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Contact: Zoë Bryanston-Cross  
Tel: 03.90.21.59.62

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Meeting: 1468<sup>th</sup> meeting (June 2023) (DH)

Communication from the authorities on the general measures (22/03/2023) concerning the cases of Centre for legal resources Valentin Campeanu, Cristian Teodorescu, N., N. (No. 2) and Parascineti v. Romania (Applications No. 47848/08, 22883/05, 59152/08, 38048/18, 32060/05)

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

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Réunion : 1468<sup>e</sup> réunion (juin 2023) (DH)

Communication des autorités sur les mesures générales (22/03/2023) relative aux affaires Centre for legal resources Valentin Campeanu, Cristian Teodorescu, N., N. (n° 2) et Parascineti c. Roumanie (requêtes n° 47848/08, 22883/05, 59152/08, 38048/18, 32060/05) [**anglais uniquement**].

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

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Bucharest, 21<sup>st</sup> March 2023

2398 R/AG/ 83

2575 R/AG/ 125

2861 R/AG/ 288

4023 R/AG/ 276

6262/R/AG/ 177

9306 R/AG/ 72

**Information note on general measures required in the cases of *CRJ on behalf of Valentin Câmpeanu, Parascineti, N., N no. 2, R.D. and I.M.D. and the Cristian Teodorescu v. Romania* group (applications nos. 47848/08, 32060/05, 35402/14, 22883/05 59152/08 and 38048/18)**

## **Introduction**

**The case of *CRJ on behalf of Valentin Câmpeanu*** concerns the authorities' failure to protect the applicant's right to life (substantial violation of Article 2), due to the serious shortcomings in the social and medical care afforded to him before his death at the neuropsychiatric hospital of Poiana Mare

The case also concerned the ineffectiveness of the investigation and the court proceedings into Mr Câmpeanu's death, due to the authorities' failure to conduct an immediate autopsy, to establish whether the death could have been the result of an inadequate therapeutic approach or to take into account the objective situation prevailing in Poiana Mare Hospital, as well as the lack in domestic law of a legal framework suited to the specific needs of people with mental disabilities and allowing for the examination of the allegations concerning the violation of the applicant's right to life by an independent authority (violation of Article 13 taken together with Article 2).

**The cases in the *Cristian Teodorescu* group** concern the unlawful placement of the applicants in psychiatric hospitals, or their arrest by police with a view to such placement (case of *Ulisei Grosu*), without compliance with the procedure prescribed by the Mental Health Act and without any justification relating to their mental health condition (violations of Article 5 (1) e)).

**The case of *Atudorei*** further concerns the psychiatrist's failure to observe the legal requirement to obtain the consent of the applicant to the medical treatment provided during her placement or, absent such consent, to submit this treatment for validation to a medical commission (violation of Article 8).

The European Court found that these violations occurred in the context of shortcomings in the legislative framework governing the procedure and safeguards in the field of involuntary psychiatric placement at the material time (2004-2008), as well as more general problems which affected the application of this framework.

**The case of *Parascineti v. Romania*** concerns the ill-treatment suffered by the applicant during his involuntary placement in a hospital's psychiatry ward.

The Court found that the applicant's deprivation of liberty between 2007 and 2016 was devoid of legal basis, mainly because the domestic courts had failed to assess the danger he posed to society, which was an essential element under domestic law, but instead based themselves only on forensic medical reports attesting that he had a psychiatric condition. In addition to being contrary to domestic law and Article 5 (1), the detention was inconsistent with the principle that the sole

existence of a disability shall in no case justify a deprivation of liberty, laid down in the United Nations Convention on the Rights of Persons with Disabilities.

**The case of *R.D. and I.M.D.*** concerns the non-voluntary confinement of the applicants in a psychiatric hospital, for the purpose of compelling them to undergo medical treatment and about the obligation to undergo that medical treatment. The measure was imposed following criminal proceedings condemning the applicants to compulsory psychiatric treatment, based on medical reports of expertise dated 3 years before the date of confinement in the psychiatric hospital and further maintained until present, without proper examination by the domestic courts of the degree of social danger justifying the safety measure or of the degree of social danger of the criminal offense.

**In the case of *N. v. Romania*,** the Court found that the applicant's deprivation of liberty due to his committal to a psychiatric hospital had been, at first (between 2007 and 2016) devoid of legal basis, due to the failure to assess the applicant's danger to society, and subsequently (after 2016) arbitrary, as it had been imposed in the absence of any legal provision to allow it (the deprivation of liberty was continued his detention to give time to the social services to organize his transfer to an institution suited to his needs).

Furthermore, the Court found that the proceedings for reviewing the applicant's deprivation of liberty had not afforded sufficient safeguards against arbitrariness.

**Finally, in the case of *N. (no. 2) v. Romania*,** the ECHR found that the legal provisions in force regulating guardianship for adults necessarily entail full incapacitation and do not allow the possibility of tailor-made response in deprivation of legal capacity of the protected person. It also found that the current system lacks safeguards allowing an incapacitated person to have a say in the proceedings leading to the change of a legal guardian.

## **General measures**

### *1. Legislative changes*

#### *1.1 Information on Law no. 140/2022*

Law no. 140/2022<sup>1</sup> has been adopted in order to ensure the compliance of domestic law with the decision no. 601/2020 adopted by the Constitutional Court, which found that the regime applicable at the time in Romania did not allow the possibility of tailor-made response in deprivation of legal capacity of the protected person.

As such, Law no. 140/2022 introduces the following institutions for ensuring a gradual and tailor-made approach to the needs of persons affected by intellectual and psycho-social disabilities:

- The possibility of assistance for the conclusion of legal acts;
- Judicial counseling;

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<sup>1</sup> Law on certain measures for protecting persons with intellectual and psycho-social disabilities and on the modification and completion of other legislative acts, adopted on 17 May 2022 and published in the Official Gazette no. 500/20 May 2022.

- Special guardianship
- The protection mandate (*mandatul de ocrotire*);

Thus, the assistance for the conclusion of legal acts (regulated by Chapter I, art. 1-6) is available for people above the age of 18 (*persoane majore*) who, due to their intellectual or psycho-social disabilities, require support in order to take care of themselves and of their patrimony, as well as to exert their civil rights and liberties. The legal assistant shall be designated through a public notary and the duration of this measure is of a maximum of two years.

Judicial counseling (Chapter II, art. 7 (22)) is established for persons with a partial deterioration of their mental faculties, either temporary or permanent, and who need support in the forming and/or expression of their will. Judicial counselling is established on the basis of a medical and psycho-social evaluation.

The law provides that judicial counselling is to be instituted only if adequate protection cannot be ensured through the assistance for concluding legal acts.

At the same time (and also at Chapter II, art. 7 (22)), the law introduces the institution of special guardianship, which is to be instituted if their mental faculties are totally deteriorated and its situation requires continuous representation in the exercise of their rights and freedoms.

Similarly, the law provides that special guardianship is to be instituted only if adequate protection cannot be ensured through the assistance for concluding legal acts or through judicial counseling.

Art. 23 provides that special guardianship and judicial counseling can be requested by the person who requires protection, by its spouse, its relatives, its in-laws (*afini*), by the person who lives with the one who requires protection, as well as by the other persons, organs, institutions or authorities provided at art. 111 of the Civil Code, which shall be applied accordingly.

Finally, the protection mandate (Chapter II, art. 7 (24)) can be used by a person with full legal capacity of exercise (*capacitate deplină de exercițiu*) to designate, through an unilateral act or a convention in authenticated form, a person who shall be designated as guardian (*tutore*) to take care of the person and her goods in case they will be placed under judicial counseling or special guardianship.

Art. 20 of Chapter IV provides that the persons who, at the time when Law no. 140/2022 enters into force (18 August 2022, three months from its publication in the Official Gazette), were placed under judicial interdiction, shall be subjected to a reexamination of their situation, which shall be carried out within three years from the entry into force of this law.

**Furthermore, in the Title of the Civil Code on the protection of the natural person, the Section on the guardian, it is mentioned, in Article 118 (as amended by Law no. 140/2022), that in the absence of a designated guardian, the court of guardianship shall appoint as a guardian, if no good reason is given, a blood relative or a relative or a friend of the minor's family, capable of carrying out this task, taking into account, where appropriate, personal relations, proximity of domicile, the material conditions and the moral guarantees presented by the person called to guardianship.**

**If none of the persons referred to above can assume guardianship, the trusteeship court shall appoint a personal representative who has acquired this capacity under the conditions of the special law.**

Moreover, in the Title on the protection of the adult through judicial advice and special guardianship, at Article 170 (as amended by Law no. 140/2022), it is mentioned that by the decision through which the protection measure was adopted, the trusteeship court appoints the person who will exercise the position of guardian from the date of the final decision.

In the absence of a designated guardian, the guardianship court shall appoint as a priority in this capacity, unless justified reasons are opposed, the spouse, the parent, a blood relative or a relative, a friend or a person living with the protected one if the latter has close and stable ties with the protected one, capable of carrying out this task, taking into account, where appropriate, the bonds of affection, personal relationships, material conditions, the moral guarantees that the person called to be appointed guardian and the proximity of his or her domicile or residence. If none of the persons referred to above can assume guardianship, the trusteeship court shall appoint a personal representative who has acquired this capacity under the conditions of the special law.

As regards the entry into force of the two previously mentioned Articles of the Civil Code, Law no. 140/2022 stipulates that **the provisions of Article 118 paragraph (2) and Article 170 paragraph (3) of Law no. 287/2009 on the Civil Code, republished, as amended by this law, shall enter into force on the date to be provided for by the special law on the personal representative.**

**According to the information provided by the Ministry of Justice (MJ) on this topic,** Law no. 140/2022 represents a very important legislative progress, which brings national law on the protection of vulnerable persons in line with the most recent evolutions of the practice of the ECHR and of the Constitutional Court.

The new law places in the center the persons who receive the protection regime and emphasizes the respect for dignity, rights and freedoms, the person's will, needs and preferences, as well as the safeguarding of personal autonomy.

Overall, Law no. 140/2022 arranges a series of legal instruments designed to respond to the entire level of intellectual and psychosocial disabilities, by configuring a support measure that does not impair the exercise capacity of those who benefits from it (assistance for the conclusion of legal acts), as well as two measures that presuppose the restriction (proportional, gradual, time-limited and individualized) of the capacity to exercise (judicial counseling and special guardianship), all of these together with a private means of protection (the protection mandate).

From a procedural point of view, the regulation aims to respond as efficiently as possible to the needs of various categories of vulnerable people and to highlight that the person of the protected adult and ensuring the exercise of his fundamental rights and freedoms are key elements, at the center of his concern.

The medical and psychological evaluation methodology of the person with intellectual and psychosocial disabilities in the context of the imposition, extension, replacement or lifting of the measure of judicial counseling or special guardianship (provided in art. 23 of the law) was approved by Order no. 3423/2128/2022 of the Minister of Health and the Minister of Labor and Social Solidarity.

The MJ also mentions a series of other relevant aspects for monitoring the implementation of the new measures:

- The National Authority for the Protection of the Rights of Persons with Disabilities and the Superior Council of the Magistracy will draw up, upon completion of a period of three years from the entry into force of Law no. 140/2022, reports including the assessment of its impact, as well as, if necessary, proposals to improve the relevant legislation (art. 24);
- The Superior Council of the Magistracy will include in the continuous professional training program for judges and prosecutors for the years 2022-2024 activities in the field of the means of protection for people with intellectual and psychosocial disabilities (art. 25 (1));
- The National Institute of Magistracy will prioritize continuing professional training actions in the field of means of protection for people with intellectual and psychosocial disabilities (art. 25 (2)).

The MJ has specified that no major difficulties in applying the texts that are within the legislative competence of the ministry – the Criminal Code, the Code of Criminal Procedure, the laws on the execution of custodial or non-custodial sentences have been reported by the prosecutor's offices or courts.

## 1.2. *Information on Law no. 7/2023*<sup>2</sup>

Law no. 7/2023 has been published in the Official Gazette no. 19/6 January 2023 and its purpose is, as established at art. 1 (1), to regulate the general framework for a reform in the field of protecting adults affected by disabilities, by operationalizing and prioritizing measures aimed at accelerating the de-institutionalization process and preventing institutionalization.

Art. 2 states that the de-institutionalization process and the prevention of institutionalization of adults affected by disabilities represent national priorities and responsibilities, in accordance with the UN Convention on the rights of persons with disabilities, to which Romania is a party.

Among other measures, Law no. 7/2023 provides a series of benefits for persons affected by disabilities (art. 4) – transition benefit (for preventing institutionalization or for helping the transfer from a care center to the community), housing benefit, person focusing (*centrare pe persoană* – individualized support for independent living).

Also, said law (art. 4 d)) states the right to independent living, as the equal right of all persons with disabilities to live in the community, receiving equal opportunities with the other persons, and to fully enjoy their integration in the community.

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<sup>2</sup> Law on supporting the de-institutionalization process for adults with disabilities and on the application of certain measures to accelerate this process and to prevent institutionalization, as well as for amending and completing other normative acts.

Art. 5 provides the main principles of the process of de-institutionalization and prevention of institutionalization: subsidiarity, partnership, collaboration with various social actors (trade unions, NGOs, employers etc.), the effective use of funds, non-discrimination, person-focused approach, inclusion and accessibility, non-segregation, desegregation, the principle of consulting and involving persons with disabilities, their representatives and organizations.

2. *Information on the issue of effective domestic investigations with regard to persons placed in psychiatric hospitals and residential centres*

The Prosecutor's office attached to the High Court of Cassation and Justice (the PO-HCCJ) provided the following information on the status of criminal investigations which fall under the scope of Order no. 144/2017 of the General prosecutor (Order establishing a protection mechanism for institutionalized persons in vulnerable situations):

<b>Year</b>	<b>Number of dismissals<sup>3</sup></b>	<b>Number of quashing solutions<sup>4</sup></b>	<b>Number of files sent to trial or where an agreement recognizing guilt was reached</b>	<b>Cases where prosecution was dropped<sup>5</sup></b>	<b>Number of suspicious death case files</b>
2017 (second semester)	145	3	2	2	Data uncollected
2018	359	5	Data uncollected	8	239
2019	378	9	Data uncollected	11	217
2020	390	3	12	8	226
2021	382	6	10	2	151
2022	415	4	9	11	260
<b>Total</b>	<b>2069</b>	<b>30</b>	<b>33</b>	<b>42</b>	<b>1093</b>

The PO-HCCJ mentions that the above data also includes cases concerning minors without temporary or permanent parental protection (*minori lipsiți temporar sau definitiv de ocrotire parintească*) which are in foster care or residential centers.

Regarding the investigations into allegations of abuse committed against persons with intellectual disability/psychiatric illness at the Măciuca and Sighetu Marmăției centers, the PO-HCCJ informs that, in the file concerning the situation at the Măciuca center (no. 485/P/2017), the investigation is ongoing and criminal prosecution acts are carried out rhythmically and in an accelerated manner, and all the necessary evidence has been administered in order to meet the standards of an effective investigation.

<sup>3</sup> Clasări

<sup>4</sup> Infirmări

<sup>5</sup> Renunțare la urmărirea penală

At the same time, in the criminal file dealing with the situation at the Sighetu Marmăției center (file no. 1807/P/2019), a solution of dismissal was reached in relation with the alleged crime of negligence, since the actions had not been committed with the guilt required by the law.

3. *Information on training activities for the personnel involved in the legal procedures concerning persons with intellectual disabilities/mental illnesses*

The PO-HCCJ also informs that it has concluded a partnership with the Centre for Legal Resources (*Centrul pentru Resurse Juridice – CRJ*), establishing the project „*AdaptJust – Accessible justice for persons with disabilities*”. As such, in 2022, the PO-HCCJ selected two experts (former prosecutors) tasked with organizing the specialized training sessions.

Twelve such sessions were held, in which 261 persons took place (magistrates, lawyers, social and psychological assistance providers), including 57 prosecutors from Prosecutor’s offices (POs) attached to courts of first instance.

The experts selected will also contribute to the drafting of relevant documents, such as a working procedure for preventing and combatting ill treatments, inhumane and degrading conduct against persons affected by psychiatric illness/intellectual disabilities (especially in the case of persons admitted in social care centers and psychiatric hospitals), a guidebook for preventing ill treatments, inhumane and degrading conduct against persons affected by psychiatric illness/intellectual disabilities, a National Action Plan for preventing ill treatment against institutionalized persons affected by psychiatric illness/intellectual disabilities.

Following the conclusions of the analysis carried out in 2020 on the topic of crimes committed against vulnerable and institutionalized persons for which the cases were not sent to trial (*s-au dispus soluții de netrimitere în judecată*), the PO-HCCJ drew the attention of prosecutors to their obligation to communicate copies of these solutions to the Council for Monitoring the implementation of the UN Convention on the rights of persons with disabilities. The follow up on this issue was continued in the analysis carried out in 2021 and 2022, and recommendations were made to improve the actions of prosecutors in relation to this aspect.

The Superior Council of Magistracy (the CSM) informs, in the first place, that, recently, it has developed an on-line application, [www.rejust.ro](http://www.rejust.ro), which allows easy and free-of-charge access to a database of anonymized solutions adopted by the national courts, which include issues related to the protection of vulnerable individuals. The application allows the use of various filters and keywords in order to aid in the search for relevant case law.

The CSM informs that, under the responsibility of the National Institute of Magistracy (the INM), the question of protecting human rights and preventing discrimination is prominently featured in the activities aimed at training newly admitted (initial formation), as well as currently active magistrates (continuous training).

The initial training at the level of the INM aims to allow future magistrates to be able to identify the most adequate and up to date examples of ECHR case law for solving the cases at hand, by using both the HUDOC data base and other sources (FRA guides, HELP courses, legal doctrine).



Stating from the school year 2018-2019, the case of *CRJ in the name of Valentin Câmpeanu v. Romania* is included in the bibliography of the magistrates' graduation exam (*examen de capacitate*).

Furthermore, human rights issues and the case law of the ECHR are also included in a series of training programs implemented by the INM, in collaboration with external partners, such as the Norwegian Financial Mechanism (a series of 15 workshops on the ECHR's case law, to be organized between 2020-2023), the National Council for Combatting Discrimination – the CNCD (a protocol of collaboration with the INM, concluded in 2016, which involves the organization, each year, of various training activities in the field of combatting discrimination).

On this latter subject, the INM informs that, in 2022, two trainings on the topic of combatting discrimination were organized in collaboration with the CNCD, which dealt, among other aspects, with discrimination on the basis of health status and disability.

Also in 2022, two workshops were organized (within the POCA project "*Justiția 2020: profesionalism și integritate*" SIPOCA 453 MySMIS2014+ 118978) on the topic of hearing techniques in criminal law, with emphasis on the concept of vulnerable persons, the particular aspects of hearing vulnerable persons and psychological milestones in the development of vulnerable persons, practical aspects of hearing minors, practical aspects of hearing persons with intellectual disabilities, psycho-traumatic indicators etc.

Following the meeting which took place in Bucharest on 21-22 June 2022 between representatives of the Department of execution of ECHR judgments and representatives from national authorities, the INM has decided to include the subject of protecting the rights of persons with disabilities in the 2023 Continuous training program, as well as the creation of a training curriculum for this subject and the establishment of a common interdisciplinary direction for approaching cases where a medical forensic expertise is required.

Within the 2023 continuous professional training program, which has to be approved by the Plenum of the CSM, the INM aims to include interdisciplinary training activities on the subject of the ECHR's case law on psychiatric medical assistance, which shall be addressed to magistrates, as well as to lawyers, forensic doctors and psychiatrists. At the end of the program, it is expected that the participants will be able to identify the issues raised by the use of forensic evidence in determining a person's medical condition and to be capable of determining the conditions in which such an expertise is to be ordered and carried out.

The INM stresses that this approach seeks to strengthen inter-professional dialogue within the main actors involved in ordering and carrying out forensic expertise.

#### *4. Information from the National Authority for the Protection of the Rights of Persons with Disabilities (ANPDPD)*

The ANPDPD informs that, following the adoption of the decisions of the Constitutional Court on the legal framework for the deprivation of legal capacity (decisions no. 601/2020 and 795/2020), the Ministry of Justice took action and adopted Law no. 140/2022, which provides, at art. 23, the need for a methodology of medical and psychological evaluation, which has to be adopted through a joint order of the health minister and labor and social security minister.

Thus, order no. 3423/2128/2022 has been adopted, approving a methodology and a medical and psychological evaluation report for persons with intellectual and psycho-social disabilities, in the context of applying, prolonging, replacing or lifting protection measures (*măsuri de ocrotire*).

The ANPDPD stresses that, after the entry into force of this new methodology, in accordance with the provisions of the Civil Code, all persons with disabilities placed under guardianship (*tutelă*) will be reevaluated and, on this occasion, the courts will reexamine, *ex officio* or on demand, the measures of guardianship (*punere sub interdicție*) and, according to the circumstances of each case, they can replace this measure with one of the new instruments provided by the Civil Code (special guardianship, judicial counseling) or lift the guardianship altogether. Any new measure will be applied on the basis of an evaluation carried out in accordance with the methodology provided by order no. 3423/2188/2022.

HG no. 426/2020 for approving the cost standards for social services has been modified in 2022 by HG no. 1253/2022, which brought an increase of 8.1% for the personnel expenses budget.

Furthermore, through the adoption of Law no. 7/2023 on supporting the process of de-institutionalizing adult persons with disabilities and for accelerating this process and preventing re-institutionalization, the application of the case management method (*metoda managementului de caz*) has been expanded outside the public system and, starting from 1 January 2025, it will be possible to exert the case management method in an independent method, in conditions of free practice (*în condiții de liberă practică*).

#### 5. *Information on the activity of the Council for monitoring the implementation of the UN Convention on the Rights of Persons with Disabilities (the CMIUNC)*

The CMIUNC informs that, for 2023, it plans to visit nine specialized psychiatric hospital or psychiatry wards of hospitals, in order to assess the respect of the rights of disabled persons within these institutions. The hospitals have been chosen so as to prioritize those establishments where more serious breaches have been signaled, as well as to allow the follow-up of previous visits.

The CMIUNC also seeks to conclude partnerships with various other institutions, so as to help its activity.

Thus, following discussions with the National Authority for Managing Healthcare Quality (ANMCS), it is planned to create a procedure for visits in psychiatric hospitals/psychiatry wards (deadline for completion – end of March 2023), as well as a monitoring chart for verifying the respect of patients' rights, which will follow the provisions of Law no. 478/2002.

Another cooperation which is underway is with the Romanian Association of Psychiatric Hospitals (the ASPR), and, in March 2023, a meeting took place, aiming to lead to the conclusion of a cooperation protocol.

Furthermore, the CMIUNC organizes working meetings with various other relevant domestic authorities, such as the National Centre for Mental Health and Combating Drug Use (CNSMLA), the PO-HCCJ, the Ministry of Health (MS) and the Ministry of Justice (MJ).

Between February and December 2022, the CMIUNC made 138 visits in 34 counties, at various institutions (public or private residential centers for persons with disabilities) and, in 66 such visits, issues were found (related to lack of necessary personnel and resources). Consequently, the CMIUNC made 150 recommendations and the institutions visited took 117 (representing 78% of the requested measures) actions for remedying the issues.

The recommendations made dealt with the following issues:

- Filling vacant positions;
- Acquiring the necessary materials for accomplishing the rehabilitation works;
- The provision of continuous training courses for the personnel.

The reports compiled by the CMIUNC after its visits also highlighted issues with regard to standards of living in 106 facilities, for which 332 breaches were found (overcrowding, degraded furniture, dampness, mold on the walls, issues with the sanitary facilities. In reply, the visited facilities disposed 268 remedial measures. Most breaches were found at the Burila Mare Centre, in Mehedinți County, and, following the visit, the institution drafted the necessary technical and economic documentation for rehabilitating and modernizing the facility.

The CMIUNC informs that, on the basis of the PO-HCCJ order no. 144/2017, prosecutor's offices have started to communicate the dismissal solutions adopted in cases concerning crimes committed against vulnerable institutionalized persons.

At the same time, in 2022, the CMIUNC has completed its own procedure for notifying the competent judicial organs (on the basis of art. 4 of Law no. 8/2016<sup>6</sup>) when it finds a breach of the rights of vulnerable institutionalized persons committed through criminal acts (*fapte penale*)

In 2022, 48 decisions not to prosecute or to dismiss cases (*ordonanțe de clasare/netrimitere în judecată*) have been communicated to the CMIUNC, out of which 21 cases concerned crimes committed in the community, 10 cases concerned crimes committed in psychiatric hospitals or wards and 17 in centers for elderly persons, disabled persons or minors. Out of 48 cases, 15 involved persons with disabilities, whereas the other 33 concerned either elderly persons or minors.

The CMIUNC informs that all the 48 solutions adopted by the POs and mentioned above have also been communicated to the parties concerned (either directly or through their representatives) and the Centre has not been asked by the injured parties in these cases to lodge complaints against the solutions adopted by the prosecutors.

The CMIUNC equally adds that work on a collaboration protocol with the PO-HCCJ is underway.

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<sup>6</sup> Law no. 8/2016 for creating the mechanisms provided under the UN Convention on the Rights of Persons with Disabilities.

## 6. *Information provided by the National Center for Mental Health and Combating Drug Use (CNSMLA)*

The CNSMLA informs that it possesses a strategy for developing its institutional capacity, with the following objectives:

- Increasing the number of employees and raising the budget, so as to be able to fulfill its goals set through the Government's Decision (HG) no. 1424/2009 on the establishment, organization and functioning of the CNSMLA;
- Increasing the role and involvement of the CNSMLA in the conception, monitoring and implementation of mental health-related public policies;
- The formation of inter-institutional working groups in order to map the needs and resources available in the field of mental health;
- Elaborating and implementing solutions for the problems identified, as well as mental health-related public policies, on the basis of the results achieved through the mapping process (point 3 above) and the study of the legislative framework, in collaboration with the Health Ministry, Labor Ministry, Education Ministry, Justice Ministry, Finance Ministry, the PO-HCCJ and any other institution which can collaborate in this field;
- The CNSMLA has also took part in work meetings aimed at amending and improving the provisions of Law no. 140/2022 and of Law no. 487/2002, including its implementation rules (contained in the Order no. 488/2016).

The CNSMLA stresses that its main objective is to prioritize the needs and implement measures and public policies in accordance with the results obtained from the inter-institutional work groups.

With regard to the schedule for implementing its strategy, the CNSMLA provided the following details:

- 2023-2028: increasing the role and involvement of the CNSMLA in the conception, monitoring and implementation of mental health-related public policies;
- 2023-2024: the formation of inter-institutional working groups in order to map the needs and resources available in the field of mental health;
- 2024-2028: the elaboration and implementation of solutions for the problems identified, as well as mental health-related public policies, on the basis of the results achieved through the mapping process (point 3 above) and the study of the legislative framework, in collaboration with other relevant institutions;

At the same time, the CNSMLA seeks to aid in the following aspects:

- Expanding the mental health infrastructure through improved access to funding;
- Improving the motivation of healthcare personnel by ameliorating working conditions, offering training opportunities, combatting stress and burnout, raising workplace safety;
- Training mental healthcare personnel on human rights and the protection of vulnerable persons, particularly in the context of non-voluntary hospital admissions.

Other initiatives of the CNSMLA:

- The creation of the profession of forensic psychiatrist (*psihiatricie forensică*);
- The creation of the specialization in addiction (*adictologie*) at the level of multidisciplinary teams;
- The creation of an integrated system of mental health, with an integrative, multidisciplinary approach toward mental health patients, on the basis of a coherent algorithm – prevention, screening (*depistare*), personalized medical and psychological assistance, integration in the community, prevention and fight against stigma and social exclusion;
- The continuous training of medical and non-medical personnel in the timely identification and management of persons afflicted by mental health problems and the creation of professions that can complement and support an adequate mental health care process (supervisor, work therapist, addiction specialist, forensic psychiatrist, forensic psychologist);

#### 7. *Information provided by the Ombudsman's office (AvP)*

The AvP informs that, by means of the National Torture Protection Mechanism (MNP), it has carried out 24 visits to psychiatric hospitals and hospitals for safety measures (*spitale pentru măsuri de siguranță*) between 2019-2023. The reports drafted after these visits are available online at <https://avp.ro/index.php/rapoarte-mnp/>.

Following these visits, the AvP issued a series of recommendations for remedying the shortcomings identified, which dealt with aspects ranging from the lack of personnel and poor material conditions to the respect of rules and regulations concerning non-voluntary admissions and obtaining the necessary consent for treatment from patients.

The reports also contain suggestions for amending the legislative framework in order to address the shortcomings identified.

#### 8. *Other aspects*

In addition to the meetings and discussions on the topic of executing the relevant Court judgments in the area of mental health and intellectual disabilities, which took place in April 2022 (on the occasion of the high level visit of the CoE delegation in Romania) and in June 2022 (on the occasion of the visit of the Department for the Execution of ECHR Judgments, another important event took place on 12 December 2022.

On said date, following an invitation from the of the Human Rights, Equality of Chances, Minorities and Religions Commission of the Romanian Senate and the CRJ, a debate on the elaboration of a National Action Plan for preventing ill treatment in psychiatric hospitals and residential centers took place.

The event brought together various competent authorities involved in this field, such as the CNSMLA, the CMIUNC, the PO-HCCJ, the Ministry of Health, the Labor and Social Security Ministry and the Ministry of Justice, as well as the Governmental Agent for the ECHR.

The rich discussions and exchanges of views offered important input for the competent national authorities that will be tasked with drafting the necessary action plan, according to their attributions and competences, and, during the debates, attention was drawn to the need to follow the action plan guideline prepared by the CoE in the process of creating the Action Plan.

### **Conclusions**

The Government shall keep the Committee informed with regard to the execution of the ECHR judgments in the abovementioned cases and, in particular, with regard to the drafting and completion of the expected National Action Plan for preventing ill treatment in psychiatric hospitals and residential centers.