatory framework. **This is done by the officers assigned to the newly established operational chamber, as described above, their activity being continuous, both in day and night service (24/24 service is provided by planning officers in shifts of 12 hours).**

As a result of the verifications carried out at the level of the Craiova Penitentiary, the analysis of the unit's records did not result in situations in which members of the staff, respectively the Special Intervention Team members (EOS), assaulted persons deprived of liberty.

At the level of the Mărgineni Penitentiary, verifications were carried out regarding the reported ones, and they did not reveal data and information to support the claimed aspects.

Following the verifications, it was found that, at the level of Mărgineni Penitentiary, during October-December 2020, respectively March 2021, there were no complaints filed by persons deprived of liberty against the staff of the unit, as a result of the commission (by staff members) , of acts of violence against convicted persons. Also, in the register of accommodation of persons deprived of liberty in the protection room is not specified any mention of accommodation of an inmate during October-December 2020.

Accommodation in a protection room is a last resort to protect persons deprived of their liberty and staff, to prevent the aggressive and violent actions of inmates, to restore order and discipline in accommodation rooms or other places, and to prevent other incidents, for physical immobilization.

The means of immobilization are used only in accordance with the law, the regulations in force and the procedures contained in the legislation in force, informing the competent persons (prisons' director, delegated judge for the execution of custodial sentences, medical staff) and approval, as appropriate.

At the level of the Galati Penitentiary, verifications were carried out regarding the reported ones, and they did not reveal data and information to support the claimed aspects.

In cases where operational incidents occur at the place of detention, EOS members act in accordance with the legal provisions, and when inmates accuse staff of acts of aggression, checks are made in this regard on how to management of the incident by staff members, i.e. **the fact that, during its management, the life of any staff member or person deprived of liberty was not endangered.** At the same time, *without exception, in such cases*, the person/persons deprived of liberty are consulted, at the medical office of the unit at the end of the intervention, as well as informing, in this sense, the judge supervising the deprivation of liberty and the criminal investigation bodies, as the case may be.

The operative documents drawn up on the occasion of a negative incident/event are managed by the specialized staff designated at the penitentiary unit, being verified, approved and approved hierarchically by the management, together with the specialized staff of the National Administration of Penitentiaries.

Also, before entering the service on a daily basis, the shift chief shall ensure the training of the staff assigned to the shift work and shall take care of the processing of information of interest regarding the operative situation and mood among the inmates.

At the same time, the specialist officers from the National Administration of Penitentiaries request additional data and information, as well as the transmission of incident files and video images captured by fixed/mobile surveillance cameras, to confirm the measures ordered at the unit level, depending on the type of incident.

During the CPT visit, three teams of NAP specialist officers went to the Craiova, Giurgiu and Mărgineni penitentiaries to assess the coverage of the existing premises and utilities inside the detention facility by the existing video surveillance system.

They checked the location of the fixed video cameras mounted in the places where inmates have access and subsequently established a need for fixed video cameras that need to be installed in the future, as follows:

Craiova Penitentiary has 6 video storage media (6 DVRs), which serve a number of 96 fixed rooms (monitoring centre - 80 and visiting sector - 16), of which 2 have a rotation function, after the mission establishing a required 80 rooms to be installed in the next period;

Mărgineni Penitentiary has 118 fixed video cameras, after the mission establishing a need for 35 fixed video cameras to be installed in the next period.

Giurgiu Penitentiary has 130 fixed surveillance video cameras, after the mission being established, a need for 38 fixed video cameras to be installed in the next period.

## **Para. 66 of the CPT Report**

Starting with August 2019, the National Administration of Penitentiaries started an extensive process of training staff in the operative sector, in order to improve the training and development of skills and competencies necessary to carry out direct activities with inmates. The impact coordinates shall give priority to communication as a decisive factor in preventing adverse events.

The penitentiary police officers involved, since 2019, have piloted and applied specific activities prior to orienting the theme of the training modules, one of the main elements being the observance of systemic imperatives, *implicitly zero tolerance for acts of aggression*, along with the emphasis on the whole concept of dynamic safety. Starting with 2021, the training program was resumed by structuring the mixed training modules, as follows:

- a first training module between June 14-18, 2021, at the Bucharest-Rahova Penitentiary, as a pilot program, with 20 officers designated as trainers (*Train the Trainers*), at the level of subordinate units;
- the second training module between 12-16 July 2021, at the Bucharest-Rahova Penitentiary, with 14 officers (*Train the Trainers*);

- the third training module between July 26-30, 2021, at the Bucharest-Rahova Penitentiary, with 15 training officers (*Train the Trainers*);
- the fourth training module between September 6-10, 2021, at the Bucharest-Rahova Penitentiary, with 14 training officers (*Train the Trainers*) and 2 penitentiary police officers.

**From 13<sup>th</sup> to 24<sup>th</sup> September 2021**, approximately 100 agents were trained in eight penitentiaries (Bucharest-Rahova, Aiud, Gherla, Arad, Iasi, Constanța-Poarta Albă, Mărgineni and Craiova). The training officers carried out mixed training modules with penitentiary police officers within the security of detention and penitentiary sector, as follows: post control: 2 agents, supervision: 2 agents; SASS members: 5 agents, agents who completed the internship in 2021: 3 agents.

The program runs for 4 years and will involve 440 officers from the operational sector in the training process, who will have the quality of trainers for the execution staff at the level of the penitentiary units - approximately 6000 staff with executive functions from the operative sector.

The main issues addressed in the work program of the mixed training modules were:

- The personal security of the penitentiary policemen who come in direct contact with the persons deprived of liberty in order to prevent the aggressions directed against them;
- The way of communication of the supervising agents with the persons deprived of liberty who are difficult and who have mental illnesses;
- The way of communication and addressing of the agents from the control stations considering the interface with the company;
- The manner of carrying out the anti-terrorist and specialized control over the persons, luggage and means of transport, as well as the drafting of the documents specific to the control station;
- The manner in which the call is made by the supervising agents, the reception of the service, as well as the drafting of the documents specific to the detention section;
- Ways to perform summary and thorough body search (practical course), dynamic safety, incident management, stress management, conflict resolution and anger management;
- General considerations presented by the unit's psychologist regarding difficult inmates with mental illnesses;
- Medical considerations and measures in emergency situations (fire, earthquake, etc.);
- Presentation of the use of the weapon and of the endowed armament (assembly / disassembly of the armament and loading / unloading of the armament);
- Final evaluation.

The purpose of the training modules aims to integrate a whole set of principles of security, protection and support in the process of reintegration into society of persons deprived of liberty in the work and behaviour of staff in the Romanian penitentiary system, promoting inter alia core values of human based treatment on respect for persons, health, dignity. From February 1st, 2022, a pilot program is underway, at the level of Aiud, Arad and Poarta Albă Penitentiaries, for the practical training of penitentiary agents who perform the supervision service within the detention units. The training covers three modules: basic physical training, tactical physical training and training based on lessons learned.

**Also, at the level of the penitentiary system, a training program in the field of human rights regulations was launched with the name "Human rights in prisons according to international rules and recommendations" which aims to know the main rules and international recommendations in the field, the correct identification of acts of prison**



police officers that may constitute violations and knowledge of institutions aimed at ensuring respect for human rights in prisons.

## Para.67 of the CPT Report

The penitentiary system promotes the observance of the norms of conduct, values and moral principles that the penitentiary police officers have, this being an obligation both for their private life and in their professional activity.

The staff of the penitentiary system carries out their activity with strict observance of the principles established by the deontological code. If they are found to be in breach, measures will be taken accordingly, such as referral to the disciplinary commission or, as the case may be, referral to the criminal investigation bodies. In addition, in all cases, staff will be retrained.

In relation to the size of the training of prison staff on how to interact with inmates, each prison unit carries out, *annually*, a training program in the field of communication, psychology and personal development, with the aim of facilitating communication with inmates, in which participate police officers of penitentiaries who are working in direct contact with persons deprived of their liberty (regardless of the field of activity).

The NAP used clips / materials to present the particular situation in which people with disabilities find themselves, which will be disseminated to the entire staff of the penitentiary system, through technical means. The aim is to make prison police officers aware of the problematic issues facing such people and, in a better understanding of the situation, to be able to provide the assistance they need.

## Para.68 of the CPT Report

In the executive-criminal legislation there is already a provision regarding the doctor's obligation to notify the prosecutor's office immediately, as follows:

### Extras - art. 72 para. (3) of Law no. 254/2013:

*"Medical examination*

*(3) In case the doctor conducting the medical examination finds traces of violence or the sentenced person claims to have been subject to violent behaviour, the doctor shall be required to record in the medical record the findings and statements of the sentenced person in connection therewith or with any other act of aggression and to refer the matter at once to the public prosecutor.*

According to the instructions issued by the National Administration of Penitentiaries through the address no. 46988/DSM/23.08.2019, regarding the reiteration of the provisions of the Istanbul Protocol and the Minnesota Protocol, both the medical examination and the medical records are carried out with the respect of confidentiality, *"both the traumatic injuries identified at the examination of the newly deposited inmates following the violent incidents with aggressions being recorded chronologically, in a unique document (Register of Traumatic Injuries) archived at the medical office."*

It should be noted that the officers re-established the operating room, in order to verify how to resolve negative events, request in scanned form the records made in the consultation register and in the special register set up for the registration of traces of aggression. These checks are carried out with respect for the confidentiality of personal data and the medical act.

## Para.69 of the CPT Report

### Giurgiu Penitentiary:

From 2019 to 2021, 13 complaints were filed against the criminal investigation bodies, against the staff of the place of detention, in order to establish the guilt in cases in which the inmates complained about the acts of violence against them. At the same time, in

four cases, the disciplinary commission for personnel was notified, the investigations being suspended until the completion of the ongoing criminal investigations.

## **Mărgineni Penitentiary:**

From 2019 to 2021, 4 (four) complaints were filed against some penitentiary police officers from this unit (shift chief, accompanying agent, member of the special task force) regarding the application of ill-treatment to inmates, and investigations were carried out at the prosecutor's office in order to establish guilt and order accordingly. Of these, three cases are under investigation at the prosecutor's office level, and in one situation, a solution has been ruled as follows:

*By the Ordinance no. 41/P/2021 of the Prosecutor's Office attached to the Dâmbovița Tribunal, it was ordered to close the case under the aspect of committing the crime of abusive behaviour, respectively the deed does not exist, the worker concerned being an officer who fulfils the function of shift chief. By the same ordinance, it was ordered the disjunction and declination of the case for competent settlement, in favour of the Prosecutor's Office attached to the Moreni Court, in order to continue the investigations regarding the commission of the crime of abusive behaviour by EOS members.*

## **Galati Penitentiary:**

Between 2019-2021, the medical staff at the penitentiary level proceeded to formulate 11 information to the criminal investigation bodies, following the complaints brought by the inmates regarding the exercise of violence against them. At the unit level, the solutions pronounced by the prosecutor's office are not known.

At the same time, on 05.11.2021, on the occasion of viewing the video images in the disciplinary file no.79 /05.11.2021, belonging to a person deprived of liberty, the members of the disciplinary commission took note of the fact that the person who seems to be the main agent of penitentiary police OM, showed a non-ethical conduct towards the inmate. In this situation, the disciplinary commission against the penitentiary worker was notified, as well as the Prosecutor's Office attached to the Galați Tribunal.

## **Previous situations at the Galati Penitentiary that were targeted at the CPT control in 2018:**

By the criminal sentence pronounced in the criminal file no. 16330/233/2019 by the Galati Court, the guilty plea concluded on 21.08.2019 (in the criminal case no. 132/P/2018) was admitted by the Prosecutor's Office attached to the Galati Court of Appeal and the defendant EGC, investigated for committing the crime of abusive conduct, provided by art. 296 para. (2) of the Criminal Code, reported in art. 193 para. (1) of the Criminal Code. Establishes against the defendant EGC the penalty of the criminal fine in the amount of 3600 lei (180 days-fine, the amount corresponding to one day-fine being 20 lei) for committing the crime of abusive conduct, provided by art. 296 para. (2) of the Criminal Code, reported in art. 193 para. (1) of the Criminal Code, with the application of art. 480 para. (4) Thesis I Code of Criminal Procedure (deed of 12.01.2018). Pursuant to art. 83 para. (1) and (3) of the Criminal Code, postpones the application of the penalty of the criminal fine for a term of supervision established under the conditions of art. 84 of the Criminal Code, for 2 years from the date of finality of this decision.

On March 20, 2018, the Prosecutor's Office attached to the Galați Tribunal notified ex officio the content of the CPT Report (presented, at that time, in the media) for the crime of abusive behaviour, provided by art. 296 para. 2 Criminal Code, reported in art. 193 para. 1 of the Criminal Code, and by the ordinance of April 2, 2018, it was ordered to start the criminal investigation for these deeds. **By ordinance no. 414 / P / 2018 of August 8, 2018, the prosecutor ordered the case to be closed, on the grounds that the imputed facts do not exist.**

By ordinance no. 6052/II/6/2018 of October 24, 2018, the chief prosecutor of the same prosecutor's office unit overturned the dismissal order and ordered the reopening of the criminal investigation. Galați Court, notified by the Prosecutor's Office attached to the Galați Court, by conclusion no. 2613 of November 29, 2018, found the legality of the latter

ordinance and confirmed the reopening of the criminal investigation. **According to the available data, the criminal investigation has not yet been completed.**

At the level of **Craiova Penitentiary**, during the reference period, no such cases were registered.

## **Para. 70 of the CPT Report**

The units subordinated to the National Administration of Penitentiaries purchase surveillance cameras that will be connected to the integrated surveillance system in order to videotape all the spaces where inmates have access, as the case may be, depending on the allocated budget.

The operationalization of all surveillance cameras is a desideratum and an objective of our institution, moreover, following the preliminary report, measures were ordered for the implementation of this aspect at the **Craiova and Giurgiu** penitentiaries.

We add that one of the objectives of the National Administration of Penitentiaries **was to cover all spaces by providing video recording equipment**, and placing them in the halls of detention centres, in spaces where persons deprived of liberty carry out cultural, educational, psychological, sports, religious activities, work (car workshops, tinsmith's workshops, wood repairs, etc.), this goal being managed **to be implemented in stages throughout the Romanian penitentiary system**, respecting the confidentiality of medical and therapeutic acts (with some exceptions), but also the privacy of individuals of freedom.

Following the Recommendation of the Ombudsman no. 159/2019, in 2019 the National Administration of Penitentiaries started a process of evaluation of video monitoring systems in order to identify the spaces and areas in which inmates have access and which are not video monitored.

The National Administration of Penitentiaries took note of the Recommendation formulated by the Ombudsman institution, and following the data collection, the estimated situation prepared following the evaluation highlighted a need of 4076 video cameras, with a financial impact of approximately 13.178.085 lei.

## **Para. 71 of the CPT Report**

At the level of the prison units, it has been identified as a good practice to provide individual portable video cameras (Bodycam type) for the staff who supervise the inmates or carry out direct activities with them, in order to discourage them from committing disciplinary offenses or to show a hostile attitude towards prison staff, to capture incidents and disciplinary offenses when they occur, and how prison staff act in the incident management process.

Currently, this technical solution has been successfully implemented in almost all units of the penitentiary system.

The National Administration of Penitentiaries has continued its ongoing efforts since February 2014, in the sense that the incidents which took place within the subordinated units, which involved the planned intervention for settlement and, implicitly, the use of immobilization means and techniques, were investigated by the specialized structure within the NAP.

Currently, the National Administration of Penitentiaries has initiated steps for the centralized procurement of 2.100 body video cameras for the subordinate units, analysing the latest and most efficient devices on the market, used by other structures in the national defence system.

In case of deviations, administrative measures were ordered and, if necessary, the competent judicial bodies were notified.

## **Regarding para. 73**

From the study of the medical documents, it resulted that the inmate, referred to in the CPT Report, had the following medical path:

- On **27.01.2020**, at 11:40, the person in question presented himself at the medical office stating aggression, from the inmates from the detention room. Following the consultation, an erythematous area on the left posterior hemi thorax was highlighted (recorded in the aggression register). The Prosecutor's Office of Galați Court was notified. He did not request a forensic examination.
- On **23.09.2020**, around 09:00, on the occasion of the hearing by the head of the detention section, the inmate accommodated within room E6.8, in maximum security regime, stated that on the night of 22/ 23.09.2020, at around 24:00, he was hit in the abdomen and neck by two other inmates while he was in the bathroom of the detention room, without mentioning a specific reason.
- The three inmates were presented to the medical office where it was found that there were no signs of violence, and the inmate mentioned in the Report was transferred to another detention room. The aggressor inmates were subject of incident reports and proposed to be temporarily suspended from schooling during the disciplinary investigation. The Prosecutor's Office of Galați Court was notified and the judge supervising the deprivation of liberty was notified.
- On **23.09.2020**, at 10:15, the inmate appears in the medical consultation registers stating that he was the victim of an assault in the detention room. Following the medical consultation, it is recorded - "no visible signs of bodily violence (FUCV)". On 24.09.2020, it is not recorded that he was presented to the medical office.
- On **08.10.2020**, the inmate presented to the medical office for scratches on the left lateral cervical area. Local toilet and dressing are performed. He states that he was allegedly assaulted on 07.10.2020 by an inmate. The notes are recorded in the consultation and assault records. The Prosecutor's Office attached to the Galați Court was notified.
- On **16.05.2021**, following the discussion carried out by the director of the prison unit with the CPT delegation, it was concluded that there is a possibility that the inmate in question had been assaulted in the past, without informing the prison staff. The director of the unit ordered his presentation at the medical office around 14:00, where the inmate in question verbally stated that he had been assaulted in the past by two inmates, in room E8.1, maximum security regime. He refused to give a written statement and to file a complaint against the two inmates. The inmate showed old traces of bodily violence and did not request a presentation at the Forensic Medicine Service in Galați. He also did not mention a time frame in which he was allegedly assaulted. It should be noted that the inmate mentioned in the CPT Report was accommodated in room E8.1 between 12.03.2021 and 22.04.2021.

The aggressor inmates were subject to incident reports, while the judge supervising the deprivation of liberty and the Prosecutor's Office of Galați Court were informed.

## **Para.75 of the CPT Report**

At the level of the penitentiary administration system, it has started a joint vocational training program namely, "We learn together. We are making progress together." The training program for staff working with criminally sanctioned persons, which took place between 25-31.01.2022, was organized in accordance with the provisions of the National Strategy for the social reintegration of inmates, 2020-2024.

The course was accredited according to the Order of the Ministry of National Education no. 3088/ 17.01.2019 and approved for online reorganization and development by C.S.A. approval regarding the reorganization and development in online system, according to the provisions of Order of the Ministry of National Education no. 5767/ 15.10.2020, of accredited continuous training programs with the form of face-to-face organization or blended learning.

One of its objectives is the need to run a program through which people who come into direct contact with inmates have the opportunity to learn how to interact with them.

Another specific objective is the professional training and development of the staff with responsibilities in the field of social reintegration of inmates.

Within this program, 33 students participated, of which:

- 11 students (prison police officers) from the prisons in Arad, Aiud, Deva, D.T. Severin, Gherla and Timișoara;
- 11 students (probation counsellors) within the National Probation Directorate (probation services of Hunedoara, Arad and Gherla);
- 11 students (school teachers) from the schools assigned to the prisons presented above.

With regard to the CPT's observations, the National Administration of Penitentiaries does not tolerate such behaviour from the staff of subordinated prison units and also when developing the set of mandatory principles in the *Strategy for Reducing Aggressive Behaviours in the Penitentiary System*, designed to support a pro-active attitude of the prison police people in relation to the inmates, there were included the lack of tolerance towards aggressive actions (**zero tolerance**), speed in formulating legal notifications, as well as fairness in establishing disciplinary sanctions.

The promotion and implementation of this Strategy started in 2014, the measures included within this programmatic document being annually improved, based on the Study on the prevalence of aggressive behaviours at systemic level. Yearly, there is developed a *Plan of measures*, which aims, complementary to the steps to identify and monitor the inmates identified at risk of managing aggression, to support the proactive attitude of staff in relation to inmates, lack of tolerance for aggressive actions and speed in formulating legal notifications and their settlement. Moreover, at the level of each prison unit, these measures are customized, and the monitoring of implementation is ensured by a multidisciplinary commission - consisting of specialists in the fields of detention security and prison regime, social reintegration, medical, crime prevention - which meets on a monthly basis, and analyses the cases that have occurred, as well as the measures that need to be taken.

Regarding the implementation of medium and long-term measures (resulting from the recording of negative events), during 2021, there were developed **various materials to analyse the phenomenology of aggression within the penitentiary environment**, being repeatedly disseminated **joint instructions on implementing systemic measures to reduce maladaptive behaviours**.

Also, in the context of recording some negative events (suicide attempts and suicidal acts), the specialists in the field of social reintegration provided professional interview and advice to the specialized staff involved in the management of such complex cases.

At the central level, there are carried out analyses on the executional-criminal history of inmates who resort to risky behaviours, to facilitate ordering particular measures (adapted to the specific characteristics of the case) and general measures (adapted to the specific problem of detention facilities).

The activity of monitoring the implementation of the *Strategy for Reducing Aggressive Behaviours* is pursued throughout the year, including by carrying out missions to guide, evaluate and control the activities limited to the field of social reintegration.

Regarding the completion of the regulatory framework for the interventions necessary to manage the phenomenology of aggression in the penitentiary environment, in 2021, the psychological intervention addressed to this issue was reviewed and improved. During the year, at the level of all prison units, numerous steps were taken (activities, programs, psychological counselling) aimed at reducing aggressive behaviours, registering **4.898 participations**.

**Until 31.01.2022, a number of 2.371 execution positions (officers, agents and contract staff) from the penitentiary administration system were open for competition from an external source. Currently, at national level, there are approx. 800 more employees than at the time of the CPT visit (12.032 on 15.05.2021, compared to 12.838 at present). Compared to the beginning of 2021, the increase in staff is of approx. 1050 employees.**

We estimate that, by August 2022, the number of employees will reach 13.500, which will represent the largest number of staff members in the history of the penitentiary system, the maximum figure previously reached being approximately 13.000 in 2018.

In accordance with the legal provisions in force, the initial training of newly recruited prison police officers ensures the acquisition of the skills and legal certifications necessary for access to the qualified exercise of the profession of prison police officer or agent, after completing the professional training courses. Through them, the aim is to acquire, develop or complete the knowledge, skills or professional competences specific to the penitentiary system and the position in which the prison police officers were appointed, in order to familiarize and adapt to the specifics of the penitentiary system.

The elements regarding the detention security and prison regime applied to inmates, the easy integration in the rigors imposed by the professional status of the prison police person, as well as the harmonization of specific professional training with the particularities of the penitentiary environment are a constant in all these forms of professional training.

Following the initial training, the professional development of prison police persons is ensured through a set of activities aimed at developing individual skills, knowledge and expertise.

## **Para. 76 and 77 of the CPT Report**

Regarding the visited prison units, we point out that, at the level of **Galati Prison**, there are two ongoing investment objectives through which will be created 186 new accommodation places, 7 walking yards and two spaces for outdoor sport activities. The first investment objective, through which 152 new accommodation places will be created, is in the phase of elaboration of the technical project, while for the second objective, through which 34 new accommodation places will be created, in December 2021 the feasibility study was approved within the Technical-Economic Council of NAP, and further on, in the first quarter of 2022, the acquisition of the services for the elaboration of the technical project will be launched.

Moreover, Galati Prison approved the execution of intervention works without a building permit at the level of 12 detention rooms, works that will improve the detention conditions. By 31.12.2021, the works at the level of 8 detention rooms were completed, and during 2022, the works on the other rooms will be resumed.

In order to maintain a healthy climate within the detention rooms, at the level of Galati Prison, current repair works were carried out in 2021 at a number of 29 rooms, and for 2022 the unit has planned the execution of this category of works at the level of 29 detention rooms.

At **Craiova Prison**, through the Norwegian Financial Mechanism 2014-2021, at the level of the Ișalnița outer ward, an investment objective is ongoing, currently at the technical design and execution details phase, through which 80 new accommodation places will be created, a walking yard and a greenhouse. Regarding the timetable for putting into operation of the 80 new accommodation places, we mention the fact that, at the end of December 2021, the procurement procedure for the execution of the works was launched, with the deadline for submitting bids on 28.01.2022.

The procurement procedure was cancelled due to the fact that no offer was submitted, this being resumed on 09.02.2022. Depending on the bids submitted, we estimate signing the works contract by the end of April 2022, the construction works will be completed within 12 months from the date of issuing the order to start the works, respectively by May 2023.

In order to maintain a healthy climate within the detention rooms, at the level of Craiova Prison, in 2021, there were executed current repair works in 60 rooms, and for 2022 the unit has planned to execute this category of works in 39 detention rooms.

At the level of **Mărgineni Prison**, an investment objective financed by the Norwegian Financial Mechanism 2014-2021 is ongoing, currently at the feasibility study phase, through which will be created 52 new accommodation places, walking yards, a gym and a sports field.

In order to maintain a healthy climate within the detention rooms, **at the level of Mărgineni Prison**, in 2021, there were carried out current repair works in 21 rooms, and for 2022 the unit has planned the execution of this category of works in 40 detention rooms.

Also, during the year 2021, at the level of the unit, a space was rearranged through which 12 new detention places were created.

In 2021, at **Giurgiu Prison**, intervention works for 141 detention rooms were performed without a construction authorization, which resulted in improving the detention conditions.

In order to keep a healthy climate in the detention rooms, there were current repairing works for 56 rooms of Giurgiu Prison in 2021 and the unit has planned to perform this type of works for 50 detention rooms in 2022.

Mention must be made that measures are taken at the level of the prison system on a permanent basis, with a view to improving the detention conditions by promoting some investment objectives/investment-like interventions and by performing intervention works without any construction authorizations.

The National Prison Administration continues the already initiated process of optimizing inmates' allocation among prisons within the same prison unit.

*On February 10th, 2022, the Romanian prison system lodged 275 inmates with particularly serious psychiatric disorders.*

In order to maintain the psycho-emotional health and well-being, medical care and specialized monitoring were provided both by the employed medical staff and in collaboration with the public health network in the checked prison units in January 2022, as follows:

- Galați Prison for 5 people registered as having particularly serious psychiatric disorders;
- Giurgiu Prison for 13 people registered as having particularly serious psychiatric disorders;
- Craiova Prison for 18 people registered as having particularly serious psychiatric disorders;
- Mărgineni Prison for 10 people registered as having particularly serious psychiatric disorders.

## **Para.78 of the CPT Report**

Regarding the CPT recommendations on providing tables, chairs and storage spaces to all the detention rooms, mention must be made that, when drawing up the draft budget for 2022, part of the prison units have planned to purchase these inventory items. In order to comply with the CPT recommendation, in 2022, the National Prison Administration has also decided, as a priority, to improve the detention conditions. In this regard, each prison unit will acquire tables, chairs, storage shelves, etc. from the funds allocated with this destination, depending on its needs.

We also state that, every year, the National Prison Administration provides funds, within the approved budget, for revamping (execution of intervention works without a construction authorization) detention rooms and corresponding sanitary groups.

Bedding items (blankets, mattresses, sheets) are provided according to the *Decision of the NAP Director General no. 467/2016 on the bedding provided to the inmates in the detention places subordinated to the National Prison Administration*. In 2020, the prison

system concluded centralized framework agreements for providing inmates with bedding items, namely: fireproof pillows, fireproof mattresses, sheets, pillowcases, having a validity period until 2024; all this time the prison units are empowered to purchase these items.

Maintaining detainees' health has always been an up-to-date concern requiring the observance, application and permanent supervision of individual and collective hygienic-sanitary measures, in a unitary manner, at a systemic level. Thus, measures have been taken in order to ensure the appropriate microclimate conditions by preventing the appearance or spread of insect outbreaks (pest control) - these actions are performed periodically, with specialized companies or under its own auspices, as the case may be. In accordance with the provisions of Art. 50, letter b) of the Annex to the *Order of the Minister of Health no. 119/2014 for approving the hygiene and public health norms on the living environment of the population*, with its subsequent amendments and completions, the periodic pest control occurs at the intervals foreseen in the methodologies, but not later than 3 months, and the periodic deratization takes place every 6 months the latest.

Also, in order to protect inmates' health and to maintain an optimal hygiene and sanitation of the detention spaces, inmates benefit from cleaning items for individual and collective hygiene, with a view to applying the hygiene rules on cleaning and disinfecting the premises which inmates have access to, foreseen by the *hygiene and public health norms on the living environment of the population*, with subsequent amendments and completions. The cleaning, sanitizing and disinfection activities applied as a constant in the prison system have been intensified since the onset of the SARS-CoV-2 pandemic.

The measures on protecting inmates and staff members' health have been strengthened in the pandemic context, the first such specific measures being implemented since 24.02.2020. Subsequently, the measures for preventing the spread of SARS-CoV-2 have been updated in accordance with the law provisions on health protection adopted by the national authorities, as a result of the infection dynamics at the national level.

Through the measures for reducing over-crowding and for balancing the number of inmates in the detention places, the occupancy rate of the 3 mentioned units has been reduced depending on the prison regime:

- a. at Craiova Prison, the degree of over-crowding in closed regime has dropped by 12.8%, from 178.06% to 165.26% and, in maximum security regime, by 5.15% from 163.64% to 158.49%;
- b. at Galați Prison, the degree of over-crowding in closed regime has decreased by 4.68% from 193.39% to 188.71% and, in maximum security regime, by 20.07% from 145.07% to 125%;
- c. at Mărgineni Prison, the degree of over-crowding in closed regime has been reduced by 12.23%, from 170.31% to 158.08% and, in maximum security regime, by 26.79% from 147.32% to 120.54%.

It is specified that the average degree of over-crowding in the closed regime is 158.45% and, in the maximum security regime, it is 124%. The National Administration continues the efforts to balance the prison population and, in the forthcoming period, by re-profiling Focsani Prison, new detention spaces will be created for lodging 250 closed regime detainees, which will lead to reducing the overcrowding phenomenon for the closed regime category to a degree of 146.29%.

## Para.79 of the CPT Report

Regarding the CPT recommendation to ensure inmates' regular access to hot water, it is stated that a working group will be set up in order: *1. to analyse all the implications of this measure, both from an economic and technical standpoint, and 2. to elaborate a draft normative act for extending the period of hot water supply, depending on the technical possibilities of each unit, namely on the operating capacities of the central heating and corresponding installations.*



It must also be mentioned that last year the prison units brought improvements to the heating plants, by purchasing new heat boilers, replacing damaged installations and other technological equipment for providing domestic hot water.

**Para.80 of the CPT Report**

Regarding the CPT recommendation on the necessary repairs of *the sanitary installations in the 4 visited prisons, as well as of the common shower in Section E4 of Mărgineni Prison*, mention must be made that:

- Mărgineni Prison has identified a solution for moving the joint bathroom of Section E4 into another space that will ensure appropriate hygienic and sanitary conditions. In this regard, taking into account the documents to be drawn up in order to approve the change of destination, we expect that the fire safety scenario will be notified by the NAP specialized commission by 31.03.2022 and, subsequently, the works will be initiated depending on the nature of the works to be executed and the available funds.
- At the level of the other 3 visited prisons, it must be stated that interventions are performed in the case of the sanitary installations due to the current repair works or interventions to the buildings without a construction authorization, which are executed inside the detention rooms. Mention must also be made that, whenever any malfunction occurs, measures are constantly taken in order to repair and troubleshoot the identified issues by replacing the worn-out items.

Through the care of the administration of the detention place, inmates benefit from hygienic and sanitary products, which are provided only once, upon entering the unit, and from individual and collective cleaning and hygiene items on a monthly basis, as follows:

**Annex C1 - Individual hygiene items**

Item name	Unit of measure	Minimum quantity	Annual maximum
Toothbrush	piece	4	6
Toothpaste tube - 75 ml	piece	12	24
Shaving cream tube - minimum 50 ml	piece	6	12
Disposable razor	piece	12	24
Bath soap bar - 80 g/piece	piece	12	24
Hair shampoo - 250 ml	piece	6	12
Toilet paper	piece	24	36
Comb	piece	1	2
Menstrual pads	package	12	12
Medical cotton	package	3	6
Nail clippers without a knife - maximum length 10 cm	piece	1	2

**Collective cleaning items (they are provided by the prison unit laundry)**

Item name	Unit of measure	Annual quantity	Quantity that can be additionally provided, depending upon the epidemiological situation
Detergent	kg.	10	4
Soap	kg.	3	-
Bleach	kg.	3	2

***Cleaning, maintenance and management materials***

In order to ensure and maintain the cleanliness of the interior spaces, including the detention rooms, the quantities of cleaning materials are established according to the surface of the premises or the number of sanitary ware products in the room. The following categories of materials are provided:

- *cleaning materials*: floor detergents, solutions for cleaning parquet flooring, solution for washing painted carpentry, detergent for cleaning sanitary ware, soda ash, solution for cleaning windows, de-scaler, hydrated lime;
- *materials for maintenance and household*: straw brooms, mops and dish cloths (depending on what is necessary), twig brooms for alleys/ plateaus, etc.

**All these items are distributed individually to each inmate based upon their signature.**

**Para.81 of the CPT Report**

In accordance with the provisions in force, the financial value of inmates' food norms is updated when the National Institute of Statistics publishes a consumer price index that is higher than 5% as compared to the month when the last value was established.

The caloric standards of inmates' food norms have been established as a result of consultations with nutrition specialists. The structure of inmates' food norms encompasses those food products ensuring the preparation of quality and properly diversified menus, for three daily meals, respectively: breakfast, lunch and dinner.

Thus, the norms include main food products such as pork and beef, cheese, eggs, vegetables and fruit, margarine, marmalade, meat dishes (sausages), milk, rice, pasta, bread, etc.

It is stated that the specialized literature recommends an intake of about 2000 - 2400 calories per day for a sedentary person while a standard of 2250 - 2855 calories per day is provided to the convicts.

At the same time, on the occasion of Christmas celebration, the financial value of Norm 12 C1 - supplement for festive days was increased by 100%, according to Order of the Ministry of Justice no. 6093/C/2021.

Also, the inmates who perform various productive activities benefit from an additional food norm, which is granted throughout the entire period when the people do the activity.

**Para.82 and 83 of the CPT Report**

Regarding the CPT recommendation that all courtyards should be equipped with a means of rest and shelter against bad weather, offering a view on the surroundings and suitably decorated, we mention the followings:

Through the Norwegian Financial Mechanism 2014-2021 at **Craiova Prison - Ișalnița Exterior Section** a recreational and sports space will be built to ensure the optimal conditions for outdoor relaxation, with an area of 230 sq. This space, with the role of a walking yard, will be connected to the water and sewerage installation, will have a collector channel for facilitating the drainage of rainwater and will have access to drinking water, one third will be covered with a canopy and will be provided with concrete benches and tables, video surveillance system and telephone stations to ensure the right to telephone calls.

In order to contribute to the transfer of the Normality principle between the Norwegian and the Romanian correctional system, the surface of the recreational and sports space will be partially arranged with natural lawn, and on the rest of the surface will be covered with grass. The entire surface of the lawn will be provided with alleys made of stone embedded in the ground and with benches and tables along them. Also, from place to place will be provided islands with decorative plants, flowers, shrubs, small trees, small or creeping conifers and rockery made of natural stone. In the middle of the recreational and sports space, there will be an artesian courtyard fountain, made of mountain stone, with electric drive, as well as a source of drinking water, with the same theme. In the recreational and sports space an asphalt carpet with an area of 50 square meters for practicing team sports such as basketball and volleyball will be made. The perimeter fence of the recreation area will be made of welded wire mesh, with a height of at least 3 m and 0.90 m of cant made of barbed wire rolls with slats.

At **Giurgiu** Prison by modernizing the existing walking yards, there will be 11 new walking yards with a total area of approximately 3,862 sq. Each walkway will be covered on one third of the surface with a metal canopy and on two thirds with a welded wire mesh floor, rainwater from the roof being collected through a system of gutters and downspouts. Each walking yard will have a toilet, indoor sewer system, built-in concrete benches and a telephone station to ensure the right to telephone calls. Initially, by modernizing the existing walking yards was proposed to build 12 new ones, but following the controls and recommendations of the approved institutions, the walking yard on the circulating terrace of a holding pavilion was abandoned because it does not provide adequate conditions for the inmates to walk. Regarding the stage of this objective, we specify that, in 2021, Giurgiu Prison started the acquisition for contracting the execution, but, given the massive increase in the prices of construction materials, no procurement procedure was submitted. In this regard, in December 2021, the updated general price estimate was approved by the NAP Technical-Economic Council. In order to resume the procurement procedure for the execution of the works, in the budget of 2022, Giurgiu Prison was provided with commitment appropriations for this purpose.

At **Mărgineni** Prison, with building 52 new accommodation places, two walking yards will be arranged, which will be connected to the water and sewerage installation, that will have a collector channel that will facilitate the evacuation of rainwater, access to running drinking water and will be provided with a canopy on a third of the total area, benches and tables embedded in concrete, video surveillance system and telephone stations to ensure the right to have telephone conversations. In each walking yard there will be a bathroom with 2 separate compartments, one for toilet and one for sink. Also, within the same project, a gym and a sports field with synthetic lawns will be built.

At **Galati** Prison, by achieving the 2 investment objectives, 7 walking yards will be built, which will covered a third of the surface, shall have benches, telephone stations, surveillance system and reinforced concrete fence, being intended for the recreation of inmates from maximum security and closed regimes. The walking yards will ensure the rights of the inmates, provided by Law no. 254/2013 on the execution of sentences and custodial measures ordered by the judiciary during criminal proceedings, with subsequent amendments and completions, by arranging them according to the minimum legal standards and increasing the time allocated to walking and maintaining a physical and mental tone suitable. These measures have a direct effect on distracting/reorienting inmates from other negative concerns, which, as a whole, lead to a reduction of their aggression behaviour, to the improvement of detention conditions and at creating an appropriate climate.

#### **Para.84 of the CPT Report**

An individualized *Plan for assessment and educational and therapeutic intervention* is drawn up for each inmate, specifying the activities and programs of education,

psychological assistance and social assistance in which he or she is to be included during the detention, according to the legal provisions in force. The *Plan* is supplemented and modified whenever necessary. The initial version of the Plan, as well as the revised version, contain the agreement of the place of detention's administration, countersigned by the members of the commission, as well as the informed consent of the person deprived of liberty. Decisions taken by the commissions set up at the level of prisons shall be based on the results of the specialized staff's assessment of convicted persons. Assessment is an integral part of multidisciplinary teamwork and aims to identify the main features and needs, in order to guide the intervention, using specific tools, applied at national level (Decision No. 775/2021 on the approval of standard tools for assessing the activity of of the persons deprived of liberty, Decision No. 642/2016 standard tool for evaluating the activities of persons in custody).

The tool used by the prison administration, in order to inform persons deprived of their liberty about the educational opportunities they have during detention, consists of the Standardized offer of educational programs and activities, psychological assistance and social assistance. This offer is presented in the form of an inventory of all social reintegration activities and programs available at the level of the prison system, including a brief description of each of them, as well as the benefits obtained by attending it. The information are organized according to the moments of the criminal execution route and taking into account the complexity and addressability of each type of activity/program. Also, includes a list of the social reintegration structure staff categories and their duties. The offer is annually updated by the National Administration of Penitentiaries, being available to the subordinate prison units in electronic format, posted on the NAP's internal portal. Each unit diversifies and customizes the Offer, locally, taking into account the specific needs of the beneficiaries. The offer is brought to the attention of persons deprived of their liberty during quarantine and observation time and is permanently displayed in places visible and accessible to inmates.

The limitation of face-to-face social reintegration activities has been a consequence of the measures of protection, prevention and social distance imposed by the prevention of SARS-COV-2 infection and has contributed, among other factors, to the decrease in the number of hours spent by persons deprived of their liberty outside the detention rooms. In the same pandemic context, the priority activities of the specialized staff consisted, on the one hand, in the permanent information of the inmates, and on the other hand, in the mood monitoring and paying more attention to the vulnerable categories of people (eg with mental illness, at risk of suicide, known as former drug users or in substitution treatment), at risk for the safety of the place of detention (eg, informal leaders or with the potential to develop disturbing behaviors, inmates with multiple disciplinary sanctions), as well as other persons deprived of their liberty belonging to risk groups, identified at local level. At the same time, in order to ensure the functional character of the interrelationship, the prison administration used alternative channels of communication, using intensive online calls, radio-TV studios, other technical means of distance communication for conducting school courses, training courses and activities organized in partnership with community representatives.

In accordance with the relaxation measures adopted at national level, the Action plans, submitted from May 2021, took into account the increase of the possibility of physical participation of persons deprived of liberty in social reintegration activities, carried out in closed spaces. Also, the activities carried out face to face by the outside collaborators were resumed, including those carried out in the community.

## **Para.85 of the CPT Report**

In 2020, a multi-annual assessment of the implementation of the Credit System was carried out at the level of penitentiary units, for the period 2016-2020. Among the main conclusions, we mention the relatively easy access of the inmates to the awarding of rewards followed by the lifting of a previously applied disciplinary measure, as well as the possibility of accumulating, over time, an increased number of credits - especially for participating in lucrative activities, but also taking into account the low amount of credits

used as a reward. The conclusions of the assessment substantiated the amendment and supplement *Decision no. 443/2016 on the approval of the working procedure for awarding rewards based on the Credit System for participation in educational activities and programs, psychological assistance and social assistance, work activities, as well as the prevention of risk situations*, aiming at respecting the principle of fairness and proportionality in the process of rewarding / sanctioning.

Regarding the elaboration of the *Individualized plan for assessment and educational and therapeutic intervention*, in 2020, Decision no. 443/2016 on the approval of the Working Procedure for awarding rewards based on the Credit System for participation in educational activities and programs, psychological assistance and social assistance, work activities, as well as the prevention of risk situations was amended and supplemented, emphasizing the fact that the inclusion of persons deprived of liberty in credited educational activities and programs, psychological assistance and social assistance is done taking into account the priorities set out in the Plan, under the conditions of individual responsibility of persons deprived of liberty, to compensate the needs and reduce identified risks.

### **Para.86 of the CPT Report**

The legislation regarding the application of the penitentiary regime in Romania is based on the progressive / regressive principle regarding the transition from one execution regime to another.

The legal provisions allow inmates to access more permissive enforcement regimes, even from the maximum-security regime to even the open enforcement regime, but also provide for situations in which the enforcement regime is changed to a more severe one, in cases in which inmates do not follow the rules of order and discipline.

Specifically, according to art. 40 para. 6 of Law no. 254/2013, the change of the regime of execution of custodial sentences to a more severe one may be ordered, at any time of the execution of the sentence, if the convicted person has committed an offense or has been disciplined for a **very serious disciplinary offense or for more many serious disciplinary offenses**.

**Consequently, we show that the measures taken during the execution of custodial sentences correspond to the behaviour adopted by the persons deprived of liberty, and in cases where the execution regime has been changed to a more severe one, on a new analysis, there is the possibility of returning to the regime. more permissive if the inmate has shown that he / she has complied with the rules of discipline and internal order and has shown interest in educational and lucrative activities.**

### **Para.87 of the CPT Report**

Regarding the vulnerability of certain categories of persons deprived of their liberty, we point out that the staff responsible for carrying out activities and recovery programs ensure the necessary measures to achieve the pre-established training objectives, in conditions of care and respect for the particularities of beneficiaries, avoiding any discrimination.

For the category of inmates classified as vulnerable, in 2021 was completed the offer of activities and programs of education, psychological assistance and social assistance available in the penitentiary system, with a special activity project for people with disabilities. Its purpose is to maintain / improve the psychosocial status of persons with disabilities who execute a measure or custodial sentence, by making accessible the reintegration measures carried out at the level of the penitentiary system, thus contributing to the transposition into national policies favourable to inclusion, the provisions of Resolution UN General 73/177 "Human rights in the administration of justice".

Also, during 2021, within the CHILD project - Children's Inclusion by Learning and Developing ("Social reintegration of minors through learning and personal development"): 2 training sessions were organized for staff working with private minors and young people

and a program of emotional and behavioural education was developed for Roma inmates and other vulnerable minors and young people, which was included in the offer of activities and programs of education, psychological assistance and social assistance available in the penitentiary system.

**Para.88 of the CPT Report**

Pre-trial inmates may participate in educational activities, psychological assistance and social assistance, at their request, approved by the director of the penitentiary. Participation is conditioned by the nature of the crime committed, the length of pre-trial detention, the regime of execution, the risk to the prison, age, behaviour in prison and physical and mental health.

For this legal category, we consider, in particular, short-term social reintegration activities, optional, aimed at stimulating knowledge, creativity, development and practice of practical, artistic, literary, musical, plastic, technical skills, as well as maintaining proper physical and mental tone.

Regarding the time allocated to the daily walk, the data were included in paragraph 93.

**Para. 89, 90 and 91 of the CPT Report**

As of 31.01.2022, there were 23,010 people (21,993 men and 1,017 women) in the units subordinated to the National Administration of Penitentiaries.

The situation of prison population according to the duration of the penalties / sanctions applied by the courts is as follows:

**Annex C2**

Type of sanction/Duration	Under 1 year in prison	1 - 2 years in prison	2 - 5 years in prison	5 - 10 years in prison	10 - 15 years in prison
Total applied sanctions	584	2053	7724	5214	2048

  

Type of sanction/Duration	10 - 15 years in prison	15 - 20 years in prison	Over 20 years in prison	Detention for life	Total
Total applied sanctions	2048	1084	893	190	19790

Type/Duration of sanction	under 1 year	1 - 2 years	2 - 5 years	5 - 10 years	10 - 15 years	Over 15 years	Total
D.C.	9	39	131	49	37	3	268

Type/Duration of sanction	under 1 year	1 - 2 years	2 - 5 years	Total
E.C.	69	116	41	226

At the same time, 1,872 people were remanded in custody and 854 were convicted by the decision of the first instance.

Analysing the way of putting into practice the maximum security regime, compared to the closed one, it should be emphasized that both were designed so as to encourage behaviours, attitudes and skills that contribute to social reintegration, the difference between them being given by the way of granting rights based on freely agreed discipline in order to exercise in good faith the freedoms conferred on them. We mention for

example the granting of the visiting right, the duration of which is the same for both categories, the only difference being the periodicity of granting this right: 3 visits / month, in case of maximum security and 5 visits per month in case of closed regime. The application of the maximum security regime does not imply the application of immobilization means or the adoption of increased security measures, which would exceed the proportionality of the factual situation, generated only by the inclusion of the convicted person in this execution regime. In all cases, the use of immobilization means is permitted only if other measures to maintain the order and discipline of the inmates have been insufficient, so that any activity carried out with convicted persons can be carried out safely.

**In 2021, the average number of convicted persons since the beginning of the year was 22,565. Of these, a percentage of 21.64% out of the total number of inmates in custody were selected and assigned to work, and in nominal terms there was an increase of approximately 220 convicted persons / month (from 4,664 in 2020 to 4,884 in 2021).**

In 2021, the educational activities and programs, psychological assistance and social assistance offer was completed with two activity projects aimed at capitalizing on the practical skills of inmates and developing an appropriate attitude towards work (the projects "Training in a trade through practical activities" and "Education through work"). The activities have a general addressability and imply the involvement of convicted persons during several sessions, both in theoretical and practical activities.

Also the **Project of the Campaign to raise awareness of persons deprived of liberty to capitalize on their own resources** was developed and implemented in the prison units, it aims to increase the chances of assuming a responsible lifestyle and adopt prosocial attitudes.

In order to increase the chances of social inclusion, the content of the **Prison Release Preparedness Program** has been revised, which, in addition to the information provided, also aims to develop their capacity to capitalize on their own resources as well as those of the Community. The program also includes activities that involve the use of IT equipment and the search / access to information / services via the Internet.

In order to ensure a diverse and complex character of the informational contents intended for the beneficiaries of the measures taken, in 2021, five (5) psychological assistance modules were developed, which are used independently. These modules present different therapeutic approaches and are organized within the Specific Psychological Assistance Program to reduce aggressive / violent manifestations.

The inhomogeneous representation of inmates' participation in programs and activities is also due to subjective factors: the design of the detention space, access to human and material resources, the level of socio-economic development of the penitentiary insertion area, the management of local activities, etc. At the systemic level, there is a continuing concern in regard to increasing the involvement of convicted persons who are serving sentences under restrictive regimes in activities that facilitate social reintegration.

In order to ensure the human resource, during the first half of this year, several sessions were organized to employ staff for specialized positions in the field of social reintegration such as education officer and education agent, psychologist, social worker and priest.

Compared to the period affected by the pandemic context, all the measures implemented at the level of the penitentiary system acceded to the standards applicable at national level established by the authorities, with the priority of limiting infection of the population and maintaining the health of every citizen, including those in prison custody. Thus, the limitation of face-to-face social reintegration efforts, was a consequence of the protection, prevention and social distancing measures, in order to prevent SARS-COV-2 infection and contributed, among other factors, to the decrease of the number of hours spent by inmates outside detention rooms.

In a pandemic context, the prioritized activities of the specialized staff consisted, on the one hand, in the permanent information of the inmates, and on the other hand, in the monitoring of the mood and paying more attention to the vulnerable categories of convicted persons (ex with psychic conditions, at risk of suicide, known as former drug

users or in substitution treatment), at risk for the safety of the place of detention (ex, informal leaders or people with the potential to organize disorderly conduct, people with multiple sanctions disciplinary proceedings), as well as other convicted persons, belonging to risk groups, identified at local level. Consequently, the focus of intervention aimed at providing individual psychological and social assistance, in order to prevent the occurrence of negative events and to preserve the psychosomatic status of inmates.

At the same time, in order to ensure the functional character of the interrelationship, the penitentiary administration capitalized on the alternative means of distance communication, using intensively the online conversations, the use of the radio-TV studio and remote communication technical means, for the organizing school courses, professional training, respectively of the activities organized in partnership with representatives of the community.

In accordance with the relaxation measures decided on the national level, through Action Plans submitted since May 2021, the increase of the possibility of physical participation of persons deprived of liberty in social reintegration activities, carried out in closed spaces, was taken into account. Also, the activities carried out face to face by the collaborators were resumed, including those carried out in the community.

In order to ensure human resources, in the first half of this year, several employment sessions were organized to occupy specialized positions in the field of social reintegration such as officer and education agent, psychologist, social worker and priest.

During 2021, 2,051 convicted persons were included in information and professional counseling activities, respectively work mediation, steps taken by prisons in collaboration with specialized staff, employment agencies or service providers in the public or private sector.

## **Para.92 of the CPT Report**

According to art. 34 of Law no. 254/2013, the maximum security regime initially applies to persons sentenced to life imprisonment and to persons sentenced to imprisonment for more than 13 years, as well as to those who present a risk to the security of the penitentiary.

Exceptionally, the nature and manner of the offense as well as the person of the convicted person may lead to the inclusion of the convicted person in the immediately lower enforcement regime as a degree of severity (closed regime - exceptionally).

The maximum security regime does not apply to the following convicted persons:

- a) who have reached the age of 65;
- b) pregnant women or those who are caring for a child up to one year of age;
- c) persons classified in the first degree of disability, as well as those with severe locomotor disorders.

The following criteria shall be taken into account in determining the inmate's risk to the security of the prison:

- a) committing the crime by using firearms or by cruelty;
- b) escape or desertion from the work space in the present sentence or in the previous sentences;
- c) attempted escape, forcing of security devices or destruction of security systems;
- d) unjustified failure to be present of the inmate at the date and time established by the permission to leave the penitentiary;
- e) the introduction, possession or trafficking of weapons, explosive materials, drugs, toxic substances or other objects and substances that endanger the safety of the penitentiary, missions or persons;
- f) instigating, influencing or participating in any way in the production of riots or hostage-taking;
- g) membership in organized crime groups, coordination of criminal or terrorist activities;
- h) acts of violence resulting in personal injury or death against staff or other persons;
- i) information on the psychosocial profile resulting from the evaluations established by the regulations in force.



The initial risk assessment of inmates to the security of the penitentiary is carried out by the Commission for the establishment, individualization and change of the execution of custodial sentences regime, with the occasion of the individualization and establishment of the execution regime.

## **Para.93 of the CPT Report**

Applicable law provides that every convicted person shall be allowed to walk in open air for at least one hour on a daily basis, depending on the regime of execution of the custodial sentence.

The law on the execution of sentences and custodial measures ordered by the judiciary during criminal proceedings establishes the minimum walking time that prisons must provide to convicted persons, and the administration of the units will maximize this walking time, depending on architectural possibilities.

Within these coordinates, the National Administration of Penitentiaries carried out a consultation of all penitentiary units on the possibility of introducing in the legislation the obligation of detention places to ensure the right to daily open air walk for at least 2 hours for all categories of persons deprived of liberty. From the analysis of the answers, it resulted that the infrastructure of the units and the lucrative activities carried out by the detained persons do not allow ensuring the right to a daily walk of at least 2 hours for all categories of persons deprived of liberty, in all places of detention.

In order to ensure a diverse and complex character of the informational contents intended for the beneficiaries of the approaches, in 2021, five (5) psychological assistance modules were developed, which are used independently. These modules present different therapeutic approaches and are organized within the Specific Psychological Assistance Program to reduce aggressive / violent manifestations.

According to Law no. 254/2013 on the execution of sentences and custodial measures ordered by the judiciary during criminal proceedings, with subsequent amendments, inmates in maximum security regime, carry out educational programs and activities, psychological assistance and social assistance, individually or in small groups, in designated places, under continuous supervision.

Inmates in the maximum security regime who do not work or do not participate in school training or vocational training activities carry out, within a minimum of 3 hours per day, walking, educational activities, psychological assistance and social assistance, sports and religious activities, according to the provisions of the Law no. 254/2013 enforcement regulations, with subsequent amendments.

Convicted persons classified in the maximum security regime have access to the activities and education programs, psychological assistance and social assistance provided in the Offer available at the place of detention, according to the recommendations registered in the Individualized Plan, taking into account the needs and resources identified based on the multidisciplinary evaluation.

In compliance with the disciplinary requirements, at the level of the units in the penitentiary administration system, the organization of indoor workplaces or occupational workshops is encouraged, so that the maximum security inmates spend as much time as possible outside the detention rooms, creating the premises for their progression to a less restrictive regime, as well as the preparation for their prison release and reintegration into society.

Activities outside the detention rooms contribute to the promotion of their physical and mental health, the development of self-esteem and a sense of responsibility, as well as the adoption of an attitude and competence to help inmates avoid disciplinary misconduct and committing new crimes.

## **Para.94 of the CPT Report**

The risk criteria and procedure are stipulated in articles 27-29 of the Law no. 254/2013 on the execution of sentences and measures ordered by the judicial bodies during the criminal trial, approved by Government Decision no. 157/2016 Implementing regulation.

In the Regulation on the safety of detention places subordinated to the National Administration of Penitentiaries, approved by the Order of the Ministry of Justice no. 4800/2018, have been included, in accordance with the jurisprudence of the European Court of Human Rights, **the provisions regarding the periodical analysis of the security measures ordered by the administration of the detention place towards the persons in custody, as follows:**

*Art. 110 - (1) - The supervisors carry out the removal of the inmates from their rooms, in order to carry out the activities in the daily program.  
(...)*

*(6) Periodically, but not later than 7 days from the application date or from the last analysis date, the situation of the persons for whom it was ordered to apply the means of immobilization inside the detention place, on the occasion of removal from the room, shall be reconsidered by the head of the detention section. After consulting the psychologist and the educator of the section, he/she proposes the cessation/maintenance/modification of the applied safety measures. The analysis is made for each inmate and includes the legal, disciplinary situation, the reason for applying the means of immobilization, the way of application on the routes and, for the activities in which they are involved, the proposals for the cessation/maintenance/modification of the applied security measures. The head of the security service keeps them.*

The internal rules do not allow the use of inmates who pose a risk to the safety of the prison to household activities necessary for the unit. Thus, at the level of the detention places is analysed the possibility to involve them in services supply activities, inside the prison, in spaces provided with safe closure devices and under permanent supervision.

#### **Para.95 of the CPT Report**

The National Administration of Penitentiaries continues the steps to ensure the professional independence of medical services, an aspect that will also be highlighted at the level of legislative provision. Such a proposal is already included in the draft of the *Joint Order of the Minister of Health and the Minister of Justice on the activity of providing medical assistance, treatment and care to persons deprived of liberty in the places of detention subordinated to the National Administration of Penitentiaries* [art.4, para.( 1) of the project].

Also, in the same draft order, the attribution of the specialized structure of the National Administration of Penitentiaries, regarding the collaboration with the Ministry of Health and its decentralized units is also underlined [art.2, para. (1) of the draft).

#### **Involvement of the Ministry of Health:**

Following the collaboration between the National Administration of Penitentiaries and the Ombudsman, in September 2021, the Office of the Ombudsman issued to the Ministry of Health a *recommendation (Recommendation 142) for the observance of the right to health protection of the inmates, by the medical staff in the public health system*. By address no. 1099/2021, the Ministry of Health informed the Ombudsman, an institution that subsequently informed the National Administration of Penitentiaries that the Ministry of Health had followed this recommendation. Thus, the Ministry of Health has brought to the attention of all public medical units the obligation to respond to the requests made by the institutions subordinated to the Ministry of Justice, regarding the provision of medical assistance services for persons deprived of liberty.

## Para.96, 97, 98 and 99 of the CPT Report

Regarding the lack of staff in the **medical sector**, in the aforementioned prison units, we would like to mention that, between 16.09.2020 - 31.01.2022, the National Administration of Penitentiaries has put up for competition, from external source, a number of 57 positions, as follows:

### CRAIOVA Prison

- 2020 - 4 doctor positions and 4 medical assistant positions
- 2021 - 7 doctor positions and 2 medical assistant positions

### GALAȚI Prison

- 2020 - 1 post of doctor and 1 post of agent
- 2021 - 3 doctor positions and 1 medical assistant position

### GIURGIU Prison

- 2020 - 4 doctor positions and 3 agent positions
- 2021 - 10 doctor positions and 4 medical assistant positions

### MĂRGINENI Prison

- 2020 - 2 doctor positions and 4 agent positions
- 2021 - 7 doctor positions

The evolution of the medical sector staff in the 4 prison units:

### Annex C3

Prison	31.12.2020	31.05.2021	31.01.2022
Craiova	11	14	17 (one of which is a psychiatrist)
Giurgiu	17	17	13 (4 in the competition/framing procedure)
Galați	13	13	15
Mărgineni	12	12	16 (do not have a psychiatrist)

The human resources policy of the prison system, related to the field of medical services, aims to apply a periodic/continuous procedure for the recruitment of vacancies in the medical sector, also involving the Ministry of Health in this recruitment and organization process. Thus, with the approval of the Ministry of Health, it is ensured the publication vacancies for doctors in the prison system, in the specialized magazine "Medical Life", under the coordination of this ministry. The last appearance dates from 19.11.2021 - publication of 98 posts for doctors of different specialties.

In accordance with the provisions of the Minister of Justice Order no. 5123/C/14.12.2018 the state of organization of Giurgiu Prison was supplemented with a number of 40 positions (2 officers and 38 agents), which were distributed in the Detention Security and Prison Regime Sector.

## Para.100 and 101 of the CPT Report

In the executorial-criminal legislation there are provisions regarding the provision of emergency medical assistance to inmates, art. 35, para. (1) and para. (2) of the Joint Order of the Minister of Justice and the Minister of Health no. 429/C-125/2012 on providing medical assistance to inmates in the custody of the National Administration of Penitentiaries:

*"(1) Medical-surgical emergencies shall be presented to the medical office immediately, where the doctor and/or the nurse shall take the necessary measures within their competence.*

*(2) The medical-surgical emergencies that cannot be resolved in the unit shall be presented to the nearest hospital unit, with the notification of the prison management about the arisen situation, in order to ensure the necessary means of transport and escort or, as the case may be, by calling the county ambulance service".*

The National Administration of Penitentiaries is considering the elaboration of an internal mechanism (in the form of an IT application), by which the persons in detention can submit applications directly to the medical department, without them *being managed by the staff of the operative sector.*

About the CPT recommendation regarding the purchase of a defibrillator, nebulizer and oxygen, as well as of an ECG device by each unit, we mention that, in 2021, was issued the Decision of the General Director of the National Administration of Penitentiaries no.1017/2021 on the arrangement of the medical offices in the prison system. By this normative act, each medical office will be equipped with the necessary medical equipment, according to the standards in force. The implementation of the measures provided for in the aforementioned Decision extends over a period of 3 years.

For 2022, the following steps are in progress:

- setting the nature of the works to be carried out for the mandatory minimum arrangement of the medical offices in relation to the Standards approved by the Ministry of Health;
- identifying the equipment and medical equipment that may be the subject of a centralized purchase, drawing up of the technical specifications for them and the concluding the framework agreements.

### **Para.103 of the CPT Report**

Concerning the preventive approaches of the inmates medical assistance, we mention the extension of the screening programs to increase the access to treatment of the inmates infected with AIDS, HBV and HCV, respectively to reduce the complications caused by these infections, which can evolve to *cirrhosis, cell carcinoma*, or may even result in the death of the patient. Thus, between January and September 2021, a series of activities were carried out, such as:

- Based on the collaboration protocol with the Bucharest University Emergency Hospital - *focused on continuing the screening project for detecting C hepatitis at the level of the inmates in custody (started in 2020)* - screening actions were carried out in 7 prison units. Activities will continue throughout 2022.
- Based on the collaboration protocol with the Institute of Virology "Ștefan S. Nicolau", a screening program for the prison population considered at risk for infection with hepatitis B virus is underway, respectively for persons deprived of liberty confirmed with HIV infection (*possible former injecting drug users IV, people with sexual behaviour at risk, people with tattoos, etc.*).
- Based on the collaboration protocol with the Marius Nasta National Institute of Pulmonology, which aimed at diagnosing pulmonary tuberculosis among vulnerable populations, screening activities were carried out in 15 prison units.

During 2021, through the above-mentioned collaboration protocols, approximately 10.500 screening tests were carried out among inmates.

Starting with January 2021, at the level of the Ploiesti-Târgșorul Nou Women Prison, a doctor in the gynaecology specialty started his activity, so that the recommended medical evaluation will be ensured.

Inmates benefit from all national vaccination prevention programs run by the Ministry of Health, so that at the time of carrying out vaccination campaigns against Hepatitis A and B, inmates will also fall into the category of beneficiaries.

## **Para. 104 of the CPT Report**

In the framework of the collaboration protocol concluded (on 04.12.2015) between the National Administration of Penitentiaries and the National Institute of Forensic Medicine "Mina Minovici", the National Administration of Penitentiaries will submit a request to the National Institute of Forensic Medicine "Mina Minovici" for the development of training courses for the medical staff in the prison system.

Medical staff always examine inmates involved in physical assaults, recording the found injuries in a specially designated register, called the Traumatic Injuries Register. Each position (current number) in the Traumatic Injuries Register corresponds to an Information Note, which details the found injury both by a morphological description and by an annex containing the topographic representation of possible traumatic signs, the predefined topographical anatomical sketches, as provided in *the Istanbul Protocol and the Minnesota Protocol*. This medical information, corroborated with the information regarding the circumstances of the event occurrence, serve to draw up the immediate notification of the facts, to the territorial unit of the prosecutor's office and to inform the judge for supervising the deprivation liberty, regarding the incident resulting in traces of bodily violence.

This procedure was forwarded in the form of instructions sent to the subordinated units by address No. 65990/DM/21.12.2017, and periodically it is reiterated the need to observe the aspects regarding the findings of injuries/traces of violence/physical aggressions. These aspects will be distinctly highlighted in the following executorial-criminal legislative drafts.

Also, if the inmate does not declare the physical aggression, but the injuries found are suggestive of possible aggression, the procedures described above regarding the referral to the territorial prosecutor's office are followed.

**We recall the approach of the National Administration of Penitentiaries regarding the implementation of the operational room. Implementation of the operational room at the NAP level.** Through this mechanism, the specialist officers check all the incidents produced in the subordinated units, the way in which have been managed, the captured video images and the compliance of drawn up the documents. It is also checked the way in which the documents where the traces of aggression are highlighted and the conformity of the recording operations are filled in.

If the convicted person accuses violence or shows traces of violence, he or she has the possibility to request to be examined by a forensic doctor. The forensic certificate is attached to the medical record, after the inmate has become aware of its contents, under signature. If the applicant does not have amounts of money recorded in his personal account or in the nominal accounting sheet, the prison administration bears the expenses incurred due to the medical examination, which will be recovered later during the sentence execution, when the convicted person will have amounts available in his personal account or in the nominal accounting sheet.

## **Para. 105 of the CPT Report**

In order to fulfil this recommendation, the National Administration of Penitentiaries has taken the necessary steps to the Ministry of Health and the National Institute of Forensic Medicine "Mina Minovici", in order to analyse the need to amend the legislation on the organization of the activity and the functioning of forensic institutions (Government Ordinance no.1/2000).

The correspondence with the Ministry of Health regarding the request for support for the analysis of the possibilities to fill and amend the legislation in force in the field was initiated by the address no. 24354/10.02.2022 of the NAP.

## **Para. 106 of the CPT Report**

Given the applicable national regulations, it is not possible to dispense with paper-based medical records at this time. The evidence of the administration of the treatment/investigations, etc. are made in separate registers, similar to the procedures of the national health system. In addition, the coroner/prosecutor's office requires only paper documents (these being the only ones considered forensic documents).

Currently, the software used to record the inmates in the Romanian penitentiary system (PMSWeb) is being modernized and developed. This application contains a medical module that allows the use by specialized personnel of modern tools for managing the medical situation of custody persons. In this module, the patient's medical data are recorded: medical consultations, hospital admissions, diagnoses, recommended treatment, prescribed treatment, recommendations, addictions, etc.

## **Para. 107 of the CPT Report**

Inmates were consulted on a confidential basis; there is a positive therapeutic relationship between the doctor and most patients; the presence of the security staff was only requested if the inmate consulted posed a risk to any of the categories of personnel in the penitentiary or to the other inmates. However, if the medical staff requests the presence of security personnel, they do not get involved and do not influence the medical act. These exceptions take into account the observance of the patient's privacy by any means. In addition, there were no situations in which the supervisory staff of the penitentiary units to require and exerted pressure on the medical staff to determine them to perform medical examinations in their presence.

The legislation in force provides, in order to protect the medical staff, the possibility of requesting the presence of non-medical staff, in case of examination of an inmate classified in a degree of risk. The security personnel are subject to the legislation on confidentiality compliance, including if they carry out the surveillance activity during the medical act.

In order to reiterate the need to respect the confidentiality of the medical act, the National Administration of Penitentiaries will retransmit, to the penitentiary units, the necessary instructions in this regard.

If the medical staff intervenes to remove a condition or situation that has the potential to negatively affect the life or health of the convicted person, but it threatens to self-harm, to exert violence against other persons or to resort to other violent manifestations, the medical act is interrupted, in order to take the necessary measures to ensure personal safety.

The inmates are granted the right to medical assistance when incarcerated, as well as during the execution of the custodial sentence whenever necessary, at the request of the convicted person and at the request or recommendation of the doctor. A special attention is paid to the obvious signs of aggression, in which case the medical staff has the obligation to record in the medical record the findings and the statements of the convicted person in relation to them or to any other aggression and to immediately notify the prosecutor, informing the director of the penitentiary.

## **Para. 108 of the CPT Report**

In order to reiterate the need to respect the confidentiality of the medical diagnosis, the NAP will retransmit, to the penitentiary units, the necessary instructions in this regard.

Persons deprived of liberty with mental disorders benefit from specialized treatment according to the indications of the attending physicians (both those in the public health network and those in the penitentiary sanitary network), according to the legislation in force. The distribution of the treatment is carried under the strict supervision of the

medical staff, on which occasion the patient can communicate possible changes in the state of health.

## **Para. 109 of the CPT Report**

The National Administration of Penitentiaries mainly aims to fill the vacancies of doctors in the psychiatric specialty by continuously initiating hiring procedures. However, similar to the problematic situation faced by the public health network, the shortage of staff in the field of psychiatry is still experienced at the level of the penitentiary system. The National Administration of Penitentiaries will continue all the necessary steps to ensure psychiatric assistance.

In order to improve psychiatric care provided to persons deprived of their liberty, the National Administration of Penitentiaries implements, in partnership with the Council of Europe, the Project "Strengthening the provision of health care and mental health care in Prisons in Romania", with a duration of 24 months (2022-2023) and a budget of 440,000 euros. The objectives of the project are aimed, on the one hand, at developing a strategy/policy document on human resources, in order to attract medical staff to work in the penitentiary system, as well as at formulating recommendations on improving the regulatory framework for the provision of medical care in the penitentiary system. In addition, the project activities will aim to develop the capacity of medical and non-medical staff to provide medical care to patients suffering from mental health problems, with specific working protocols being developed for the treatment of inmates.

The situation of employment with doctors in the specialty of psychiatry - 18 psychiatrists:

- NAP / MSD - 1 doctor
- Jilava Hospital Penitentiary - 3 doctors
- Rahova Penitentiary Hospital - 1 doctor
- The Mioveni Hospital Penitentiary - 2 doctors
- Poarta Albă Hospital Penitentiary - 2 doctors
- The Târgu Ocna Hospital Penitentiary - 1 doctor
- The Bucharest Jilava Penitentiary - 1 doctor
- Bucharest Rahova Penitentiary - 1 doctor
- Galați Penitentiary - 1
- Iași Penitentiary - 1
- Craiova Penitentiary - 1
- Timișoara Penitentiary - 1
- Bistrita Penitentiary - 1 doctor
- Botoșani Penitentiary - 1 doctor

During 2021, 4 psychiatrists were employed.

## **Para. 110 of the CPT Report**

Please note that the necessary measures were taken at the time of the visit.

*Shortly after, more precisely on 26<sup>th</sup> of May 2021, the inmate referred to in the CPT Report was released upon the expiry, within the deadline, of the execution mandate.*

At the end of 2021, 4.333 inmates with psychiatric pathology were in the custody of the Romanian penitentiary system.

The permanent concern for the provision of current medical assistance according to the recommendations of the specialized doctors (both those in the public health network and those in the penitentiary sanitary network) led to the approval and publication in the Official Gazette of the Decision of the Director General no. 1066 of 23.11.2021 on the endowment of infirmary rooms, separation rooms or transit rooms, *as well as the improvement and endowment of protection rooms for individual accommodation of vulnerable persons deprived of liberty.*

Moreover, as a strategy to address the cases of patients with mental disorders, a strategy for managing cases of aggressive behavior has been implemented at the level of the system, which implies a more applied collaboration between medical structures, social reintegration and security.

## **Para. 111 of the CPT Report**

The Administration of the Craiova Penitentiary made every effort to pay special attention to inmates with mental illnesses. In this respect, at the doctor's order, the inmates with such conditions were admitted to the infirmary of the unit, when their health condition required better monitoring and medical treatment.

At the same time, it should be noted that the administration of the detention place took steps to hospitalize the inmates, with serious mental disorders, in hospitals in the public network, in cases where the evolution of the state of health required specialty assistance. In addition, starting with 01.11.2021, the Craiova Penitentiary employed a psychiatrist who provides specialized medical assistance.

The commission of experts in psychiatry set up at the level of the NAP found that the 34 inmates did not have serious psychiatric disorders that require supervision and special therapeutic conduct. Steps were taken to transfer them, depending on the execution regime, to penitentiary units where Family Medicine/General Medicine staff is hired, which can manage such cases professionally and which continues, according to the legislation in force, the connection with the public health network in the field of psychiatry.

## **Para. 112 of the CPT Report**

The modernization of the executorial-criminal legislative framework brought to the penitentiary system a new way of protecting the life and integrity of the persons deprived of their liberty by staying in the protection room.

In this respect, the director of the detention place may order, based on the information of the staff directly involved in activities with the inmate, accommodation in the protection room if there is an imminent danger of one of the following events:

- a) Self-harm or suicide;
- b) Injury to another person, if there is no possibility of separating him or her;
- c) Destruction of property or serious disturbance of order.

Accommodation in the protection room is carried out for a maximum period of 24 hours. While staying in the protection room, the inmate receives psychological counsel. Before the expiry of the 24 hours, the doctor and the psychologist draw up a report on the medical condition, conduct and conclusions regarding the psychological behavior of the respective person, which they submit to the director of the penitentiary. During the accommodation in the protection room, the medical staff have the obligation to assess their condition, whenever necessary, but not less than once every 4 hours monitor the inmate. The surveillance staff monitors the inmates temporarily accommodated in the protection room by observing the physical and mental state and informing the responsible factors about the possible deterioration of the health status or the imminent occurrence of negative events.

**In exceptional cases, when other steps or measures ordered at the level of the place of detention have not resulted, immobilization is used, in an accommodation room where there are no other inmates, in order to protect the life of the immobilized person or other inmates, or to prevent the occurrence of major damages. *This measure represents the last step, in exceptional situations, in which the inmate does not respond positively to the efforts made to return to the state of order and discipline.***

**The medical restraining procedure** - starting with 01.03.2022, will be carried out exclusively by implementing the new procedure approved at the level of the National Administration of Penitentiaries.

**Therefore, for exceptional cases, when other actions or measures failed, the contention of the persons deprived of liberty will be carried out *only* under permanent**



supervision, in an accommodation room located in the spaces allocated to the medical infirmary, taking into account the protection of the life of the contented person.

## Para.113 of the CPT Report

The persons deprived of liberty for whom condoms are provided *exclusively to those who benefit from intimate visitation*.

At the same time, the syringe exchange program was carried out at the level of the penitentiary units between 2008 and 2011. After this moment, there were no further requests from persons deprived of their liberty for entry into this program.

As regards the methadone substitution program, during 2021, 131 persons deprived of their liberty in custody by the Romanian penitentiary system benefited from this program. Currently, a number of 94 inmates (in custody of P. Găești, Târgșor, Tulcea, Rahova, Giurgiu, Jilava, Mioveni and Aiud prisons and Tg. Ocna, Jilava prison hospitals) benefit from this program, under the coordination of the Bucharest Rahova Hospital Penitentiary. Also, 12 penitentiary units (P. Iași, P. Botoșani, P. Codlea, P. Tg. Mureș, P. Ploiești, P. Craiova, P. Mărgineni, C.D. Tichilești, C.D. Buziaș, C.D. Craiova, P.Sp. P. Albă, P. Sp. Dej) were trained in order to provide the substitution treatment, thus covering all the execution regimes and all categories of persons in custody. At the same time, the existing protocol of collaboration with the National Antidrug Agency allows periodic training of the medical staff in order to provide this type of treatment.

Out of the over 2100 general searches, but also determined by the capitalization of some information, high-risk drugs (heroin, cocaine, LSD, etc.) were NOT discovered. At the same time, we mention that in the penitentiary system there were NOT registered cases of overdose with death or serious illness caused by the use of such drugs, which leads to the conclusion that the phenomenon of trafficking in narcotic substances is kept under control.

However, in 2021, 258 cases were registered in which substances of unknown origin were discovered, without being confirmed in laboratory tests as belonging to the category of prohibited substances, within the meaning of the law.

## Para.114 of the CPT Report

According to the law, if the convicted person is serving a sentence of imprisonment or maximum security, the head of the department shall order his accommodation in the infirmary or in another detention room, *alone or with other people in the food refusal procedure, for close supervision and medical monitoring*, without food and tobacco.

If the convicted person is serving a custodial sentence in the semi-open or open regime, the head of the department shall order his accommodation in the infirmary, *for close supervision and medical monitoring*, without food and tobacco.

At the place of detention, different categories of staff are involved, within the limits of their competences, in resolving the issues for which inmates resort to the form of protest of refusal of food. Within this procedure, the purpose of accommodation is to ensure close supervision, monitoring and provision of medical care, as well as the provision of education and psychosocial assistance services through individual counselling.

## Para.115, 116 and 117 of the CPT Report

On 16.09.2020 it was published in the Official Gazette of Romania no. 850/2020 Law no. 203/2020 for the amendment and completion of Law no. 55/2020 on some measures to prevent and combat the effects of the COVID-19 pandemic, according to which, competitions may be held to fill vacancies or temporary vacancies in institutions that are part of the national system of defence, public order and national security, as a result, The National Administration of Penitentiaries has the legal basis to initiate steps to fill vacancies in the penitentiary administration system.

To reduce the shortage of staff within **operating sector**, from the Craiova, Galați, Giurgiu and Mărgineni penitentiaries, between 16.09.2020 - 31.01.2022, the National Administration of Penitentiaries put out for competition, from an external source, a number of 237 agent positions (operative), as follows:

**CRAIOVA penitentiary**

- 2020 - 21 positions

**GALATI penitentiary**

- 2020 - 19 positions
- 2021 - 27 positions

**GIURGIU Penitentiary**

- 2020 - 42 positions
- 2021 - 97 positions

**MARGINENI penitentiary**

- 2020 - 24 positions
- 2021 - 52 positions

Also, in the years 2020 and 2021, a number of 83 graduates assigned from the “A.I. Cuza” Police Academy in Bucharest and the National Training School for Penitentiary Officers in Târgu Ocna were appointed within the operative sector of the above-mentioned penitentiary units., as follows:

**CRAIOVA penitentiary**

- 2020 - 10 graduate agents

**GALATI penitentiary**

- 2020 - 10 graduate agents
- 2021 - 2 graduate officers and 4 graduate agents

**GIURGIU Penitentiary**

- 2020 - 18 graduate agents
- 2021 - 2 graduate officers and 19 graduate agents

**MARGINENI penitentiary**

- 2020 - 1 graduate officer and 7 graduate agents
- 2021 - 10 graduate agents

In accordance with the legal provisions in force, the penitentiary police officers newly recruited in the 4 units attended vocational training courses, which ensure the acquisition, development or completion of knowledge, skills or professional competencies specific to the penitentiary system and the position in which they were named. Thus:

**Mărgineni Penitentiary**

- 19 agents in the sector of security of detention and penitentiary regime (16 introductory courses and 3 refresher courses);
- 4 agents from the economic-administrative sector (3 introductory courses and 1 refresher course);
- 1 officer from the economic-administrative sector (introductory course);
- 3 agents in the medical sector (2 introductory courses and 1 refresher course).

**Galati Penitentiary**

- 19 agents in the sector of security of detention and penitentiary regime (18 introductory courses and 1 training courses);
- 6 agents from the economic-administrative sector (3 introductory courses and 3 advanced courses);
- 1 agent in the information and communication technology sector (introductory course).

**Giurgiu Penitentiary**

- 41 agents in the sector of security of detention and penitentiary regime (36 introductory courses and 5 refresher courses);
- 7 agents from the economic-administrative sector (4 introductory courses and 3 advanced courses);
- 1 officer from the economic-administrative sector (training course);

- 3 agents in the medical sector (1 introductory courses and 2 refresher courses);
- 1 agent in the information and communication technology sector (introductory course);
- 3 officers from the social reintegration sector (introductory course).

#### **Craiova Penitentiary**

- 21 agents in the security sector of detention and penitentiary regime (19 introductory courses and 2 refresher courses);
- 3 agents from the economic-administrative sector (1 introductory courses and 2 advanced courses);
- 3 agents in the medical sector (1 introductory courses and 2 refresher courses);
- 3 officers from the medical sector (training courses).

It is envisaged that all newly recruited prison police officers (approximately 1000 people) will attend such courses.

Compared to the beginning of 2021, at this time, the increase in the number of staff in the penitentiary administration system is about 1050. We estimate that by August 2022, the number will reach 13500, which will represent the largest number of employees in the history of the penitentiary system, the maximum number previously reached being approximately 13,000 in 2018.

#### **Para. 118 of the CPT Report**

Regarding the endowment of the staff, we highlight the defensive character, which is imposed by an equipment in accordance with the provisions *Detention Safety Regulations* in the escort service, moreover, it confers the element of physical security in the service, on the one hand, and establishes in the visual and psychological field the discouraging factor, on the other hand. The relationship between the two components is likely to contribute both to the physical security of the staff and to their mental comfort in contact with inmates.

**The NAP has taken note of the issue under consideration at this point, and the care of the specialized directorate will take into account the recommendation made, so that to the new national and international requirements, so that the sticks in the current equipment are no longer visibly exposed to the supervising agent, given the reduced utility.**

#### **Para. 119 of the CPT Report**

Regarding the steps taken by the National Administration of Penitentiaries, undertaken to balance the ratio staff / persons deprived of liberty, so as to ensure adequate specialized assistance, we mention that the year 2021 has been modified and *completed the Decision of DG NAP no. 348/2016 regarding the approval of the Staff Standards by fields of activity and categories of penitentiary units, by the Decision of DG NAP no. 898/2021*, in the sense of revising the criteria for allocating the positions of psychologist and social worker in closed and maximum security penitentiaries, from 1 psychologist / social worker to 200 inmates, to 1 psychologist / social worker to 150 inmates.

Regarding the staff shortages in the social reintegration sector in Giurgiu Penitentiary, between 16.09.2020 - 31.01.2022, the National Administration of Penitentiaries put out to competition, from an external source, a number of 8 positions, as follows:

- 2020 - 5 positions of psychologist and 2 positions of social worker;
- 2021 - 1 post of priest.

On 02.02.2022, the final results of the contest for the priest were published. At the Giurgiu Penitentiary, the candidate was declared admitted.

Currently, at the level of Giurgiu Penitentiary, 24 positions are occupied (9 in the field of psychosocial assistance). Of these, 4 positions of psychologist and 2 positions of social

worker were hired from external sources, following the completion of competitions organized between October 2020 - April 2021.

The wearing of the service uniform for staff in the social reintegration sector was considered during the state of emergency and alert, in the context of COVID-19. This measure is no longer an obligation for social reintegration staff. Moreover, the rule applicable to this sector of activity does not concern the wearing of the service uniform.

## **Para. 120, 121, 122 and 123 of the CPT Report**

The National Penitentiary Administration does not tolerate inappropriate behaviour by staff members and completely prohibits the imposition of any person serving a sentence or other measure of deprivation of liberty on torture, inhuman or degrading treatment or other ill-treatment. In the event that the penitentiary administration becomes aware of a possible abuse by the staff, it has the obligation to notify the competent bodies in order to investigate the event in all aspects.

According to the relevant provisions in force, the activities with persons deprived of liberty that pose a risk to the detention security are carried out with the presence of an increased number of staff members, which is a benchmark for the workload and complexity of the activity of these structures.

As a result of the notifications reported to the Craiova and Giurgiu penitentiaries, the National Administration of Penitentiaries ordered the performance of checks in this regard.

According to the current provisions, the intervention structures are found in the penitentiary offices with a coordinating role within a geographical region, the penitentiaries guarding inmates included in the category of those who pose a risk to the penitentiary security, inmates classified in maximum security, closed and remanded in custody. Also, the intervention structures are found in the penitentiaries that guarded over 1000 inmates classified in semi-open and open regime (e.g. Bucharest - Jilava Penitentiary).

## **Need for the existence of these intervention structures:**

The intervention structures, respectively the associated structures for special security, coercion and control measures, represent a specialized structure, composed of penitentiary staff who have specific skills and competences to use the means and techniques of immobilization, having the role of intervening, through specific actions, to restore order and discipline in the penitentiary, combat the violent actions of inmates, as well as other missions necessary to maintain a safe climate in prisons and is a guarantee of professional intervention in resolving incidents, preventing possible abuse.

The National Administration of Penitentiaries analyses and pilots ways to reorganize the intervention structures at national level, in accordance with: *the current number of inmates, the operational needs of the units, the decision of the Director General on the profiling of penitentiaries subordinated to the National Administration of Penitentiaries, as well as the recommendations made by the CPT regarding the activity of these structures.*

Thus, starting with February 2022, within three penitentiary units (Arad Penitentiary, Aiud Penitentiary and Constanța - Poarta Albă Penitentiary) will be piloted a way of organizing and functioning of intervention structures whose fundamental principle is to reduce the staff presence of the structures within the detention sector, to the activities carried out with persons deprived of their liberty.

## ***Tasks of the intervention structures under the pilot program of the new organization and operation:***

1. Participates as an incident prevention force at **escorting, accompanying inmates for whom, following an analysis of their situation or the specifics of the activity / mission, approved at the level of the operative sector, additional safety measures are required, as follows:**

- when removed from the detention rooms, when introduced into the detention rooms;
  - on the occasion of visits and purchases;
  - on the occasion of the activities occasioned by the departure / arrival in / from the transfer;
  - at the hearing, at the request of the supervising judge, the educator, the psychologist, the social worker, as well as the person conducting the disciplinary investigation or when there are indications or information on possible assaults on staff or between persons deprived of their liberty;
  - on the occasion of escort missions outside the place of detention;
2. Participates in the resolution of operational incidents for which they are alerted and for which immediate intervention is required;
  3. Participates as an incident prevention force in the embarkation / disembarkation activities of inmates, on the occasion of escort missions carried out outside the detention sector;
  4. Participates as an incident prevention force during escort missions outside the place of detention;
  5. Participate, **with the approval of the National Administration of Penitentiaries**, when resolving operational incidents involving violence between inmates and groups of inmates or incidents that have the potential to become critical, for which specialized intervention is required in order to resolve them.

In order to ensure uniform compliance with the regulatory framework, the provisions of the NAP addresses (no. 2171 / 15.02.2016 and 24211 / 05.02.2014) regarding the use of intervention structures to prevent incidents or on the occasion of their intervention actions were reiterated, so:

- ✓ the hoods represent only an accessory that can be worn under the helmet for the purpose of hair protection, the helmet having the identification number assigned to the wearer. It is forbidden to wear a hood without a helmet;
- ✓ the members of the intervention structure must wear the badges with the assigned identification number, made and applied according to the instructions previously sent.

## Para.124 of the CPT Report

With regard to the wearing of hoods, we reiterate that they are worn by the members of the intervention structures, in compliance with the following two rules:

- a. inside the place of detention, the hood is worn only under the protective helmet, in carrying out intervention actions and other approved activities, in order to ensure a climate of order and safety, as well as to prevent incidents;
- b. during the missions carried out outside the penitentiary, the hood is worn under the bulletproof helmet.

Also, the resolution of incidents involving persons deprived of their liberty involves the legal use of physical force and means of immobilization, and it is necessary to protect the identity and physical integrity of the personnel of the intervention structures acting.

Persons deprived of their liberty have the possibility to notify the competent bodies when they consider that the actions for resolving the incidents have not been legal, being able to easily identify the personnel involved according to the elements mentioned above.

Also, the identification of the intervening personnel is to be carried out on the basis of an identification report.

Regarding the 24-hour program of the members of the intervention structures, they benefit during the night from 4 hours of rest, by alternation, in specially arranged and equipped spaces for recovery.

## Para.125 of the CPT Report

It refers to a (positive) assessment of the correct application of the disciplinary procedure.

## Para. 126 of the CPT Report

Persons deprived of their liberty resort to acts of self-aggression, often in a demonstrative manner, in order to create a state of pressure in the place of detention, in order to obtain some benefits which exceed the rights of persons deprived of their liberty. At the same time, self-aggression has a negative psychological impact on other inmates who follow the rules of discipline during detention.

**Violation of this prohibition and the opportunity to apply a disciplinary sanction, however, can be analyzed in relation to the state of health of each person deprived of liberty, in the sense of the mental illness he suffers from.**

**Therefore, in the sense of the CPT recommendation, the National Administration of Penitentiaries supports the amendment of Law no. 254/2013 on the execution of sentences and custodial measures ordered by the judiciary during criminal proceedings so that persons deprived of their liberty, diagnosed with severe mental illness, not to be disciplined for acts of self-aggression .**

Complementarily, considering the role of guiding of the National Administration Penitentiaries, the address no. 24846 of 11.02.2020, by which it was recommended that the persons in custody, diagnosed with serious mental illness, not to be disciplined for non-compliance with the prohibition provided in art. 82 lit. Ț) <sup>7</sup>of Law no. 254/2013 on the execution of sentences and custodial measures ordered by the judiciary during criminal proceedings . As a positive consequence of the implementation of the CPT recommendation, we show that in 2019, at the level of the four units visited, 631 disciplinary sanctions were applied for 487 people who resorted to self-aggression, and in 2020 350 sanctions were applied disciplinary action for 271 people in custody.

**Regarding the sanction with the suspension of the right to visit, we show that the abrogation of this type of disciplinary sanction , without having another correspondent in the criminal enforcement legislation, could lead to the application of an increased number of disciplinary sanctions with isolation for up to 10 days, the numerical difference between these two types of sanctions being considerable or would lead to the application of lighter sanctions, without any further proportionality between the offense committed and the sanction applied.**

**In the sense of the CPT recommendation, it is possible to proceed to the replacement of this sanction with another one, by modifying the provisions of Law no. 254/2013.**

The repeal of the disciplinary sanction in question, without identifying another sanction to be provided, would produce an imbalance in the sanctioning mechanism and would further aggravate the situation of inmates by the severity of the sanctions that would be applied in its absence (isolation).

## Para. 127 of the CPT Report

The penitentiary in which the convicted person is serving a custodial sentence shall be established by the National Administration of Penitentiaries. When establishing the penitentiary, it is intended that it be located as close as possible to the place of residence of the convicted person, taking into account the regime of execution, **safety measures to be taken** , the identified social reintegration needs, sex and age, according to the provisions of art. 11 para. (5) of Law no. 254/2013.

In these coordinates we show that, based on art. 108 para. 1 lit. is from the Regulation for the application of Law no. 254/2013, approved by Government Decision no. 157/2016, the Commission for establishing, changing and individualizing the enforcement regime makes proposals to the National Administration of Penitentiaries, **in the case of inmates for whom security, order and discipline measures at the penitentiary level are insufficient .**

<sup>7</sup> Convicted persons are forbidden to: [...]

Ț) self-aggression in any way and by any means;

Str. Apolodor nr. 17, sector 5, 050741 București, România

Tel. +4 037 204 1999

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By the Decision of the General Director of the National Administration of Penitentiaries no. 360/2020, the penitentiaries were classified according to the execution regimes, respectively the categories of persons in custody.

**In conclusion, we show that such transfer situations are carried out exceptionally and are generated by the unruly behavior of inmates, requiring custody in another penitentiary with a high degree of security measures, to ensure order and discipline and protect the integrity of other inmates. or staff.**

In the same coordinates, we recall the approach of the National Administration of Penitentiaries through which, in order to optimize and streamline the transfer activity, the IT application was implemented. **TMS (Transfer Management System)** . **The operation of the data in the application does not allow transfers to be made for reasons other than objective, justified, in accordance with the relevant legal rules.**

### **Para.128 of the CPT Report**

The National Administration of Penitentiaries proposes the adoption of the CPT recommendation by amending the Regulation for the application of Law no. 254/2013, approved by Government Decision no. 157/2016, in the sense of changing the way of granting the right to visit. In this context, it will be proposed as a solution to implement this recommendation, the granting of the right to visit without a separation device and in the case of inmates assigned to the closed execution regime, depending on their disciplinary situation. The proposed amendment envisages both the implementation of the CPT recommendation and the development of the progressive / regressive mechanism underlying the Romanian penitentiary system.

### **Para.129 of the CPT Report**

The National Administration of Penitentiaries proposes the adoption of the CPT recommendation by amending the Regulation for the application of Law no. 254/2013, approved by Government Decision no. 157/2016, in the sense of facilitating the access of inmates to this type of audio-video connection with family members or with people with whom they have established strong emotional ties, by reducing the conditions and criteria for granting.

**The activities carried out at the level of the penitentiary system have been adapted to the context generated by the dynamics of the evolution of the national epidemiological situation, the possible temporary measures restricting the exercise of certain rights being taken only to ensure the protection of the right to life, physical integrity and health. As the evolution of the epidemiological situation was favorable, the administration penitentiaries has taken steps to resume the exercise of all rights, the granting of rewards and the conduct of all activities, in compliance with measures of social distancing, measures of prevention and medical safety.**

### **Para.131 of the CPT Report**

The penitentiary system guarantees inmates the opportunity to formulate, **unlimited and unrestricted** , requests, complaints or notifications addressed to any institution that the persons in custody consider to be competent in resolving the issues raised, such as:

- the custodial penitentiary;
- National Administration of Penitentiaries;
- the judge of supervision of deprivation of liberty who has the office and carries out his activity in the place of detention;
- the Ombudsman institution and the National Prevention Mechanism within this institution;
- governmental or non-governmental organizations;
- criminal investigation bodies or courts;
- any other national or international institutions which it considers competent.

In the same note, we show that, at the level of the National Administration of Penitentiaries, within the Penitentiary Inspection Directorate, the **Notifications and Synthesis Service** is organized, whose main task is **solving the complaints addressed to the director general, formulated against the penitentiary policemen, in connection with the way in which the service attributions are exercised or regarding the violation of the deontological norms, through the investigation and detailed analysis of all the reported aspects.**

## **D. Regarding the issues related to detention and pre-trial detention centers (DPDC) within the Ministry of Internal Affairs**

### **Para.9 of the CPT Report**

Regarding the number of persons taken to the police units who were administratively deprived of liberty, under the provisions of art. 36 and art. 40 of Law no. 218/2002, in 2021 and in January of 2022<sup>8</sup>, we submit below an overview compiled using existing statistical data collected by our institution:

- total number of persons taken to police stations: approximately 45.000;
- number of persons taken to the police units who were administratively deprived of liberty for periods longer than 6 hours: approximately 1000 (2.2%);
- number of persons taken to police units who were administratively deprived of their liberty for periods longer than 12 hours: approximately 650 (1.4%).

### **Para.14 of the CPT Report**

Regarding the recommendation to deliver a message of "zero tolerance" towards acts of torture and ill-treatment, the management of the General Inspectorate of the Romanian Police is constantly taking steps to disseminate it, by periodically broadcasting it both through the "Intrapol" network and during operation meetings with the heads of central and territorial structures of the Romanian Police, in order to reach the goals set in regard to observing the fundamental rights and freedoms of the citizens.

As a result of regular training of employees and the reiteration of these messages of "zero tolerance", our personnel is aware and internalizing the demands of the European Court of Human Rights, making every effort to prevent acts of torture or ill-treatment of persons which interact with the police.

We would like to point out that the public relations structures of the Romanian Police are sending out the message regarding the priority given by our institutions' management to preventing and combating cases such as the ones mentioned in your correspondence, involving police officers. The messages are disseminated to the accredited media representatives, posted on the official website, [www.politiaromana.ro](http://www.politiaromana.ro), as well as on social networks and advertised through public appearances of the institution's management, of media officers/spokespersons/other representatives of Romanian Police (press statements, press conferences or briefings, interviews, opinions etc.).

Furthermore, Romanian Police, through its public relations structures, drafts communiqués and other press releases concerning such cases involving police officers, as well as the legal measures taken against them, is demonstrating transparency in communicating information of interest to the public.

Please note that our institution conducts a monthly review of the disciplinary practice of Romanian Police personnel, on which occasion measures such as the following are ordered, designed to prevent disciplinary offenses in our territorial and central units:

- regular refresher sessions on Internal Regulations Policy of the police units, as well as on the legislation in force in the context of the COVID-19 pandemic, namely: *Law no. 55/2020 on certain measures to prevent and combat the effects of the COVID-19 pandemic*, with subsequent amendments and completions, *Decision no. 52/2020 of the*

<sup>8</sup> Regarding the organization and functioning of the Romanian Police, republished, with subsequent amendments and completions



*National Committee for Emergency Situations on the establishment of additional measures necessary to prevent and combat the effects of the COVID-19 pandemic;*

- staff briefing when starting duty or during vocational training in order to be aware of and assimilate the legislation in force, in particular the Criminal Code, the Code of Criminal Procedure and the Common Order no. 56/12/C/2014 of the Minister of Internal Affairs and the Prosecutor's Office attached to the High Court of Cassation and Justice regarding the sanctioning of the methodological norms regulating the registration, uniform record-keeping, management of criminal complaints and administrative coordination of measures ordered by the prosecutor and enforced by the police;
- regular refresher sessions on the following pieces of legislation: *Law no. 360/2002 on the Statute of police officer, with subsequent amendments and completions, Government's Decision (G.D.) no. 725/2015 for establishing implementing rules of Chapter IV of Law no. 360/2002 on the Statute of the police officer, regarding rewards, legal liability and sanctions for police officers, G.D. no. 991/2005 for the approval of the Code of ethics and the deontology of the police officer, Law no. 161/2003 on certain measures to ensure transparency in the exercise of senior public office, public office and in the business environment and for the prevention and sanctioning of corruption, with subsequent amendments and completions;*
- regular checking of public order and safety system;
- drafting a report highlighting the shortcomings found and briefing the entire unit's personnel on the findings;
- intensifying training activities and studying all procedures and provisions governing the activities carried out by police officers in each line of work in order to prevent misconduct;
- provision of psychological assistance to police personnel and monitoring through their direct supervisors;
- advertising disciplinary offenses committed and sanctions applied during management meetings;

Please also note that, when the management of the Romanian Police is informed or becomes aware of complaints regarding possible instances of abusive behavior by a police officer in relation to citizens, regardless of how it is done, a reactive and preventive mechanism is triggered within the institution, which aims both to initiate procedures for disciplinary liability and/or criminal prosecution, and to mitigate the risk of perpetuation or repetition of this attitude which contravenes legal provisions and rules of conduct by concerned staff.

As regards the reactive mechanism, it operates on two levels, one triggering disciplinary liability and the other, depending on the actual situation, initiating criminal prosecution, by notifying the competent judicial bodies depending on the statute of the official involved and the alleged offense.

Exercising disciplinary action against a police officer involves implementing a procedure in accordance with the provisions of Law no. 360/2002 and of G.D. no. 725/2015, which can be concluded by applying a sanction depending on the severity of the offense, its specific circumstances, but also the employee' personal record.

Regarding the proceedings aimed at prosecuting a police officer who has committed abusive behavior (according to criminal law), the competent prosecutor's office will be notified, and the investigation procedure will be carried out exclusively by the prosecutor or under its direct and immediate coordination.

On the other hand, regarding the preventive mechanism operating at the level of the Romanian Police, it should be noted that it acts both in the case of disciplinary action and the initiation of criminal proceedings, seeking to limit the exercise of public office responsibilities by the police officer, by eliminating the risk of repeatability or perpetuation of punishable conduct.

Consequently, the relevant regulatory framework stipulates that, both during the preliminary investigation procedure and later, if it concludes with the imposition of a disciplinary sanction, the police officer is placed under some professional restrictions,

such as: prohibitions of assignment to a different position, of secondment, of assignment to an acting managerial position, of participation in international missions.

Similarly, in the event of initiating criminal proceedings, some administrative prohibitions are imposed upon the police officer, depending on when he is assigned certain roles in the criminal case or on the procedural measures ordered by the judicial bodies, such as: making the police officer available to its unit (the employee no longer occupies a position in the organizational chart/unit roster, but carries out only those activities ordered by the head of the unit); suspension (in this case his/her weapon, work files and equipment are withdrawn and he/she no longer fulfills his/her specific job duties); termination of employment (this measure is imposed when the police officer is convicted by a final judgment, except in cases where the execution of the sentence has been suspended or where a criminal fine was imposed for offenses committed with basic intent).

Also, the police officer against whom the criminal procedure was initiated can no longer participate in competitive selection procedures for occupying a position inside the institution.

Last but not least, depending on the specific circumstances in which the alleged misconduct occurred, the head of the unit may use other legal instruments (of a temporary nature) to limit the risks at institutional level, such as relocating the employee from the area where he carried out his/her activity, using the procedures of job rotation or secondment to another structure/unit, or terminating his/her assignment in an acting managerial position, as the case may be.

Regarding the five incidents which have occurred prior to the CPT's visit, information on the status of criminal investigation/solution issued in the case by competent prosecutor's office/court, as well as on the status of any disciplinary investigation against the police officers involved can be found in the answer concerning paragraph 27 of the CPT Report. It is important to point out that **providing training for police officers within the operational structures is a priority**. In order for the police officers to acquire and develop specific skills and competencies, as well as to fulfill the requirements and answer needs arising from legislative changes, takeover of responsibilities or the evolution of the operational environment, Romanian Police has organized a series of professional training courses to help in the management of complex situations and the efficient execution of criminal investigation activities by the criminal police units.

These approaches are often initiated following requests from operational structures with responsibilities in the field, in order to prioritize the training of police officers conducting criminal investigation activities, operations and interventions, fighting organized crime, preventing and combating gender-based violence or crimes involving children victims of violence and abuse.

At these courses and vocational training sessions carried out by the Romanian Police, scenarios/concrete cases from casework, tactics and techniques in approaching the management of communication with people in vulnerable situations, as well as best practices examples, are analyzed.

Moreover, these activities are attended by specialist commissioned officers from the relevant departments certified as trainers in their field of expertise, representatives of authorized institutions (Ministry of Justice, Public Ministry, Ministry of Education, Ministry of Labor and Social Solidarity), teachers and representatives of non-governmental organizations.

Also, invitations to attend various training courses, organized by authorised institutions in areas relevant to police activity and supported by certified trainers are accepted. Among such institutions we can list *"Elie Wiesel" National Institute for Holocaust Studies in Romania, National Council for Combating Discrimination, Institute for Public Policy, National Integrity Agency, National Authority for the Rights of Persons with Disabilities, Children and Adoptions, National Agency for Equal Opportunities for Women and Men.*

As an example, below is a list of continuous vocational training activities, whose goal is to properly train and develop the capacity to react in situations such as the ones analyzed here:

- In February 2020, commissioned officers from criminal investigation units attended a training course organized by the Belgian Federal Police. The course aimed to introduce the legal provisions and methodology used by Belgian authorities in cases regarding sexual assaults against minors and especially the specific activities carried out by the personnel specialized in interviewing this particular type of victims;
- In March 2020, the Romanian Police, in cooperation with *Ministry of Labor and Social Protection's - National Authority for the Rights of Persons with Disabilities, Children and Adoptions* and *National Agency for Equal Opportunities for Women and Men* organized a professional training session intended for specialists from criminal investigations structures handling cases involving victims of violence and abuse, women and children, classed as vulnerable persons. The training course was a first step in approaching certain topics and providing specific information relevant to the field of managing communication with persons living in disadvantaged areas, proper handling of gender-related cases and also techniques and methods for conflict prevention;
- In 2019-2020, the National Council for Combating Discrimination organized a series of training courses for the Romanian Police personnel, attended by police officers from criminal investigations, public order, detention and pre-trial detention, crime prevention and human resources units. Topics debated included general concepts on non-discrimination and hate crimes, prevention, management and fight against gender violence and were taught by trainers from the National Council for Combating Discrimination and the Institute for Public Policy;
- During February-March 2021, „*Terre des Hommes*” Association requested the inception and deployment of interdisciplinary courses on restorative justice, intended for experts from criminal investigations and public order structures handling cases involving children who are victims of violence and abuse;
- In June 2021, Schengen Multifunctional Training Center organized online training courses on „*Investigating crimes against freedom and sexual integrity of minors*”, attended by police officers from the relevant units directly handling this type of crimes;
- MolA’s Center for Initial and Further Training (Orăștie) organizes yearly training courses on „*Specific issues of interacting with minors in the performance of police activities*”, intended for police officers from the public order and criminal investigations structures responsible for the management of cases involving minors;
- The Institute of Studies for Public Order organizes training courses in the field of human rights, such as: „*Preventing and fighting all forms of discrimination*”, „*Preventing torture and inhuman or degrading treatments*”, „*Preventing and fighting gender-based violence*”, attended by police officers from operational structures (public order, criminal investigations, transport police, detention and pre-trial detention);
- The curricula of basic, proficiency or requalification training courses organized by “Nicolae Golescu” Center for Initial and Further Police Training (Slatina) include relevant topics on preventing and fighting discrimination, hate crimes, gender violence crimes, as well as topics such as *Police intervention in hate crimes cases, The impact of hate crimes and incidents on victims, Domestic and international legislation on hate crimes*;
- Romanian Police, through its specialized commissioned officers from the Directorate for Combating Organized Crime, takes part in various international professional training programs organized under the aegis of European Union Agency for Law Enforcement Training (CEPOL); the police officers are trained in the fields of human rights protection, upholding professional ethics, preventing sexual exploitation of minors and human trafficking and handling cases involving sexual abuse on children.

Therefore, we would like to highlight that the field of human rights’ observance, in general, and fighting against discrimination, in particular, are an important and ongoing

part of the basic and advanced police training, with emphasis on fostering a fair and impartial attitude towards the groups vulnerable to discrimination.

In this connection, we would like to bring to your attention the following training topics, which have been made mandatory for all Romanian police officers during 2020-2021 training year: *Preventing and fighting antisemitism, xenophobia, radicalization and hate speech targeting particularly the Roma communities, and improving the quality of police services; Preventing and fighting gender violence; Preventing and fighting crimes involving children, victims of violence and abuse; Combating and preventing human trafficking and sexual exploitation; Code of police ethics and deontology.*

Also, a topic on „*Practical issues on interviewing minors*”, prepared by the specialist criminal investigations unit and disseminated to all police structures within the Romanian Police, was introduced in the advanced professional training program for police officers. In accordance with the requirements of Law no. 364/2004 on the organisation and functioning of the criminal police, as subsequently amended and supplemented, in order to be granted a certificate of appointment to the criminal police, commissioned and non-commissioned police officers and agents responsible for the prevention, detection and investigation of criminal offences, who do not have a law degree or are not graduates of an educational institution of the Ministry of the Interior training police officers, must undergo a training programme organised in the vocational training institutions of the Ministry of the Interior, in accordance with the specific nature of criminal police activities.

Thus, starting from the academic year 2020-2021, at the Institute of Public Order Studies, the specialization course "Criminal Police" is organized in the form of daily courses; graduates who occupy or are due to be assigned to a position with specialized duties in crime detection, collection of data for the purpose of initiating criminal prosecution and criminal prosecution, may apply for a certificate of appointment to the criminal police.

We also note that the subject matter of this course focuses on advanced criminal investigation methods, aiming at:

- development of skills and abilities to carry out criminal investigation/ prosecution activities by commissioned and non-commissioned police officers responsible for the prevention, detection and investigation of criminal acts;
- implementation of best practice in the field, in order to draw up quality procedural documents when carrying out criminal investigation/ prosecution activities;
- understanding and implementing the provisions of laws and Government ordinances and decisions, as well as the orders and instructions of the Minister of Internal Affairs.

Further information on training activities for MoIA staff is given in Annex D1.

As it can be seen, MoIA shows a continuous concern in training its staff in the field of reference, conducting various programmes in this regard, or having included in the curricula of programmes relevant topics.

## **Para. 15 of the CPT Report**

In accordance with Article 11 of Law no. 571/2004 on the protection of the personnel of public authorities, public institutions and other bodies who report violations of the law, the General Inspectorate of the Romanian Police (GIRP) has brought its Internal Regulations into line with the provisions of the law by means of GIRP Order no. 37/2021 for the amendment and completion of the internal regulations of the police structures of the GIRP, approved by GIRP Order no. 45/07.05.2012.

In this regard, Article 39 of the Regulations has been supplemented with new paragraphs, establishing the following provisions:

"(2) Complaints against police officers and contractual staff of the GIRP shall be verified by their supervisors or by the internal control structure.

(3) The police officer and the contractual staff against whom the checks are carried out shall be obliged to give written reports, to answer the questions asked and to provide the requested documents.

(4) The obligations stipulated in paragraph (3) shall also apply to all members of unit's personnel who are aware of and can contribute to the full and thorough clarification of matters.

(5) Complaints by police officers and contractual staff of the GIRP concerning matters related to the service shall be addressed through the hierarchy in the form of a written report.

(6) When the complaints referred to in para. (5) are made against supervisors, they shall be addressed to the superior hierarchical head and shall be assigned and dealt with according to competence.

(7) In the case of complaints submitted under paragraph (2), a reply shall be given within 30 days, which may be extended by 15 days in justified cases."

Therefore, the control structures of the Romanian Police have the necessary instruments to manage cases of violation of the law by the institution's staff and make efforts to prevent, identify, record and report possible irregularities.

At the same time, concerning whistleblowers, we would like to emphasize that, in accordance with the relevant legal provisions, they benefit *ex officio* from the provisions regulating the protection of personal data of protected witness, measures implemented by the National Witness Protection Office, in the event that whistleblowing concerns corruption offences, offences assimilated to corruption offences, offences directly connected to corruption offences, forgery offences and offences committed on duty or duty-related or offences against the financial interests of the European Community.

We would like to point out that reports made by GIRP's staff regarding violations of the law by managerial or operating personnel within the institution concern, *inter alia*, corruption offences, offences assimilated to corruption offences, offences directly related to corruption offences, offences of forgery and offences committed on duty or duty-related, offences against the financial interests of the European Community, preferential or discriminatory practices or treatment in the exercise of duties.

The National Anticorruption Strategy brings together institutional transparency and corruption prevention measures, regulated by various normative acts related to: code of ethics / deontology / conduct, ethics counsellor, declaration of assets, declaration of gifts, conflicts of interest, incompatibilities, transparency in decision making, access to public interest information, **protection of the whistle-blower in the public interest**, post-employment bans in public institutions (pantouflage), sensitive functions, integrity risk management and ex-post assessment of integrity incidents.

*Activities carried out by MoIA regarding the enhanced protection of whistle-blowers in the public interest*

- Anti-corruption training activities

They aimed to provide an integrity environment at the level of the Ministry and included, among others, professional ethics and deontology guidelines, the anti-corruption legal framework, reaction to corruption incidents - the MoIA's staff options in case they are involved or aware of committed acts of corruption, the obligation to report, the methods of reporting and **the whistle-blower's protection** (newly hired staff).

- Between 2017-2020, the General Anticorruption Directorate within the MoIA produced two types of publications, a staff-oriented semi-annual newsletter and a quarterly overview addressed to citizens:

- the "INTEGRITATEA" (Integrity) NEWSLETTER - the foreword belongs to the Embassies of the states that have significantly supported the work of the GDA (such as: Spain, UK, United States of America, Germany); the newsletter's topics content is based on the inputs of MoIA's staff, including that of the GDA, and also from NGOs. As an example, topics may refer to the risks and vulnerabilities to corruption, the ethics / integrity advisor, the protection of the whistle-blower or similar anti-corruption institutions within or outside the EU.

- the OVERVIEW - briefly covers, on quarterly basis, the activities carried out in the field of preventing and combating corruption, such as the measures taken for the implementation of NAS 2016-2020 at the level of MoIA.

*The new legislation*

As a Member State of the European Union, Romania has the obligation to transpose Directive (EU) 2019/1937 of the European Parliament and of the Council on the protection of persons reporting on breaches of Union law adopted and published in the Official Journal of the European Union (OJ EUE) L series, no. 305 of 26 November 2019.

In this regard, the Ministry of Justice has drafted the law on the transposition of the Directive, strengthening the protection provided by the applicable legislation, supplementing it with additional rules and guarantees leading to a high level of protection. The scope of the law is to be extended to the private sector, to legal entities with more than 50 employees, where it will be mandatory to establish internal reporting channels.

Obtaining information on violations of the law in a professional context is an essential element of the law, it is an autonomous notion that includes professional activities, current or previous, of any nature, paid or not, carried out within the authorities, public institutions, other legal persons under public law, as well as within legal persons under private law, on the basis of which persons may obtain information on violations of the law and may suffer retaliation in the event of their reporting.

Given that the Directive requires Member States to set up internal reporting channels, the draft regulates this obligation, together with the regulation of external reporting channels. In this regard, the draft law further recognizes the nature of competent authorities to receive reports of violations of the law, public authorities and institutions which, according to special legal provisions, have already regulated such powers (as is the case, for example, of the Financial Supervision, of the Romanian Naval Authority, of the Competition Council and of the National Bank of Romania). At the same time, the draft law proposes the designation of the National Integrity Agency, as an external channel, considering the specifics of this institution, namely autonomous, independent authority, which ensures the exercise of dignity and public office in conditions of integrity and impartiality. At the same time, the National Integrity Agency is assigned obligations regarding the entire mechanism applicable at national level, such as: information, guidance of the whistleblower, formulation of recommendations, compilation of statistics, as well as the application of financial sanctions. In addition, the draft also provides for a number of tasks for the authorities, to whom the Agency shall submit reports for competent resolution.

As a measure to protect the whistleblower, the draft-law is to penalize entities that retaliate or discourage reporting. The draft provides for the possibility that the whistleblower may obtain a suspension of the application of the measures he considers to be retaliation. Also, in the disputes regarding the contestation of the measures provided as forms of retaliation, a reversal of the burden of proof is established.

The project was recently approved by the Government and will be sent to the Romanian Parliament for adoption as soon as possible.

## **Para. 16 of the CPT Report**

Considering the logistical operational necessity - such as equipping police officers with portable audio-video recorders, in order to increase the quality of the police service and to improve the relationship between police and citizens, **the Order of the Inspector General of the Romanian Police no. 82 of 21.09.2017**, and, subsequently, **the Order of the General Inspector of the Romanian Police no. 97 of 03.11.2020** were issued, in order to set up the rules for the use of portable audio-video recorders of the Body Worn Video Camera (BWVC) type.

In order to provide the necessary police logistics for the personnel, several quantities of the aforementioned technical equipment were purchased through public procurement and distributed in stages. Following the signing of the respective contract, 12,000 BWVC devices have been purchased so far, representing the full amount stipulated in the Framework Agreement. All BWVC devices were issued to the county level bodies and provided to police officers active within street-level operational units: public order, traffic police, transportation police and animal protection units.

Given police work dynamics as well as the unpredictable situations police officers may be exposed to, as part of their fight against crime, the supplementing of the amount of BWVC-type devices is taken under consideration, both for bodies to which such equipment has already been issued and for police investigation units: crime investigations, weapons, explosives and dangerous substances unit, organized crime combat unit, special action units as well as detention and pre-trial detention centers.

We underline that the Order of the General Inspector of the Romanian Police no. 97 of 03.11.2020 defines the main purposes of these devices from the police officers' perspective, namely:

- "means of protecting police officers against assault and allegations against them regarding the exercise of their duties, as well as protection of persons subject to their interventions and actions";
- "effective means of discouraging illegal acts, in particular those of corruption, due to awareness that police interventions and actions are being recorded".

At the same time, the provision establishes the rules, circumstances as well as the use of Body Worn Video Camera portable audio-video recorders by police officers while performing their duties related to preventing and combating illegal acts and maintaining public order and safety, both in public and private spaces.

Art. 10 (3) of the mentioned Order provides for a 6 months data storage period, considered from the moment of their recording. The records subject of legal proceedings shall be kept after the above-mentioned period, in accordance with the legal regime of the evidence.

## **Para. 17 of the CPT Report**

The criminal procedure legislation in the field provides, under art. 83 a) of the Criminal Procedure Code, the possibility for criminal suspects and defendants to refrain from giving any statement during the criminal proceedings, without being subject to any unfavorable consequences.

Furthermore, criminal suspects and defendants have the right to be assisted in their interactions with the judicial bodies, throughout the entire criminal proceedings, by a chosen lawyer (a corresponding obligation of the judicial bodies to inform them of this right is established) or, in cases of compulsory legal assistance, by an *ex officio* lawyer.

An additional guarantee in this respect is established by art. 90 of the Criminal Procedure Code, which provides that the legal assistance of the suspect or defendant is mandatory when it's a minor; held in a detention or educational center; detained or arrested, even in a different case or when the safety measure of its medical hospitalization was taken, even as part of another case.

With reference to the CPT's recommendations that an accurate recording of police interviews should be conducted using audio and video recording equipment, the provisions of art. 110 of the above-mentioned Code stipulates the obligation of the judicial bodies to record the interviews of the suspect or defendant or, under exceptional circumstances, to state the reason why such a recording was not possible. Art. 110 also provides for the obligation to keep a record of the time of the beginning and the end of each interview.

Promoting and enforcing human rights legal framework, with a focus on preventing and combating discrimination, torture or other degrading acts, as well as preventing and combating hate crimes and gender-based violence / domestic violence, are an essential integrated topic of the continuing vocational training activities organized by specialized institutions and are carried out in close connection with job description requirements in order to provide the applicable professional skills.

We point out that, considering the epidemiological situation and in order to comply with the provisions and decisions on the prevention and protection of workers' safety and health, a number of training activities have been cancelled and will be resumed during this year, to the extent that all social distance and health protection measures can be taken. It is also important to note that some of the training sessions / internships took place on-line in the form of a webinar.

Starting with 2017, students of the educational establishments within the Ministry of Internal Affairs as well as newly recruited police officers attending initial training programs in the training centers of the MoAI and the GIRP study hate crimes-related topics.

Moreover, the curricula of these educational units include topics and modules aimed at preventing interethnic, intercultural or interfaith conflicts, methods and techniques of conflict resolution, including conduct and behavior means to prevent hate-motivated discriminatory acts. These courses were attended by all students registered between February-December 2020, comprising of 900 policemen in training and the curricula will also be implemented for the next series of students.

At the same time, the curricula of the "Alexandru Ioan Cuza" Police Academy includes topics and modules dedicated to family law, international human rights protection, international humanitarian law, topics on interethnic conflict prevention as well as means and techniques to prevent discriminatory acts.

As police officers training consists not only of initial training, but also includes the continuing vocational training system, it is important to point out that the curricula of initial and capacity-building or profile-changing courses conducted by the Police Training and Development Centre "Nicolae Golescu" - Slatina includes topics aimed at preventing and combating discrimination, with an emphasis on preventing and combating hate crimes and gender-based violence, such as: police intervention in hate crimes, impact of hate crimes and incidents on victims, national and international legislation on hate crimes. The amount of participating staff averages 1000 police officers per year.

Also, ECHR and CJEU decisions in which Romania and other EU countries were convicted for non-compliance with human rights and other fundamental freedoms provided for in both domestic and international law are recurrently disseminated to all police officers, in order to be analysed and established as a pattern of best-practice in their line of work, as part of their relationship with citizens.

Furthermore, the Schengen Multifunctional Training Centre organizes, on regular basis, training courses in the field of torture prevention and inhuman treatment aimed at coordination units' staff of detention and pre-trial centers, attended by an annual average of 150 police officers.

We point out that, at the beginning of the 2021-2022 training year, relevant items subsequent to the mentioned topic, such as: *European Investigation Order (EIO)*, *The Interview as part of the Criminal Investigation's Guide*, *Practical details regarding the interview of minors*, were sent via official electronic mail to police officers for their consideration (including to criminal investigation staff).

The topics approached during courses and advanced training sessions are processed through various learning methods with respect for human rights in the activity of specialized police intervention.

Examples of topics included in the **Crime investigation module**:

**Investigative interview of persons:**

- General rules on conducting interviews of persons;
- Interview procedure of the aggrieved person, the plaintiff (claiming damages), the liable party;
- Interview procedure of the witness;
- Interview procedure of the suspect or defendant;
- Record of the statements of the aggrieved person, the plaintiff (claiming damages), the liable party, the witness and the suspect / defendant.

**Human rights and their observance in police work. Hate crimes.**

- Basic human rights regulations;
- Respect for human rights in police work;



- Hate crime definition. National legislation on hate crimes;
- International obligations to investigate hate crimes.

Therefore, we underline that there is a constant focus at the level of the Romanian Police to adapt its training and professional development needs, in order to enforce the observance and application of human rights legislation and provide an ethical conduct in the daily activity.

## **Para. 18 of the CPT Report**

We highlight that Law no. 218/2002 on *the organization and functioning of the Romanian Police*, republished, has undergone major amendments by Law no. 192/2019 on *the amendment and completion of some normative acts in the field of public order and safety*, including legal provisions related to the procedure of handcuffing violent persons. As such, according to art. 43 of the above-mentioned law, the police officer is entitled to use handcuffs or other means of immobilization in order to prevent or neutralize the violent actions of any person. Also, the police officer is entitled to use handcuffs and other means of immobilization in order to prevent a person's self-harm or a state of danger to the life, health or bodily integrity of the police officer or of another person, under the following circumstances only if:

- a) the person taken to the police station is known to have behaved violently towards itself, other persons or their assets;
- b) the person taken to the police station has previously committed or is a suspect of a violent crime or acts of terrorism;
- c) the person escaped from the legal state of detention or arrest or evaded the enforcement of a preventive measure or a deprivation of liberty sentence;
- d) the equipment of the means of transportation used or the transfer itinerary do not allow the use of other measures to prevent violent actions or escaping attempts;
- e) the person is subject to a custodial measure in order to remove a state of danger to public order.

Considering the amendments and the need for these regulations to be acknowledged, since the entry into force of Law no.192/2019, Romanian Police personnel underwent professional tests, on monthly basis, under the supervision of their management staff. With reference to the use of handcuffs by police officers, we point out that, according to the provisions of art. 214 of the ROF CRAP:

"(1) In order to prevent the violent conduct of a person deprived of its liberty, the staff of the Centre may use the immobilization equipment provided by this Regulation.

(2) Handcuffs and other equipment may be temporarily used to immobilize the person deprived of liberty in the following circumstances:

- a) during transfer to the judicial body or during transportation, in duly justified cases, as a measure to prevent escaping attempts;
- b) for medical circumstances, on the medical recommendation and under medical supervision;
- c) for aggressive or dangerous persons as well as for those placed in solitary confinement, in order to prevent self-harm;
- d) for the prevention of violent actions on other persons or destruction of the assets and utilities of the Centre.

(3) The use of immobilization equipment must be authorized in advance by the head of the Centre unless a crisis situation prevents such a decision, and shall be applied only for as long as is strictly necessary, according to the specific circumstances of the case,

both security-related or intended to prevent suspects or defendants from escaping or contacting third parties.

(4) The judicial bodies shall assess whether immobilization means will be applied, kept or removed while the person deprived of liberty is present before them.

(5) *Duly justified cases* are those where the person deprived of its liberty finds itself in one of the following situations:

- a) it fled or went in hiding, in order to evade prosecution or trial;
- b) it committed a crime against life; one that caused bodily injury or death to a person; a crime against national security; a crime of drug trafficking, of carrying out illegal operations with precursors or other products likely to have psycho-active effects; a crime of non-compliance with weapons, ammunition, nuclear materials and explosives' legal framework; trafficking and exploitation of vulnerable persons, acts of terrorism, blackmail, rape, illegal deprivation of liberty, assault, judicial assault;
- c) it escaped or attempted to escape from detention centers, penitentiaries or escorts, or there are indications of its intention to escape;
- d) it is subject to the enforcement of a preventive measure of deprivation of liberty taken on the basis of an assessment of the seriousness of the crime, its manner and circumstances, of the criminal record and other circumstances concerning the offender, when its deprivation of liberty is deemed necessary for removing a state of danger to public order;
- e) it displays a visible state of mental disorder;
- f) it self-mutilates or threatens to self-mutilate during its pre-appearance before the judicial bodies or during its transfer to court;
- g) it endangers the life or bodily integrity of the members of the escort or of other persons deprived of their liberty;
- h) it refuses to comply with the legal instructions given by its escort staff related to its appearance before the judicial bodies.

(6) Handcuffs shall not be applied to pregnant women, persons over 65 years of age, those with a movement disability, minors under the age of 16, persons whose medical condition require the use of a stretcher or stroller for travel, as well as to persons who, according to medical records, suffer from upper limbs affections in the handcuffing area, except for the cases provided in par. (5) - c), f) and g).

(7) For the purpose of enforcing the provisions of par. (6), medical care staff within the detention center must inform, in writing, the staff providing escort / accompanying the person deprived of its liberty on the existence of a medical condition that requires the use of stretcher or stroller for its transfer or the existence of upper limbs impairments in the area subject to handcuffing.

(8) The staff providing escort / accompanying the person deprived of its liberty must observe the recommendations of the medical staff, regardless of its medical affiliation. Furthermore, the G.I.R.P issued the "*Notebook of the main police procedures*", registered under no. 367735 / 12.12.2019, providing the police officers with the knowledge about handcuffing techniques as well as their checking for proper tightening of handcuffs and locking procedure to prevent accidental excessive tightening on the hands of the handcuffed person.

We underline that the topic "*Using means of coercion - the use of handcuffs. Handcuffing techniques*", put together by experts in the field of professional training, was issued on 02.09.2021, through the internal communication network of the G.I.R.P, to all units / bodies in the Romanian Police for their consideration. The training document includes

clear recommendations on the use of handcuffs, its operational elements and transfer of handcuffed persons as well as on the situations set out in paragraph 18.

As part of the internal monitoring of the professional training progress for 2021, the reference topic was identified as part of the continuing vocational training curricula / program, with county vocational training bodies being actively involved in managing police officers' attendance to the continuous training sessions covering this activity.

## **Para.19 of the CPT Report**

According to the provisions of art. 54 (1) of Law no. 218/2002, republished with subsequent amendments and completions, police officers are required to take the necessary measures for safeguarding life, health and bodily integrity of the persons whose security they provide and, in particular, to take immediate measures for medical care to be provided whenever necessary.

## **Para.21 of the CPT Report**

Traumatic marks are reported on dedicated forms, making it possible for injuries to be located through the means of graphic representations (body charts). Efforts are currently being made to finalize a draft amendment to the relevant regulations, in order to include the CPT's recommendations.

The Medical Directorate requested the establishment of a Traumatic Marks Record in each DPAC and initiated several guidance notices on how to report traumatic marks. A project aimed at professional training of the medical staff responsible for reporting traumatic marks was also initiated and its activities will resume once the restrictions enforced by the state of alert are lifted.

The medical examination of persons deprived of their liberty is performed by health care professionals strictly within the limits of their specialty of Family Medicine; thus, during the medical screening, inquiries are made about the occurrence of the identified injuries, and the patients' description are also recorded in the medical files. At the same time, the relevant statements of the persons deprived of their liberty are also recorded in the medical files, but the consistency between the clinical observations found and the patients' descriptions is within the competence of forensic specialists.

Prior to signing the informed consent form for the provision of health care in the DPAC, persons deprived of their liberty are fully presented with their healthcare rights - including the possibility to request, in writing, to be examined at the place of detention by a forensic specialist who can also take, if necessary, pictures of the identified injuries.

## **Para.22 of the CPT Report**

Approaching this phenomenon in a responsible manner, the Romanian Police secured, through the Norwegian Financial Mechanism 2014-2021, the necessary funding for a project called "Integrated action for combating hate crimes, particularly against Roma population, and increasing the quality of police service". The project aims to improve the process of identification and registration of hate crimes and their correct implementation in the Romanian Police records, through training sessions or IT solutions, and includes training activities as well as expertise and best practice exchange with authorities in other European countries collecting statistical data on hate crimes.

We also point out that, according to the provisions of the Criminal Procedure Code, the judicial police investigation bodies carry out their crime investigation activities under the leadership and supervision of the prosecutor, and that the Prosecutor's Office attached to the High Court of Cassation and Justice has developed Investigation Guidelines on hate crimes.

Given the coordination relationship between the prosecutor and criminal investigation bodies of the judicial police, criminal investigation activities are carried out in compliance with the mentioned guidelines, a useful tool for conducting of criminal investigation activities of hate crimes.

Furthermore, Government Decision no. 539 on *the approval of the National Strategy and the Action Plan for preventing and combating anti-Semitism, xenophobia, radicalization*

*and hate-instigation speech, related to the period 2021-2023, entered into force on 13.05.2021.*

One of the specific objectives of the strategy is to improve data collecting mechanisms for anti-Semitism, xenophobia, radicalization and hate speech incidents by developing a unified methodology for identifying hate crimes and the systematic collection of statistical data on this particular type of offenses.

The strategy includes the development of a system for collecting statistical data on hate crime, and the General Inspectorate of the Romanian Police was appointed coordinator of the working group set up to establish the unitary principles of data collection and to harmonize statistical indicators on hate crime at the level of all authorities.

We also point out that, on 15.05.2021, by Order of the Minister of Internal Affairs, an Investigation Office for Hate Crimes was set up within the Criminal Investigation Directorate, with the aim to coordinate and support, as a primary unit, the activity of criminal investigation police officers assigned to this line of work, both within the criminal investigation departments of the Bucharest General Police Directorate and within the county police inspectorates.

With reference to the training methods developed for police officers in order to prevent and combat hate-motivated discriminatory actions, the respective curricula include topics on preventing and combating discrimination, interethnic or intercultural / interfaith conflicts, techniques and methods for addressing ethnicity-related conflicts, as well as the conduct and procedures aimed at preventing hate-instigation speech.

To this end, the following modules are included in the training curricula for police officers:

- *Module VI: Identifying and investigating offenses, involving developing the skills to use the means and methods of investigating crimes and to establish the activities necessary for evidence management, with an emphasis on respect for human rights.* The topic "Human rights and their observance in the activity of police officers. Hate crimes." is also studied as part of the mentioned module, which covers a number of issues, such as basic human rights regulations, respect for human rights in the work of police officers, national law on hate crimes and international obligations to investigate hate crimes.

The module is compulsory and studied by all students, police officers in training, regardless of their specialization.

- *Module I: Communication and Professional Cooperation* includes a topic on "Addressing conflict situations determined by multicultural diversity".

The topic is mandatory and covers the following items: "Romania's ethnic and confessional structure; Cultural specificity; Causes that determine the occurrence of interethnic or intercultural / interfaith conflicts; Techniques and methods for settling interethnic and intercultural / interfaith conflicts; Discriminatory conduct and hate-motivated behavior."

Thus, the developed content covers an extensive range of issues that police officers may face during their daily activity, with an emphasis on accepting diversity and promoting non-discrimination in relation to community members, identifying the causes of interethnic and interfaith conflicts, isolating discriminatory conduct and hate-motivated behavior and applying methods and techniques for settling interethnic and interfaith / intercultural conflicts.

- The Counselling / Guidance module is compulsory for all students and addresses topics of interest in the area of unity and diversity in the EU as well as topics related to discrimination.

The efforts undertaken by the Romanian Police to secure funding for its projects, as well as the other measures, prove that our institution acknowledges the importance of hate crime and is willing to dispatch material and human resources to successfully implement the main objectives of the aforementioned project, including the setup of a dedicated body to investigate this particular type of offenses.

## **Para. 27 of the CPT Report**

In relation to the CPT's recommendation for the Romanian authorities to provide prosecutors with their own investigators, we consider that, given the low frequency of such allegations, it is not necessary for specialist police officers to be seconded to the prosecutor's office, whereas prosecutors also investigate cases related to other lines of work.

Furthermore, we believe that by maintaining internal control structures within the police units, investigators have the possibility to obtain the necessary information about such events much quicker.

However, we want to state that the police officers within the internal control structures, appointed as investigative bodies of the judicial police, carry out their activity in accordance with the provisions of Law no. 364/2004 regarding the organization and functioning of the judicial police, with subsequent modifications and completions, and the criminal investigation activities are carried out strictly according to the provisions of article 8 and article 9 of this normative act.

We note the fact that the criminal investigation bodies of the judicial police, within the internal control structures, carry out criminal investigation activities in the criminal cases under their own investigation. This officers' activities are also based on the delegations issued by the case prosecutor, in the criminal cases under their own (direct) investigation.

**Regarding the 5 incidents mentioned in the report, we would like to make the following points:**

- On 18.04.2020, around 08:08 PM, police officers within Giurgiu Municipal Police - Criminal Investigation Bureau were notified via phone by representatives of the Giurgiu County Hospital - Emergency Admission Unit about the fact that three persons showed up with a personal vehicle at the Emergency Room and claimed that they were physically assaulted by a team of gendarmes and police officers in the town of Bolintin Vale, Giurgiu County.

This complaint was handled by the investigating bodies of the judicial police of the Giurgiu Municipal Police, which drew up a report on 18.04.2020. It was forwarded to the Bolintin Vale Police, where it was registered under no. 195976/18.04.2020, and on 23.04.2020, it was submitted administratively to the Prosecutor's Office attached to Bolintin Vale Court. Consequently, the Prosecutor's Office attached to Bolintin Vale Court assigned it case number 650/P/23.04.2020 and on the same date the Prosecutor's Office attached to Giurgiu Tribunal took over the criminal file, registering it under no. 167/P/23.04.2020. On 23.04.2020, it was ordered to initiate criminal proceedings *in rem* on the offence of abusive conduct, an offence provided for by Article 296 of the Criminal Code, which was carried out by the prosecutor in his own investigation under the Code of Criminal Procedure.

From a disciplinary perspective, on 23.04.2020, the management of Giurgiu County Police Inspectorate ordered checks on how the police officers involved in the event of 18.04.2020 carried out their tasks.

Following the checks carried out by the internal control structure of the inspectorate, by order of the head of the inspectorate, a preliminary investigation was initiated against Ș.C.M., chief of Bolintin Vale Police.

In this context, we would like to draw your attention to the fact that, by means of the official report no. 159185/24.04.2020, the suspension of the disciplinary procedure was ordered until the final settlement of the criminal case, in accordance with the provisions of Article 60 para. (2) letter a) of Law no. 360/2002 on the Statute of Police Officers, as subsequently amended and supplemented.

Starting from 24.04.2020, the person concerned has the procedural role of suspect in the criminal case no. 167/P/2020 of the Public Prosecutor's Office attached to Giurgiu Tribunal, which is currently being handled by this prosecutor's office.

• Regarding the information requested on the incident mentioned in the CPT Report as happened on the March 5th, 2021<sup>9</sup>, when seven police officers were filmed abusing a handcuffed man in a large room inside Bucharest Police Station no. 16, we inform you that the event in question took place during the night of 02.05.2018-03.05.2018.

At the same time, we would like to point out that, on the basis of the hearings of the police officers involved in the event, the review of the documents drawn up by them, the viewing of the images taken by the surveillance cameras at the headquarters of the 16th Police Station and by the cameras worn by police officers (body-cam), the police officers from the internal control unit within D.G.P.M.B. have taken the case ex officio, as shown below:

- by official report no. 744148/05.05.2018, unique case no. 3396/P/2018 of the Public Prosecutor's Office attached to the 4th District Court of Bucharest regarding the perpetration of the offence of abusive conduct, an offence provided for by Article 296 of the Criminal Code, consisting in the fact that on the night of 02.05.2018 - 03.05.2018, the police officers of the 16th Police Station used physical force, exerting acts of violence on the named G.S.G., exceeding the legal framework;

- by official report no. 744151/04.05.2018, unique case no. 3417/P/2018 of the Public Prosecutor's Office attached to the 4th District Court of Bucharest, regarding the perpetration of the offence of assaulting a police officer, an offence provided for by art. 257 para. (1) of the Criminal Code, consisting in the fact that, on the night between 02.05.2018 - 03.05.2018, G.S.G. exerted physical and verbal violence on the policemen of the 16th Police Station.

In the same case, regarding the disciplinary side of the case, on 15.05.2018, the management of the Bucharest General Police Directorate issued the following measures:

- initiation of a preliminary investigation, pursuant to Article 59 of Law No 360/2002 on the Statute of Police Officers, as amended and supplemented, against the police officers from the 16th Police Station involved, as well as against the commissioned officer in charge of the 4th Police Station on the night of 02/03.05.2018, the Head of the 16th Police Station and the Deputy Head of the 16th Police Station;

- issuing a warning, pursuant to Article 58<sup>1</sup> of Law no. 360/2002 on the Statute of Police Officers, the version in force at the time of the imposition of the measure, against the Head of the Public Order Office of the 16th Police Station and a police officer from the 16th Police Station, Public Order Office;

- administrative measures concerning the review and completion of certain provisions of the job descriptions of several police officers of the 16th Police Station and the 4th Police Station, as well as the review of the legality of ordering certain measures by the chief and deputy chief of the police station;

- notifying the internal control structure of the General Inspectorate of Romanian Gendarmerie, in order to impose measures according to its responsibilities, considering the involvement of gendarmes in the events.

Criminal case no. 3396/P/2018 of the Prosecutor's Office attached to Bucharest 4th District Court, regarding the offense of abusive conduct perpetrated by several police officers from the Police Station no. 16, was handled by the Bucharest General Police Directorate - Internal Control Unit, until August 2018, when it was taken over by above-mentioned prosecutor's office unit.

Subsequently, the criminal case no. 3396/P/2018 of the Prosecutor's Office attached to Bucharest 4<sup>th</sup> District Court and a criminal complaint, filed by the named G.S.G. against the police officers, were taken over for investigation by the Military Prosecutor's Office attached to Bucharest Military Court, as criminal case no. 1354/P/2018.

By means of Order no. 1354/P/2019 of 27.03.2019, the Prosecutor's Office within the Bucharest Military Courthouse ordered the closure of the case, as the typical constituent elements regarding the commission of torture, unlawful imprisonment, threat, bodily

<sup>9</sup> There is a material error in the Report to this incident, as referring to the year 2021 instead of 2018

harm, ill-treatment, as well as the existence of acts of intellectual forgery, favoring the perpetrator and destruction of private property were deemed not to have occurred. Also, we would like to mention that the administrative measures ordered were implemented in the period immediately following their communication to the police sub-units, the provisions of the job descriptions were completed and the situation of the responsibilities of the officers in charge of the police sub-unit was regulated.

• With regard to the information requested concerning the incident of 1 September 2020, we would like to state the following:

On 01.09.2020, the named G.T.N. called the 112 Single National Emergency Call System (S.N.U.A.U.) and claimed that he and his friend were assaulted and handcuffed by the police on 31.08.2020, around 14:30.

The police officers who took the call noted in the report that the two aggrieved persons claimed that they had been accosted and assaulted by police officers from the Local Police. This report was registered in the criminal records with perpetrator unknown under no. 3651831/02.09.2020, and investigations were to be carried out under the offence of abusive conduct, an offence provided for by Article 296 of the Criminal Code.

On the following day, 03.09.2020, the aforementioned criminal file, which was assigned the unique case number 6202/P/2020 by the Prosecutor's Office attached to the 4<sup>th</sup> District Court, was referred by Police Station no. 16 to the Prosecutor's Office with a recommendation to transfer it to another body, pursuant to Article 302 of the Criminal Procedure Code, since, based on the investigations carried out, it was found that the offending police officers belonged to Police Station no. 16.

From 04.09.2020 to 20.11.2020, the criminal case no. 6202/P/2020 of the Public Prosecutor's Office of the 4th District Court of Bucharest was handled, on the basis of a delegation order, by the police officers of the 4th District Police, Internal Control Unit.

Subsequently, the case was sent to the Prosecutor's Office attached to Bucharest Tribunal, where it was assigned the unique case number 4836/P/2021. In this case, investigations were conducted concerning the perpetration of illegal deprivation of liberty and torture offences.

In this connection, we would like to mention that the defendants have been indicted and the case is pending before the Bucharest Tribunal, where it was registered on 09.07.2021 under number 20112/3/2021.

• Regarding the event that occurred in Pitesti bus station, Argeş County Police Inspectorate has ordered an investigation on the police intervention, and the following disciplinary measures were ordered:

- the initiation of preliminary investigation against police officers D.D., P.A. and S.L. of the Pitești Police Section No. 4, Public Order Office, in order to establish the occurrence/non-existence of the disciplinary offences provided for in Article 57 letters a) and b) of Law no. 360/2002 on the Statute of Police Officers, as amended and supplemented, namely "improper conduct, on duty, in the family or in society, which harms the honour, professional integrity of the police officer or the reputation of the institution" and "negligence in the performance of duties or orders received from hierarchical supervisors or authorities specifically empowered by law".

- suspension of the disciplinary investigation against police officer D.D. under Article 60 para.(2) of Law no. 360/2002, as subsequently amended and supplemented, until the resolution of the criminal case in which the police officer is being investigated for the offences of misconduct and assault or battery causing death, as provided for in Art. 296 para. (2) and art. 195 of the Criminal Code.

- suspension of disciplinary investigation regarding police officers P.A. and S.L., under the conditions of article 60 para. (2) of Law no. 360/2002, with subsequent amendments and completions.

At the same time, we mention the fact that in this case a criminal investigation file was set up, initially taken over by the Prosecutor's Office within the Argeş Courtroom and in which investigations were carried out under the aspect of committing crimes of second degree murder and abusive behavior, deeds provided by Articles 192 and 296 of the

Criminal Code. After the examination of the evidence, the legal classification of second-degree murder committed that blows or injuries causing death was changed.

Given the fact that together with the police officers from the Argeș County Police Inspectorate two gendarmes from Argeș County Gendarmes Inspectorate also intervened, actively participating in the restraining and handcuffing the male person, the criminal case was taken over by the Military Prosecutor's Office within the Bucharest Military Courtroom. Here the file was registered under a unique no. 435/P/2021. At this moment, the criminal case is being processed and will be resolved after the completion of the investigations in question.

- Regarding the incident on 27.05.2020, we inform you that at Buzău County Police Inspectorate on 26.05.2020, a complaint was registered on S.N.U.A.U. 112 from a person named S.M., regarding the fact that her son was physically assaulted by the police on 26.05.2020.

At the end of the verifications, on 03.06.2020, the criminal case no. 422/P/2020 of the Prosecutor's Office within Pătârlagele Courthouse was issued for investigations under the aspect of committing the crime of abusive conduct, deed provided and sanctioned by article 296 para. (2) Criminal Code.

On 03.06.2020, pursuant to articles 58 and 56 para. (3) lit. e) of the Code of Criminal Procedure, the criminal case in question was submitted for competent settlement to the prosecutor within the Prosecutor's Office within the Pătârlagele Courtroom, where it is currently being processed.

We also inform you that the disciplinary investigation of the police officers who intervened on the spot was not ordered/triggered in this case.

## **Para.29 of the CPT Report**

According to article 38 para. (1) of Law no. 218/2002 on the organization and functioning of the Romanian Police, from the moment people are escorted to the police, they have the right to be informed about their rights and about the reasons why they are taken to the police precinct.

We reiterate the fact that, in order to acquire these regulations, from the moment Law no. 192/2019 came into force, by the care of the management, the Romanian Police personnel underwent professional testing every month in order to verify that the legislative changes are being learned.

According to article 40 of the same law, the police officer draws up a minutes about how the rights provided in article 38 are been exercised, as a result of their notification. The minutes are signed by the police officer and by the person in question.

The provisions of article 209 para. (17) from the Code of Criminal Procedure, state that the detained person is being informed, under signature, in writing, about the rights he/she has.

Also, according to the executive criminal legislation in force, in order to ensure the proper exercise of rights, including the right to legal aid, upon the arrival at the center, the person in charge informs the person deprived of liberty, under signature, the data provided in Annex no. 2. Z from ROF CRAP. The Annex is called "Brochure with information about rights, obligations and prohibitions, as well as on the rewards that may be granted, violations and disciplinary sanctions that may be applied according to Law no. 254/2013, including the provisions of article 228, para. (2) - (5) from the Code of Criminal Procedure". The brochure is translated into 14 foreign languages. The proof of notification is recorded in the report on the occasion of the person's arrival at the center and is submitted to the individual file.

At the same time, we mention that the draft Order of the Minister of Justice, the Minister of Internal Affairs, the President of the High Court of Cassation and Justice and the Prosecutor General of the Prosecutor's Office within the High Court of Cassation and Justice to amend and supplement the Joint Order no. 1274/C/ 111/2037/1123/C/2017 on the model of written information provided to suspects or defendants in criminal proceedings, in which they are deprived of their liberty or to persons who are arrested



for the purpose of executing a European arrest warrant, is due to approval procedure by the co-ordinating institutions.

In this regard, the provisions of the normative act in question will be supplemented with new provisions regarding the information of the minor deprived of liberty regarding his/her rights in the criminal proceedings.

## **Para.30 of the CPT Report**

The criminal procedural norms in force ensure the exercise of the right to inform a relative/third party. The incident regulations expressly and distinctly set out the notification about the measure of detention/pre-trial detention. The normative hypotheses indicated establish, similar to both types of preventive measures of deprivation of liberty, the right of persons deprived of liberty to inform personally, or to request the judicial body that ordered the measure to inform a member of his family, or another person designated by him, about the measure and the place where he is detained/arrested, immediately after detention or pre-trial detention [article 210 para. (1) and 228 para. (3) of the Code of Criminal Procedure], regardless of the time sequence of custody locations [article 210 para. (3), respectively article 228 para. (5) of the Code of Criminal Procedure].

In addition, regarding the persons deprived of liberty, who are not Romanian citizens, there is in force the right to notify in person, or through the judicial body and the diplomatic mission or consular post of the state of which he is a citizen or, as the case may be, an international humanitarian organization, if he does not wish to benefit from the assistance of the authorities of his country of origin, or a representative office of the competent international organization, if he/she is a refugee or, for any other reason, is under the protection of such an organization [article 210 para. (2) and article 228 para. (3) of the Code of Criminal Procedure].

The right of the persons to make personal notifications in case of detention is restricted for good reasons, reasons recorded in the minutes [article 210 para. (5) from the Code of Criminal Procedure], respectively delayed for good reasons, for a maximum of 4 hours [article 210 para. (6) of the Code of Criminal Procedure].

Similar regulations, regarding restrictions for subjects to make personal notifications, are also found in the case of the measure of pre-trial detention [article 228 para. (7) of the Code of Criminal Procedure].

In addition to the guarantees established by the previously detailed criminal-procedural norms, their subsequent norms, respectively those mentioned by ROF CRAP, establish obligations on the staff of the detention and pre-trial detention center on this line, relevance in this sense having the provisions of art. 38 and 39 of the Regulation.

At the same time, from the perspective of ensuring the right to notify a relative or a third party by phone at the time of incarceration, at all detention and pre-trial detention centers subordinated to the General Inspectorate of the Romanian Police, there are telephone stations for employees (belong to the Romanian Police) and for the persons deprived of liberty (without additional costs for them and without affecting the number of telephone conversations necessary for the exercise of the corresponding right).

## **Para.31 of the CPT Report**

According to the criminal enforcement regulations, at detention and pre-trial detention centers level, the meetings of the persons deprived of their liberty with their lawyers are confidential and take place under direct visual surveillance or through video cameras, in specially arranged spaces, provided with separation devices to limit physical contact, but allowing the transmission of documents. Surveillance may be only visual and the person in question can't be heard talking to the lawyer.

Thus, the confidentiality of the communications with the lawyer is protected. This is a basic requirement of the fair trial in a democratic society, a condition deriving from article 6 paragraph 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

## **Para.32 of the CPT Report**

The provisions of article 209 para. (17) of the Code of Criminal Procedure expressly states that the detained person shall be notified, under signature, in writing, about his/her rights, including about the access to emergency medical care.

We mention the fact that Law no. 192/2019 for the modification and completion of some normative acts in the field of public order and safety, also amended the Law no. 218/2002 for the organization and functioning of the Romanian Police.

Thus, in article 38 paragraph (1) letter g) of this last normative act, it is specified that the person escorted to the police precinct has the right to be consulted by a doctor or, at his/her own expense, by the doctor indicated by him/her.

## **Para.33 of the CPT Report**

The use of audio-video recording systems is governed by the rules of criminal law, which establishes the obligation of judicial bodies to record the hearings of the suspect or defendant and, in exceptional cases, to explain in a report the reason why the recording was not possible.

At the same time, the Code of Criminal Procedure regulates the possibility of recording the hearing of witnesses and victims, when the judicial body considers it necessary or when the person expressly requests it.

The lawyers of the parties and the main procedural subjects also have the right to obtain copies of these records, pursuant to article 94 of the Code of Criminal Procedure regarding the conditions on consulting the file.

We draw attention to the fact that, at the level of the specialized compartment of communications and information technology within the Romanian Police, the technical documentation necessary for implementing technical systems for the audio-video recording of preliminary investigations was prepared during 2014, according to criminal the procedure in force.

In this regard, in the period between 2014 and 2015, a number of 69 audio-video recording systems were purchased for the investigation cameras (4 with European funds and 65 financed by the state budget). The systems were distributed to all territorial units of the Romanian Police

During 2017, funds were allocated and 82 systems were purchased. From these, 2 pieces were distributed to each county police inspectorate, with an estimated cost of 11,500 lei with VAT/system. Considering the distribution to the territorial units, an average of 3 systems for each territorial police inspectorate and 17 systems for The General Directorate of Bucharest Police were provided.

## **Para.34 of the CPT Report**

The current configuration of the penitentiary system does not allow the existence of a detention space in each county. From a housing point of view, this is presumably a factor that is hindering the transfer activities regarding persons deprived of liberty at the time from/to the pre-trial detention.

On the other hand, considering the fact that the person deprived of liberty has the right to appeal the measure of pre-trial detention, which is subject, according to the relevant criminal procedural provisions, to the periodic analysis of the court, his/her presentation before the court is required to be done quickly.

Therefore, from this perspective, the assurance of the rights and obligations of criminal proceedings incumbent, on both the defendant and the judiciary, can be achieved only to the extent that the place of custody is close to the location of the courts. This requirement is met only by detention centers and pre-trial detention within the Ministry of Internal Affairs.

Another factor with an impact on the speed of the activities carried out by the criminal investigation bodies, for the fulfillment of which the presence of a person deprived of liberty is necessary, is represented by the lack of functionality/non-existence of a pre-

trial detention center subordinated to the National Penitentiary Administration in every county.

This issue is also likely to generate additional material and human costs. These costs arise from all the urgent judicial activities occasioned by criminal prosecution (repeated transports to prisons sites in order to take the person deprived of liberty, to the headquarters of the judicial body, possibly from another county, to different courts, and later the road back to the penitentiary at the end of these activities).

In this regard, we emphasize that a possible opening of pre-trial detention centers, organized under the National Administration of Penitentiaries, does not lead to the closure of their own detention and pre-trial detention centers, provided that the preventive measure depriving them of liberty (with a limited duration of 24 hours, according to the Romanian law) will continue to be executed in these spaces, with the appropriate provision of material and human conditions, with related costs.

In this context, we specify that the transfer of the persons deprived of liberty in the penitentiary is ordered by a court, after verifying the legality and validity of the preventive measure, according to the provisions of article 348 para. (2) and article 207 para. (2) - (4) from the Code of Criminal Procedure.

At the same time, in the context of the possible lack of impartiality in the execution of preventive measures of liberty deprivation, we emphasize that the personnel working at detention and pre-trial detention centers within the Ministry of Internal Affairs is different from the judicial police (policemen working on the criminal case in which the measure was ordered). Between these entities there are no reports of subordination.

Regarding the transfer of the centers under the authority of the Ministry of Justice, discussions have been initiated between the two institutions. The discussions will continue in the next period.

Regarding the placement of persons arrested during criminal prosecution in centers within the National Authority of Penitentiary, we specify that, at least on short term, such a solution would increase the overcrowding of the penitentiary system. That is the case because, by virtue of the separation criteria provided by the Law no. 254/2013, with subsequent amendments and completions, convicted persons are accommodated separately from persons arrested on remand and women execute the punishment/preventive measure separately from men. Also young people serve the sentence/preventive measure separately from persons over the age of 2. This solution will result in a decrease of space for the execution of custodial sentences by allocating rooms/areas/sections of detention for the new category of detainees arrested on remand during the criminal investigation.

In any case, compared to the express provisions of Law no. 254/2013, as subsequently amended and supplemented, such a measure requires at least two cumulative elements:

- amending the primary legislation so as to allow the execution of the measure of pre-trial detention for persons remanded in custody during pre-trial detention;
- allocation of material and human resources to ensure the effectiveness of the rights that this category of pre-trial detainees has.

In fact, the issue was raised in the context of the solutions pronounced by the Strasbourg Court (ECHR) against Romania, the pilot decision in the case of Rezmiveș and others versus Romania. In this context, by the Memorandum „Action Plan for 2020 - 2025, elaborated in order to execute the pilot decision Rezmiveș and others against Romania<sup>10</sup>, as well as

<sup>10</sup> C.E.D.O., the decision of April 25, 2017, in the case of Rezmiveș and others v. Romania, no. 61467/12, 39516/13, 48231/13 and 68191/13.

„117. With regard to pre-conviction detention, the Court notes, first of all, that arrests in police stations were considered by the CPT and the Committee of Ministers to be "structurally inappropriate" for detention exceeding several days (see paragraph 44 above). , 46, 52 and 54). In addition, the Court recalls that it has already ruled that these spaces were places designed to accommodate persons for very short periods of time (see, in particular, its case-law cited in paragraph 80 above). In view of these findings, the national authorities must ensure that the charged persons are transferred to a penitentiary after the end of the detention. The Court notes that the reform implemented by the Government has had the effect of reducing the number of persons in pre-trial detention (see paragraph 92 above). It welcomes the steps taken and urges the Romanian

the judgments pronounced in the group of cases Bragadireanu against Romania”, adopted by the Romanian Government, on 18.11.2020, the obligation to analyze the opportunity and possibility of remanding detainees from CRAP to prisons was included/assumed.

## Para.36 of the CPT Report

According to the provisions of article 108 of Law no. 254/2013, „in the detention and pre-trial detention centers, pre-trial detention is carried out during the criminal investigation”. The persons deprived of liberty are accommodated in compliance with the principle of separation by sex and age, respectively adults or minors. According to article 209 para. (3), article 233 para. (1) and article. 236 para. (4) of the Code of Criminal Procedure, during the criminal investigation, the detention of the suspect/defendant may be ordered by the criminal investigators for up to 24 hours and the duration of pre-trial detention of the defendant may not exceed 30 days, with the possibility of extension up to a maximum of 180 days.

This extension can be ordered by the judge of rights and liberties from the court which would have jurisdiction to judge the case in the first instance, or from the corresponding court in whose district the place of detention is located, the place where the crime was committed or the headquarters of the prosecutor’s office of which the prosecutor who drafted the proposal is a part.

Also, according to the provisions of Law no. 302/2004 on international judicial cooperation in criminal matters, republished, with subsequent amendments and completions, the total duration of the preventive measures may not exceed 180 days. The rules of criminal procedure regarding the execution of arrest warrants are applicable also in the extradition procedure, if this normative act does not provide otherwise.

Regarding the number of persons placed in detention and pre-trial detention centers in 2020 and 2021, for a period of more than 180 days, we specify the following:

In 2020, 32 persons deprived of their liberty were detained for a period of more than 180 days (representing approximately 0.18% of the total number of detained persons, respectively 17,372), as follows:

- 15 of them were held at their request, under the provisions of article 115 para. (2) of Law no. 254/2013, as subsequently amended and supplemented, which stipulates that „Pre-trial detainees who have been selected to perform activities in the interest of the Center may be detained, with their consent, for a maximum period of 6 months, in the detention and pre-trial detention center”;
- 17 of them were held at the request of the judicial bodies, under the provisions of article 236 para. (7) of the Regulation for the application of Law no. 254/2013 on the execution of sentences and custodial measures ordered by the judicial bodies during criminal proceedings, approved by Government Decision no. 157/2016, with subsequent amendments and completions, according to which *„If the presence of a convicted person is necessary for the activity of the judicial bodies immediately after the execution of the warrant for the execution of the sentence of imprisonment or life imprisonment, the person may be accommodated directly in a detention and pre-trial detention center based on the documents provided in para. (4) and the request signed, as the case may be, by the management of the General Inspectorate of the Romanian Police, the county police inspectorates, the director general of the General Police Directorate of Bucharest or the General Anticorruption Directorate, endorsed by the prosecutor, which shall include the period and reasons taking this measure. At the end of the period, the detainee is accommodated in the penitentiary.”*

**In 2021, 18 persons deprived of their liberty were detained for more than 180 days (representing approximately 0.09% of the total figure of 18897 people detained), as follows:**

- 10 of them were kept in custody at their request, according to the provisions mentioned above;

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State to ensure the continuity of the reform and also to explore the possibility of facilitating the wider use of alternative measures to pre-trial detention (see paragraphs 42 and 92 above). ”

- 5 of them were kept in custody at the courts' request, in accordance with the aforementioned provisions;
- in three cases, the persons deprived of their liberty were in custody for a period exceeding 180 days on the basis of a provisional arrest warrant for extradition purposes, successively extended based on the European Court of Human Rights' decision in *Matthews v. Romania* (no. 19124/21) to suspend the transfer proceedings to the requesting state, until such time as another preventive measure has been ordered<sup>11</sup>. The provisions of art. 44 (1) of Law no. 302/2004, republished, with subsequent amendments and completions, and the provisions of art. 12 (1) of the Extradition Treaty between Romania and the United States of America, ratified by Romania through Law no. 111/2008, were applicable for these persons deprived of their liberty.

Therefore, according to article 39 of the Rules of Procedure of the European Court of Human Rights: *"The Chamber or, where appropriate, its President may, at the request of a party or of any other person concerned, or of its own motion, indicate to the parties any interim measure which it considers should be adopted in the interests of the parties or of the proper conduct of the proceedings before it"*. The vast majority of cases in which interim measures were considered concerned deportation and extradition proceedings.

In fact, art. 39 provides to the people in need of international protection, inter alia, the possibility to request the suspension of the removal from the territory. In this context, an interim measure aims to prevent irreparable harm pending the assessment of a person's international protection needs.

Although the reasons on the basis of which art. 39 can be applied are not listed in the Rules of the Court, they can be established from the Court's case law and usually concern the right to life (Article 2) and the right to not be subjected to torture or other inhuman or degrading treatment or punishment (Article 3). Exceptionally, the prohibition of slavery and forced labour (Article 4) and the prohibition of the death penalty (Article 1 of Protocol 6 and Protocol 13) shall also be subject to the measures provided in Art. 39. The Court has seldom granted interim measures in cases where applicants have claimed unjustified interference with private / family life in accordance with Article 8 of the Convention.

According to art. 108 of Law no. 254/2013, with the subsequent amendments and completions, in the detention and remand centres, the pre-trial detention and arrest during the criminal investigation is carried out. Moreover, according to art. 43 para. (4) of Law no. 302/2004, republished, with subsequent amendments and completions, the provisional arrest for extradition purposes is executed DPAC, which are organized and operate in subordination to the Ministry of Internal Affairs, except in cases where the person is serving a sentence in a penitentiary subordinated to the National Administration of Penitentiaries. The provisions of Law no. 254/2013, as subsequently amended and supplemented, shall apply accordingly.

Considering the normative acts' provisions that regulate the international judicial cooperation in criminal matters, according to art. 10 of Law no. 302/2004 republished, with subsequent amendments and completions, the competence to fulfil the specific attributions of Romanian central authority in the field of judicial cooperation in criminal matters belongs and is exercised by the Ministry of Justice, the Prosecutor's Office attached to the High Court of Cassation and Justice, through the specialized structures and the Ministry of Internal Affairs, through its specialized structure, if it refers to the criminal record.

Moreover, according to art. 56 para. (2) of Law no. 302/2004, republished, with subsequent amendments and completions, which regulates the handing over of the person extradited in order to establish the date and place of the hand over, the Ministry of Justice immediately communicates to the International Police Cooperation Centre within the

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<sup>11</sup> Further information on the proceedings in question can be found on page 26, Annex no. B8

General Inspectorate of the Romanian Police an extract of the final court decision, the handing over being able to be postponed under the conditions of art. 58. In view of the above, the persons concerned were detained for more than 180 days, in accordance with the measures ordered by the European Court of Human Rights.

## **Para.37 of the CPT Report**

The need to improve the material conditions of detention in DPAC was permanently in the attention of the management of the Romanian Ministry of Internal Affairs and the Romanian Police, sense in which the Memorandum on *“Approval of the Calendar of measures 2018-2024 for solving the prisons’ overcrowding and the conditions of detention, regarding the pilot judgment’s enforcement of Rezmiveş and others against Romania”*<sup>12</sup>. Subsequently, the need arose for the development of a new strategic document in order to solve prison overcrowding and improving the detention conditions, context in which the *“Action Plan for 2020-2025, developed regarding the pilot judgment’s enforcement - Rezmiveş and others against Romania, as well as decisions given in the Bragadireanu’s group of cases against Romania ”*, which replaces the above-mentioned Calendar. Investment objectives were foreseen in the new Plan (new ones/modernization / extension of above-ground DPAC), structured in stages, for 31 centres, building/upgrading 1426 accommodation places being proposed.

In order to meet the assumed investment objectives, the General Inspectorate of the Romanian Police has initiated measures designed to increase the accommodation capacity and upgrade the spaces which serve this purpose within DPAC, respecting the standards imposed by ECHR, respectively guaranteeing a minimum living space of 4m<sup>2</sup> to each person in custody, established by the operative part of the pilot judgment Rezmiveş and others against Romania.

So far, the investment works have been completed and activity resumed in 4 DPACs organized on the basis of territory, namely the centres within I.P.J. Galați (34 places), I.P.J. Iasi (50 seats), I.P.J. Maramureş (30 places) and I.P.J. Alba (33 places), compliant from the perspective of ensuring the minimum accommodation space for persons deprived of their liberty and activities were carried out aiming at the investment objectives at I.P.J. Harghita and I.P.J. Covasna.

At the same time, we note that, currently, the DPAC’s activity at I.P.J. Cluj and I.P.J. Neamţ is suspended in order to carry out investment works.

The centres’ establishment, operation, arrangement and endowment is carried out in compliance with the provisions of art. 9 and art. 12 of ROF CRAP, as well as Annexes no. 1, 1.A - 1.I, an integral part of the Regulation, which establishes the minimum mandatory norms for documentation drafting for new investment objectives which consist of building detention and remand centres.

Thus, according to the Regulation’s provisions of art. 9:

”(1) For a centre’s establishment or relocation, on the ground reconnaissance is carried out by specialists from the Ministry of Internal Affairs, the General Inspectorate of the Romanian Police and, as the case may be, from the subordinated police structures, in order to establish:

- a) location;
- b) necessary perimeter and fencing;
- c) control, guard and surveillance stations’ number and location;
- d) security system and detail;
- e) the placement of constructions and installations necessary for guard duty, surveillance and escort service;
- f) necessary means of communication and alarm, response, as well as auxiliary technical equipment destined to ensure security, surveillance, escort and accompaniment;
- g) legal accommodation capacity;

<sup>12</sup> Amended and updated by the memorandum approved by the Romanian Government on 7<sup>th</sup> of March 2018

- h) living conditions and accommodation spaces for the persons deprived of liberty;
- i) conditions of logistical and medical assurance;
- j) measures to protect the environment;
- k) other measures, in relation to the concrete conditions on site.

(2) *On site reconnaissance is completed by drafting documentation which is submitted to the Minister of Internal Affairs in order for it to decide in accordance with the provisions in force.*

(3) *The norms provided in Annex no. 1 are mandatory for drafting documentation for investment objectives, capital repairs, modernization, change, built fund's transformation and extension, based on the legal regulations in force.*

(4) *The existing spaces' arrangement through works like the ones that are ongoing will be carried out having the holding spaces maximized, depending on the buildings' structural configuration."*

At the same time, we mention the fact that the norms provided in Annexes no. 1 and no. 1.A-1.I of ROF CRAP aim at arranging and equipping the spaces both in the accommodation sector and the administrative sector.

So far, only intervention work has been carried out on existing buildings in order to modernize detention facilities and any plans / sketches related to a new CRAP can be made available only after a feasibility study has been compiled by a specialized designer, in accordance with the provisions of GD no. 907/2016 regarding stages of development and the framework content of the technical-economic documentation related to the objectives / investment projects financed from public funds, with subsequent amendments and completions, activities that would be carried out at the time of initiating an investment objective for building a new centre.

### **Para.38 of the CPT Report**

Regarding the way in which the persons in pre-trial detention spend their time, we mention that, according to art. 122 of the ROF CRAP, each person deprived of liberty is given, daily, at least one hour in order to take a walk. Also, the time assigned for the right to take a daily walk is established by the centres' Rules of Procedure and may increase progressively from at least one hour per day according to the choice of the persons concerned and the centre's occupancy rate.

During the walk, the person deprived of liberty can exercise. The walk is done under direct visual supervision or via video cameras in the exercise yards, which are set up in compliance with safety regulations. In order to ensure the persons' right to exercise, in accordance with the law, at the level of the General Inspectorate of the Romanian Police registers were drawn up, and subsequently distributed, regarding the evidence of granting the right to a daily walk, in which the refusal / restriction for any reason of its exercise manifested by the persons deprived of liberty is recorded separately, in special sections. At the same time, article 75 of the Regulation stipulates that during leisure time, the person deprived of liberty can read the press, listen to the radio program, watch television shows or carry out other activities such as chess, rummy, dominoes, go, etc., in the detention room or in other specially designated spaces within the centre, respecting the internal norms and the separation criteria. The person under custody also has access to the library set up within that centre.

Other options for activities outside the detention rooms include unpaid work in the centre's interest, and, subject to the daily schedule established by the aforementioned Regulation and the judicial activities in which they are involved, attending established recreational activities. At the same time, persons deprived of their liberty may exercise, outside the detention rooms, their right to religious assistance and the right to psychological assistance respectively.

Regarding the spaces' logistical assurance intended for activities carried out outside the holding space, we specify that the locations intended for exercising the right for a daily walk are equipped, as appropriate, with trellis, bicycles and exercise equipment, as well as fixed elements to ensure rest and relaxation, and those dedicated to recreational activities benefit from ping pong tables and a library.

Regarding the provision of wheelchair access inside the centre and the courtyards, we point out that, according to the criminal law, each centre will be provided with access paths and accommodation rooms properly equipped for people with disabilities.

## Para.43 of the CPT Report

Please note that the Romanian Government approved, on 17th of January 2018, the Memorandum on „ *Approval of Calendar of measures 2018-2024 for solving the prisons' overcrowding and the conditions of detention, regarding the pilot judgment's enforcement of Rezmiveş and others against Romania, decision issued by ECHR on 25th of April 2017*”.

Thus, in order to comply with the measures contained in the respective document, the General Inspectorate of the Romanian Police initiated measures to increase and modernize the accommodation capacity at the level of detention and remand centres, according to the approved Calendar. *The new detention places will comply with the standards mentioned by the ECHR through the Rezmiveş pilot judgment and will guarantee a minimum space of 4 sqm.*

Subsequently, on 18th of November 2020, the Romanian Government adopted the Memorandum themed: “*The action plan for 2020 - 2025, drafted in order to enforce the pilot judgment Rezmiveş and others against Romania, as well as the decisions pronounced in the Bragadireanu case group against Romania*”.

Relevant from the perspective of ECHR recommendations are the investments in the detention and remand centres' physical infrastructure, so that the new plan aims to create / modernize a number of 1,426 accommodation places (with an estimated global financial impact of 66.000.000 €), is structured in staged, the proposals for reprioritizing investment objectives being as follows:

**Stage I:** 2020 - 2022 - new / modernized accommodations - 225

The new/modernized accommodations will be put into service at the following detention centres: I.P.J. Covasna (33), I.P.J. Harghita (20), D.G.P.M.B. (150) and I.P.J. Teleorman (22).

**Stage II:** 2022 - 2025 - new / modernized accommodations - 1201

The new / modernized accommodation will be put into service at the following detention and remand centres: I.P.J. Vaslui (45), I.P.J. Giurgiu (50), I.P.J. Arad (50), I.P.J. Cluj (60), I.P.J. Calarasi (46), I.P.J. Argeş (60), I.P.J. Braşov (60), I.P.J. Constanţa (60), I.P.J. Dolj (60), I.P.J. Prahova (70), I.P.J. Botoşani (30), I.P.J. Brăila (50), I.P.J. Dâmboviţa (50), I.P.J. Hunedoara (50), I.P.J. Neamţ (50), I.P.J. Suceava (50), I.P.J. Mehedinţi (30), I.P.J. Tulcea (30), I.P.J. Gorj (30), I.P.J. Olt (30), I.P.J. Bistriţa-Năşăud (30), I.P.J. Satu Mare (30), I.P.J. Vrancea (40), I.P.J. Buzau (40), I.P.J. Vâlcea (40), I.P.J. Sălaj (30), I.P.J. Sibiu (30).

Regarding the detention conditions, we specify the fact that the centres' arrangement and endowment is carried out in compliance with the provisions of ROF CRAP, as well as Annexes no. 1, 1.A - 1.I, to the Regulation, which establish both the minimum mandatory rules for drafting documentation for new investment objectives, capital repairs, modernization, modification, transformation and the built fund's expansion, based on the legal regulations in force, as well as the measures necessary to ensure the security of detention.

Thus, the accommodation rooms and other rooms intended for persons deprived of liberty must have natural lighting, the necessary wiring to provide artificial lighting and be equipped with hygienic-sanitary utilities and heating installations. The windows of the holding rooms must be large enough so that persons deprived of their liberty can read in natural light under normal conditions and allow ventilation, and devices providing artificial light must comply with recognized technical standards in the field.

The detention room must be equipped in such a way as to provide the persons deprived of their liberty with sleeping conditions, meals and storage for personal objects and belongings. The storage spaces for personal objects and belongings in the holding room can be arranged in the form of shelves or niches in the wall.



With regard to the regular maintenance and cleaning of cells and sanitary facilities, we point out that the daily schedule, stipulated by hours, also includes time for administrative-housekeeping, cleaning, hygiene, walking, recreation and the exercise of certain rights, compliance with the daily schedule and the rules of individual and collective hygiene in the holding room and other common areas being obligations of persons deprived of liberty, provided for in Article 81 of Law no.254/2013.

The guarantee inserted in the CPT recommendation, concerning the provision of personal hygiene products is provided by the provisions of art. 41 of the Regulation, according to which, upon reception at the detention centre, the staff offers to the person deprived of liberty a set of hygienic-sanitary products, the content of which is established according to the Ministry of Internal Affairs' regulations on providing structures and staff with equipment, maintenance and other specific materials.

Ensuring optimal custody conditions for the execution of preventive detention measures is conditioned by the buildings' configuration in which the centres operate and the measures and means of maintaining the premises' security are implemented in order to eliminate all risks and vulnerabilities and are the main security element to avoid escape attempts of persons deprived of their liberty or the entry of unauthorized individuals.

Regarding the provision of an adequate nutritious diet, we specify the fact that the feeding of the persons deprived of liberty is done according to the specific food norms of the National Administration of Penitentiaries. Three times a day, the centre' administration provides the persons deprived of liberty with a well-balanced meal plan, the food being well-prepared, qualitatively and quantitatively suitable, taking into account age, state of health and religious beliefs, according to the legal norms.

The individual deprived of liberty who, for religious reasons, requests specific food will have it provided, to the extent possible, by the centres' administration or by family members or other individuals, with the doctor's approval. The doctor's permission is given according to any medical contraindications related to the state of health.

In addition, we point out that the project, documentation and works related to the Detention and Preventive Arrest Centre's construction within I.P.J. Galati, which the CPT considers should not be a model / benchmark for the other objectives to be built, were approved and started prior to the ROF CRAP taking effect, through which the norms regarding the security and surveillance measures, the arrangement and endowment of the premises in the detention and preventive arrest centres were established.

## **Para.47 of the CPT Report**

According to art. 264 para. (1) of the Regulation implementing Law no. 254/2013 on the execution of sentences and measures involving deprivation of liberty ordered by the judicial bodies during the criminal proceedings, with subsequent amendments and completions, approved by G.D. no. 157/2016, with subsequent amendments and completions, the accommodation of minors detained or remanded is usually carried out jointly, separately from adults, in compliance with the principle of separation by sex. In order to reduce the negative effects of deprivation of liberty on physical, mental or moral development and to prevent adverse events, such as self-harm or suicide, in the case of a minor, accommodated alone in a room, the centre's administration may order its custody with other young people, as a safety measure.

The centre's administration has a legal obligation to ensure, on the one hand, the exercise of the legal rights of persons deprived of their liberty, with the limitations imposed by the state of detention, and on the other hand to take all legal measures to ensure the detention's security, as a whole, and to protect their lives, bodily integrity and health of the staff of the place of detention and any other persons.

Depending on the centre's configuration and specific features, by order of the head of the police unit, detention wards / rooms may be set up within the centre for certain categories of persons deprived of their liberty: minors and juveniles, women or other categories of persons who require special accommodation. If several centres operate within the same administrative-territorial unit, by order, the head of the police unit may

establish centres for certain categories of individuals deprived of their liberty, minors and juveniles, women or other categories of persons who require special accommodation. Holding rooms shall be designed in such a way as to ensure to all persons deprived of their liberty that are in custody, including minors, respect for human dignity and to meet the minimum sanitary and hygiene standards, taking into account living space, air volume, lighting, heating sources and ventilation, in relation to climatic conditions and are equipped so as to provide sleeping conditions for persons deprived of liberty, eating, storage of personal objects and belongings, under the Regulation's conditions implementing Law no. 254/2013.

During custody, each individual deprived of liberty is provided daily access to the library for the use of the book collection and at least one hour for a walk, during which he can perform physical exercises. Also, the juvenile may perform unpaid work activities appropriate to his physical development, skills and knowledge, only at his request and with the consent of his parents or legal guardians, if his health is not endangered.

On admission and during custody, ex officio, at the written request of the head of the centre, as well as upon request, minors deprived of liberty benefit from primary psychological assistance aimed at providing qualified support to ensure psychological support in order for them to adapt to the conditions imposed by the deprivation of liberty, by identifying and improving dysfunctional moods when they are reported, to prevent the occurrence of maladaptive behaviours and to solve their psychological problems.

Psychological assistance is provided by a psychologist, its organization and development being based on the principles of professional ethics. Psychological work is carried out in specially arranged premises by psychologists with the right to free practice employed in specialist positions within the Ministry of Internal Affairs.

At the same time, the detention and pre-trial detention centres' staff, made up of police officers, is specifically selected, specialized, trained and instructed to carry out activities necessary to ensure the security of detention and the respect for the rights of persons deprived of liberty, in accordance with the legal provisions in force.

Regarding the CPT's observations on identifying minors that are in custody with adults in detention and remand centres, we note that these were particular cases, determined by specific situations, as well as the accommodation's configuration and capacity.

With regard to the requested statistical situation concerning the number of juveniles detained in detention and remand centres in 2020 and 2021, broken down by time frames longer than one week, one month and two months, is as follows:

**- Year 2020:**

- total minors in custody - 978;
- minors in custody for more than one week - 227 (approximately 23% of the total);
- minors in custody for more than one month - 123 (approximately 12% of the total);
- minors in custody for more than two months - 18 (about 1% of the total).

**- Year 2021:**

- total minors in custody - 807;
- minors in custody for more than one week - 265 (approximately 32% of the total);
- minors in custody for more than one month - 139 (approximately 17% of the total);
- minors in custody for more than two months - 38 (approximately 4% of the total).

### **Para. 48 of the CPT Report**

Medical staff do not carry out medical work in CRAP dressed in police uniform, but in medical equipment.

Due to the local conditions, in some counties the medical staff in CRAP also has responsibilities on the line of assistance provided to the Ministry of Internal Affairs' staff. As the budgeting of some positions has been obtained, recruitment competitions for medical staff are underway. As the posts are filled, the staff providing assistance to persons deprived of their liberty will no longer provide assistance to the active staff of the Ministry of Internal Affairs - and will eventually take in other categories of assisted persons (pensioners or caregivers).

Medical services for persons deprived of their liberty at CRAP's level are provided in accordance with the same regulations regarding primary care as in the case of family medicine offices, at the standards set by the Ministry of Health.

## **Para.49 of the CPT Report**

Persons deprived of their liberty are provided with all services accessible to an insured patient on a family doctor's list. For HIV, HBV and HCV testing, under the terms of the current framework contract on the conditions for the provision of health care, the recommendation of the specialist doctor is required; however, on the occasion of the medical visit on introduction to the detention and remand centres, persons deprived of their liberty are offered the opportunity to be tested for VDRL, as well as for COVID-19, HIV, HVB and HVC, free of charge.

Charges resulting from sexual assault are determined - for both genders - by specialist examination, including forensic medicine; however, finding possible injuries can only be established after the person is incarcerated, in which case the "Traumatic Marks" form is filled in to be sent to the prosecutor.

## **Para.50 of the CPT Report**

Detention and remand centres have been equipped with an emergency kit containing medicines, equipment and medical supplies to provide emergency care until the arrival of the specialized unit.

In order to avoid unforeseen events, people undergo a medical examination when they are booked in the detention and remand centres, in order to identify risk factors. Based on the assessment of risk factors, active measures are taken to reduce the risk of deteriorating health.

## **Para.51 of the CPT Report**

In relation to the issues raised, we specify that, upon booking into detention and remand centres, any person who declares himself a drug user (regardless of whether they have previously been included in a substitution program or not) is subjected to a psychiatric examination, following which the diagnosis and drug treatment are established. Subsequently, the National Anti-Drug Agency (NAA) becomes aware of these individuals, being notified by the medical staff working in the place of detention.

In order to clarify how the NAA works from the moment of notification of drug users in detention, the following clarifications are necessary:

NAA is the national coordinator of the public policies in the field of diminishing the demand and supply of drugs, being responsible for developing coherent, comprehensive and appropriate responses for every emerging community issue, including the identification of specific ways to bring in and motivate drug users having multiple vulnerabilities to access specialized services available to them.

Therefore, since February 2016, in Bucharest, NAA has been implemented a programme, by means of a specialized mobile unit, to assist the persons with a drug addiction who are not able to directly access the community assistance services. The persons with a drug addiction held CRAPs are assisted by means of this mobile unit.

The programme provides the following medical procedures: undertaking a test to certify the presence of a drug/drugs, regular medical assistance services, medical supervision of interrupting the drug consumption and monitoring the outpatient recovery period, methadone substitution treatment, informing and educating the patients on how to prevent blood-borne and sexually transmitted infections - HIV, hepatitis B and C, promoting a healthy lifestyle and coordinating the support of the persons with a drug addiction within the local medical, psychological and social assistance network.

NAA has the institutional capacity to manage the provision of methadone substitution treatment exclusively within the medical rooms of Bucharest CRAPs;

If the person deprived of liberty, at the time of admission to the place of custody, declares that he/she is a drug user and is included in an integrated programme of assistance with opiate agonists, the medical staff notifies the NAA, which takes the necessary measures

to continue treatment. For drug users held in pre-trial detention centers, the county police inspectorates ensure the transfer of the person deprived of liberty to the DGPMB's pre-trial detention centers, so as to ensure that fundamental rights are respected and that the smooth running of the criminal process is not affected.

NAA carries out the assessment of the drug user. As part of the assessment, the NAA case manager identifies the relevant characteristics of the user in order to select the programme and customise services. At the same time, the case manager determines the measures and interventions required by the drug addiction and cooperates with the medical staff of the Medical Room of the detention and pre-trial detention centres and the staff of the detention unit for their implementation.

Substitution treatment with opioid agonists is carried out in accordance with the specific legislation in the field, through daily administration of treatment, at the Medical Office for pre-trial detention centers within "Dr. Nicolae Kretzulescu" Medical Centre for Diagnosis and Outpatient Treatment, exclusively by the staff designated by NAA. In exceptional circumstances, substitution treatment with opioid agonists may also be carried out in other designated CRAPs No. 2-11 facilities.

### **Providing relevant medical assistance in cases where administration of methadone treatment is not possible:**

The methadone treatment cannot be administered if, following the reception of the medical prescription issued by the attending physician of the person before he/she is detained/held at, one establishes the fact that, based on the medical prescription, a quantity of drugs has been released necessary for ensuring the daily treatment by self-administration and this medication cannot be returned to the former supplier.

If, following receipt of the medical letter issued by the attending physician on whose care the person was prior to the time of detention/hospitalization, it is found that medication required to provide daily self-administration treatment has been dispensed on prescription and that medication can no longer be returned to the original provider, methadone treatment may NOT be administered. As a result, symptomatic medication, prescribed by the medical specialist, will be administered by the medical staff of the pre-trial detention centres.

In the case of continued methadone substitution treatment for drug users in the community, following ANA interventions, case management shall be provided and the following procedures shall be implemented alternatively:

- The community substitute treatment provider is notified if the recipient was in their care prior to detention and pre-trial detention to ensure continuity of interventions. The NAA specialist sends a medical letter specifying the period of treatment and the dose administered.
- In case of continued methadone substitution treatment for drug users in the detention system, following ANA interventions, the prison medical staff is notified and medical documents are sent by the medical office staff.

On the other hand, in the case where house arrest is ordered after the pre-trial detention, the ANA case manager recommends that the recipient of the programme files a request to the judge of rights and freedoms, so that the judge can order the continuation of the drug assistance programme, i.e. methadone substitution treatment at a specified provider, and include it in the approved route, with the notification of the Judicial Supervision Office.

Induction of methadone substitution treatment for persons deprived of their liberty, held in detention and pre-trial detention centres under the GIRP, who were not in a programme prior to their deprivation of liberty, is initiated only after psychiatric assessment and identification of any comorbidities, including psychiatric ones, as well as specialist diagnosis of opiate and/or polysubstance use disorder - including opiates. Also, the initiation of this particular treatment shall be done after persons have been diagnosed with a disorder following the consumption of opioids and/or other substances - including opioids.

In the case of induction, the treatment shall be performed by specialized personnel, according to specifications of the case manager, within the relevant medical units of the penitentiary hospitals. The person shall follow the prescribed treatment according to the recommendations of the psychiatrist until the medical unit agrees to accept the transfer of the detained person.

After the drug user is stabilized, the NAA physician monitors and administers the substitution therapy within the CRAPs where the person deprived of liberty is detained. Providing substitution therapy for persons with a drug addiction has benefits both at the individual and community level and also diminishes the expenses as regards social, public health and fighting against crime field actions.

In order to ensure the continued performance of interventions, NAA institutional response according to the needs identified during the last period of time by its specialized personnel is based on the workings mechanisms adapted to the scientific breakthroughs and the drug consumption patterns taking also into account the development of certain innovative methods to coordinate the integrated services of medical, psychological and social assistance for drug users which are currently being used within community and detention systems.

The arrangements for the conclusion of a collaboration protocol between NAA, the Medical Directorate of MoIA and the General Inspectorate of Romanian Police in order to provide the assistance the detained persons with a drug addiction need, previously mentioned in the response elaborated by the Romanian authorities on CPT report regarding the 2018 meeting, were concluded in 2019 at the moment the Operational Standard SMAI-O nr.032/2020 - "Providing integrated support for drug users held at Detention and Preventive Arrest Centres" was developed and approved.

This standard is meant to revise and replace the SMAI - O nr.8.032/2011 standard. The aim of this standard is to set the single action framework of MoIA structures in order to provide support, including the methadone substitution treatment, for the drug users who are deprived of their liberty and held at the Detention and Preventive Arrest Centres.

Main objectives are as follows:

- a. Assessing the drug users held at the Detention and Preventive Arrest Centres by the personnel of the Preventing, Assessing and Anti-Drug Counseling Centre (CPECA). The assessment shall be done upon the request of the Detention and Preventive Arrest Centres and be completed by means of a report elaborated by CPECA personnel. The report will also include a specific chapter on the assistance services recommended for each and every person;
- b. Providing, by means of Bucharest Mobile Assistance Programme, the methadone substitution treatment for the persons with a drug addiction who have not previously been enrolled in a treatment programme either at the community level or in detention system, before they have been detained and held at the Detention and Preventive Arrest Centres.

The following clarifications shall be made on the persons who benefitted by the opioid agonist therapy while being detained within Detention and Preventive Arrest Centres:

- In 2020, the Mobile Assistance Programme was performed accordingly and included: 135 requests; 72 patients assigned to case managers; 124 patients were provided the substitution treatment (methadone 5 mg - 12928 pills and 20mg - 6552 pills);
- In 2020, within the general context of Sars-CoV-2 infection spreading, the Mobile Assistance Programme physicians had continuously provided the substitution treatment to persons deprived of their liberty. We especially point out the increased number of requests for which medical evaluation, recommendation for psychiatric assessment and substitution treatment had been provided as well as the significant number of the patients for which the substitution therapy was supported without interruption;

- During this period of time, three under treatment patients enrolled in Mobile Assistance Programme had been isolated for three weeks within 9<sup>th</sup> Police Precinct following their previous contact with Sars-CoV-2 infected persons. One of the patients had been tested positive for Covid 19 and institutionalized within Jilava Hospital for two weeks being under treatment as recommended by Matei Bals Hospital - Contagious Unit. The patient was without symptoms and had a positive development and continued the substitution treatment under Mobile Assistance Programme within No. 1 Detention and Preventive Arrest Centre. The other two contacts were tested negative for SARS-CoV-2 infection;
- The Mobile Assistance Programme was implemented in No. 1 and No.2 Detention and Preventive Arrest Centres, 6<sup>th</sup>, 9<sup>th</sup>, 11<sup>th</sup> and 15<sup>th</sup> Police Precincts in order to assess and administer substitution treatment.

In 2021 the Mobile Assistance Programme included: Requests: 267; Enrolled patients: 60; Patients with treatment completed: 54.

### **Para. 52 of the CPT Report**

As regards the searches of detained persons, by police officers, upon admission to CRAPs, we underline the fact that Art.35, paragraphs (2) and (3) of ROF CRAP, provides concise provisions according to the guidelines recommended by CPT on the respective searches; thus, the above mentioned rules provide 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 not harm the dignity of the person deprived of liberty and in compliance with his/her right to privacy. During the detailed search of the person deprived of liberty it is forbidden to identify the prohibited articles by means of physical exercises”.

In this context, the Ministry of Internal Affairs reminds CPT that complying with all the rules in force at the CRAPs level is performed according to the provisions of Article 343, paragraph (5) of the Implementing Regulation on Law No.254/2013, approved by G.D. No.157/2016, subsequently amended and completed, by which supplementary guarantees are provided in order to fulfil the rights of the respective person during detained period; the complying with the above mentioned rules is performed by establishing a hierarchical supervision mechanism of the CRAPs subordinated to the MoIA by means of specialized personnel and by obeying all their own rules and procedures on organization and performing inspections and controls.

However, we intend to modify the Regulation on the organization and functioning of CRAPs. The legal draft shall include step-by-step provisions on searches in compliance with CPT requires.

### **Para. 53 of the CPT Report**

According to Article 256, paragraph (1) of the Implementing Regulation on Law no. 254/2013 on the execution of sentences and custodial measures ordered by the judiciary during criminal proceedings, subsequently completed and amended, approved by Governmental Decision No.157/2016, the accommodation of persons deprived of liberty is usually performed jointly by strictly obeying the principle of separating men from women and other young persons from adults and their confinement shall be done accordingly.

Also, according to article 190, paragraph (3) of the implementing Regulation if there are persons deprived of liberty of feminine sex, surveillance and monitoring operations shall be performed by a female police officer. Male gender Personnel has access within female detained areas according to the rules in force set by the head of the centre.

Vocational activities assigned to persons deprived of liberty are set on a daily basis schedule. Their regime, including the one set for female persons, is previously mentioned being included in the answer formulated for paragraph 38.

## Para.54 of the CPT Report

We remind the fact that any person's deprivation of liberty is ordered based on proofs or solid grounds that indicate reasonable doubt for having committed an offence; the measure is also important for supporting properly conducted criminal proceedings, preventing the suspect or defendant evasion of the criminal prosecution or trial and from further committing other offences [Article 202, paragraph (1) of Criminal Procedure Code].

Therefore, as regards the field of measures involving deprivation of liberty, the exercise of all civil and political rights is restricted for those which have been banned according to law by means of a final court sentence; this is also the case for those rights whose lack of exercise or limited exercise arises inherently from the deprivation of liberty or from reasons to maintain the security of detention (Article 7 of Law no. 254/2013).

Thus, the fundamental social values are altered by persons having committed offences laid down by penal law and the measures are preserved during the period of liberty resulting in a natural consequence to maintain the security of detention having impact on the free exercise of the fundamental rights by the said persons. Hence, the persons detained or held at CRAPs are compelled to follow the centres schedule in order to support the proper development of the criminal proceedings by fulfilling the fundamental rights (Article 111 of Law no. 254/2013 on the execution of sentences and custodial measures ordered by the judiciary during criminal proceedings, subsequently completed and amended).

The same judicial rules apply also to set out the visit right which is granted, according to the safeguards for maintaining the security of detention, with or without separation devices [Article 139 paragraph (2) of Implementing Regulation on Law no. 254/2013 on the execution of sentences and custodial measures ordered by the judiciary during criminal proceedings, subsequently completed and amended, approved by Governmental Decision No.157/2016].

We highlight the fact that a similar rule as to the one used by the Romanian state for setting out the visit right is applied by other European states. The visits are performed in areas either having separation devices or not.

In Liechtenstein the visits are performed according to each and every detained person status. The visits are performed in areas having separation devices when there is a special relation with the detained person. On the other hand, in Scotland, the visits are performed under "closed visit" conditions, the detained person and the visitor enter the same room having different doors and being separated with Plexiglas windows.

Consequently, we mention the fact that the visit right, the way of granting the visit right, the number and periodicity of visits are laid down by the provisions of articles 247-248 of Implementing Regulation on Law no. 254/2013 on the execution of sentences and custodial measures ordered by the judiciary during criminal proceedings, subsequently completed and amended, approved by Governmental Decision No.157/2016.

Additionally, we highlight the fact that on 16<sup>th</sup> of March 2020, the Decree No. 195/16.03.2020 on the establishment of the state of emergency on the territory of Romania had been published on Romanian Official Gazette, Part I, including in Annex 1 - First aid measures applicable in the field of justice, which have a direct impact on the sub-domain of the execution of sentences and custodial measures.

Therefore, the provisions of article 47 of the above mentioned rule apply to limit the exercise of the legal rights of the persons deprived of liberty becoming, *de iure*, effective as against the persons deprived of liberty held at the Detention and Preventive Arrest Centre as well while enforcing the penal sentences to all of them regardless of the custodial legal regime.

Thus, according to paragraph (1) of the above mentioned rule, while enforcing the penal sentences and custodial measures, the right to be visited, the right to conjugal visits, the right to receive goods as well as the compensations which include the right to temporary leave are suspended; similar measures have been also disposed by Decree No. 240 of 14<sup>th</sup> of April 2020 on the extension of the emergency state on the Romanian territory.

The provisions of the rule for the establishment and extension of the state of emergency on the Romanian territory aimed to limit the exercise of the legal rights of the persons deprived of liberty. In order to ensure their supportive environment, the legislator decided to widen the exercise of the legal rights for the persons deprived of liberty which do not involve contact with potential infected visitors. Thus, the persons held at Detention and Preventive Arrest Centres are entitled to an increased number for both minutes comprised in a telephone call (45 minutes tops instead of 30 minutes) and for the number of calls [according to the provisions of Article 246, paragraph (3), let. c) of Implementing Regulation on Law no. 254/2013 on the execution of sentences and custodial measures ordered by the judiciary during criminal proceedings, subsequently completed and amended, approved by Governmental Decision No.157/2016].

## Annex D1

The Institute of Studies for Public Order developed courses for MoIA operational staff who, by nature of their job whistleblowersdescription, interact with persons prone to be prejudiced in respect of fulfilling of their fundamental rights (courses aim especially subjects on preventing torture, punishments or inhuman or degrading treatments). The Institute of Studies for Public Order is empowered with tasks on developing and organizing training courses for MoIA staff taking into account the need to promote, in the most efficient manner, the fulfillment and observance of human rights and of human dignity within our country as provided by the measures comprised within the international agreements to which Romania is party.

According to the 2020-2021 timetable of the MoIA staff training courses/ advanced training programmes, the followings classes were attended:

- 1) Scope: ***Enforcing the provisions of job regulations and legislation in force:***
  - i. ***Observance of human rights during police interventions, 4 hours:***
    - a. *Observance of human rights while enforcing the main legal powers;*
    - b. *Organizations and bodies empowered with tasks on investigating the violation of human rights.*
  - ii. ***Concepts of Humanitarian international law, 2 hours:***
    - a. *The provisions of Geneva Convention on prohibiting torture;*
    - b. *Domestic legal instruments prohibiting torture and cruel treatments.*
- 2) Scope: ***Investigating crimes subject to judicial police jurisdiction:***
  - i. ***Crimes against life, physical integrity and health of a person - 4 hours***
  - ii. ***Crimes against the person's freedom - 4 hours***
  - iii. ***Hearing of persons - 4hours***
- 3) Scope: ***Applying tactics on different procedural interventions:***
  - i. ***Applying tactics and procedures to restrain and protect - 8 hours***
  - ii. ***Escorting persons to the police precinct - 2 hours***
  - iii. ***Specific intervention addressed to certain categories of persons - 2 hours***
- 4) Scope: ***Efficient communication within professional and organizational environment:***
  - i. ***Social communication and interaction - 2 hours***
  - ii. ***Communication role while managing conflict situations - 2 hours***



**iii. Police Code of ethics and deontology - a tool for improving professional standards - 4 hours**

5) Scope: **Possession of skills, capacities and motor abilities** - include theoretical and practical aspects on observing the human rights and health

- Subject: **The police use of the specific endowment equipment - 6 hours**

Between 2017 and 2022, the classes were attended as follows:

- a) 2017 - 127 students;
- b) 2018 - 100 students;
- c) 2019 - 237 students;
- d) 2020 - 45 students;
- e) 2021 - 120 students.

**II. Specialized training courses for promotion in the ranks of chief-agent, subcommissioner and chief-commissioner**

Following subjects have been included to be taught within the scope of this class in order to be assessed:

- a) Implementing the European Union directives in the field of non-discrimination under the Romanian legal system - 2 hours:
  1. European Union legislation in the field of non-discrimination;
  2. Domestic legislation on the equality of rights and non-discrimination.

Between 2017 and 2022, the classes were attended as follows:

- a) 2017 - 46 students;
- b) 2018 - 87 students;
- c) 2019 - 103 students;
- d) 2020 - 102 students;
- e) 2021 - 20 students;
- f) 2022 - 27 students.

III. Since 2014, the Institute of Studies for Public Order has developed a course on „**Preventing torture, punishments or inhuman or cruel treatments**”, performed annually and lasting 5 days. In 2020, the course was suspended due to the pandemic situation. It was rescheduled for the educational chart between 2021 and 2022.

This course include the following subjects that may be used for performing students' assessment:

- a) Legal aspects on protecting human rights against discrimination and torture - 2 hours;
- b) The mechanism used for preventing torture and punishments or inhuman or degrading treatments. European Committee for the Prevention of Torture - 2 hours;
- c) European Committee for the Prevention of Torture - CPT Rules - 2 hours;
- d) The rights of the persons deprived of liberty during their detention. Ways of granting and exercise of the rights for the persons deprived of liberty during their detention - 2 hours;

- e) Undertaken liabilities by the Romanian state on the protection of the rights for the persons deprived of liberty. CPT Visits - 2 hours;
- f) International organizations monitoring the observance of human rights within custodial institutions - 2 hours;
- g) Documented cases of police abuse within various states. Case law of the European Court of Human Rights - 2 hours;
- h) Good practice regarding police intervention on the fulfillment of persons' rights and liberties and the prevention of abusive measures - 2 hours.

Between 2017 and 2022, the classes were attended as follows:

- 1) 2018 - 27 students;
- 2) 2019 - 16 students.

IV. Between 6<sup>th</sup> and 24<sup>th</sup> of September 2021, „**Judicial Police**” course was attended including the following subjects:

**- Hearing of persons:**

- guaranteeing the right of defense during the criminal proceedings stage;
- hearing methods, hearing stages of suspect, defendant, witness and of the aggrieved person, plaintiff (claiming damages) and of a liable person under civil law.

**- Preventive measures:**

- Guaranteeing the fundamental rights and freedoms of the person during criminal proceedings stage.

V. **Course on advanced training in the field of preventing torture, punishments or inhuman or cruel treatments within the Detention and Preventive Arrest Centres**, lasting 2 weeks, including subjects on:

- a) Human rights institution. Introduction. Mechanisms and systems for protecting human rights - 2 hours;
- b) Guaranteed rights under the European Convention of Human Rights - 2 hours;
- c) Torture and inhuman treatments - 2 hours;
- d) ECHR Case law - Analysis and Debate - 2 hours;
- e) Domestic and international mechanisms on preventing torture - 2 hours.

VI. **Training course elaborated in collaboration with specialists from „A. I. Cuza” Police Academy on Preventing hate crimes**, lasting 3 days.

Among the subjects included in above mentioned course we mention the following:

- a) Fulfillment of human rights. Discrimination. The role of the National Council for Combating Discrimination. Case law - 2 hours;
- b) Criminal aspects on hate crimes - 2 hours;
- c) Features of hate crimes - objective side - 2 hours;
- d) Features of hate crimes - subjective side - 2 hours;
- e) Introductory concept on LGBT. Aspects on observing the fundamental rights by the law enforcement agencies - 2 hours;
- f) Romanian police best practice on the management of diversity - 2 hours.

Between 2017 and 2022, the classes were attended as follows:

- a) 2017 - 20 students;
- b) 2018 - 39 students.

VII. **„Preventing and combatting all forms of discrimination”** course. The following subjects were included in this course and may be used for performing students' assessment:

- a) Implementing the European Union directives in the field of non-discrimination within the Romanian legal system - 2 hours;
- b) A framework law on preventing and sanctioning all forms of discrimination - 2 hours;
- c) Specialized institutions in the field of non-discrimination, legal procedures - 2 hours;
- d) Hate crimes - illustrated by M.C. and A.C. vs Romanian case - case study - 2 hours; measures to enforce the ECHR decision, taken by the relevant working groups under the supervision of the Government Agent - 2 hours;
- e) Romanian Police best practices on the management of diversity - 2 hours.

Between 2017 and 2022, the classes were attended as follows:

- 1) 2017 - 15 students;
- 2) 2018 - 16 students;
- 3) 2019 - 26 students.

In 2020 and 2021, some of these classes were suspended due to COVID-19 pandemic situation.

### **III. Publication procedure**

We reiterate the agreement of the Romanian authorities for the publication of the CPT Report, together with the present response.