



**Optional Protocol to the
Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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**Subcommittee on Prevention of Torture and Other Cruel,
Inhuman or Degrading Treatment or Punishment**

**Visit to Romania undertaken from 3 to 12 May
2016: observations and recommendations
addressed to the State party**

Report of the Subcommittee*

Addendum

Replies of Romania, *****

[Date received: 24 August 2017]

* In accordance with article 16 (1) of the Optional Protocol, the present report was transmitted confidentially to the State party on 15 February 2017. On 11 August 2017, the State party requested the Subcommittee to publish the report, in accordance with article 16 (2) of the Optional Protocol.

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*** The present document is being issued without formal editing.



I. Introduction

1. The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) visited Romania from 3 to 12 May 2016. The Subcommittee has requested the Government of Romania to provide its response to the recommendations included in the report CAT/OP/ROU/R.1* on its visit to Romania. The Romanian Government submits its response in the following report.

II. Romanian Government's response

A. Reprisals

Para. 9 – Reprisals

2. Romanian Government would like to assure the SPT members that in the places of deprivation of liberty visited during the first mission in May 2016, there were no recorded punishments or penalizations applied to persons deprived of their liberty for having interviews with the members of the SPT delegation.

3. In order to prevent or to sanction possible reprisals against the persons detained there is a series of substantive and procedural safeguards, both through criminalization of submission to ill-treatment (Article 281 of the Criminal Code) or torture (Article 282 of the Criminal Code) and by the intervention of some factors of independence in the procedure of applying disciplinary sanctions (complaint to the judge for the supervision of deprivation of liberty and appeal before the courts).

4. At the Romanian Police level, each person who had meetings with the SPT delegation is informed about the possibility of filing complaints, including by way of calling the telephone number provided by the SPT and may use the telephone for private calls.

5. Within the framework of the continuous preparation of the prison system staff are included topics relating to the prevention of torture and ill-treatment, as well as regarding discrimination and human rights. Staff training on this line, in conjunction with the application of the legal provisions concerning the rules of conduct, as well as the unlimited exercise of the inmates rights, supported by the imprisonment supervision judge (for an immediate and effective appeal), represents a guarantee to prevent the possibility of retaliation against persons making claims to the competent institutions (national or international).

B. Overarching issues

Normative, institutional and policy framework

Paras. 28–30 – The right of any person deprived of his/her liberty to be informed about the reason of his/her arrest or any charge against him/her and his/her rights during detention

6. At present, every detention facility managed by the Romanian Police has booklets from which the detainee can learn about his/her rights in every room. Moreover, these booklets have been translated into the most common national minority languages and efforts are made to provide further translations (an English translation is planned to be provided for all places of detention as soon as logistical means for printing all the necessary booklets shall be found). Finally, it should be noted by the SPT that detention officers are instructed to provide to the detainee all the information about his/her arrest and his/her rights during detention, both orally and in writing.

7. All the legal provisions regarding the execution of the punishments (including those concerning detainees' rights) are accessible to the persons deprived of their liberty.

The right of the inmates to have access to the personal documents that are in the individual file is guaranteed by law

8. Thus, the convicted person, the lawyer or any other person, has access to this file, with the written consent of the convict. The individual file comprises 5 parts: the penal documents, the education and psycho-social assistance file, the disciplinary file, the requests file and the medical records. The convicted person may obtain, upon request, at an additional cost, a number of justified copies of the documents of the individual file. If the convicted persons do not have the necessary funds, the expenditures shall be borne by the administration of the prison.

9. According to article 61 of Law no. 254/2013 on the execution of custodial sentences and of measures involving deprivation of liberty ordered by the judicial bodies during criminal trial, with further amendments (Law no. 254/2013), the detainees have the right to consult the legal provisions:

“Art. 61. Measures to ensure access to the legal provisions and documents concerning the execution of custodial sentences:

(1) The provisions of the Criminal Code and Criminal Procedure Code relating to the execution of custodial sentences, this Law, the Regulation implementing its provisions, the orders and decisions issued under this Law, the Law No 544/2001 on free access to information of public interest, as amended and supplemented, and the Government Decision No 123/2002 approving the Methodological Norms implementing the Law No 544/2001 on free access to public information, the Government Emergency Ordinance No 51/2008 on legal aid in civil matters, approved with amendments and supplements by the Law No 193/2008, as amended and supplemented, as well as the internal rules of the penitentiary shall be made available to the sentenced persons, during the period of quarantine and observation after being received in the penitentiary.

(2) In case the sentenced person does not speak or understand Romanian, cannot speak or has communication deficiencies, the administration of the penitentiary shall order the measures necessary to notify the information provided in paragraph (1), through a person who can communicate with the sentenced person.

(3) The texts of the legal provisions referred to in paragraph (1) shall be made available to the sentenced persons, in penitentiaries, in accessible places.

(4) In case of Romanian citizens belonging to national minorities, the disclosure of the provisions referred to in paragraph (1) can be made in their native language.”.

10. After the placement in the prison, the inmates are compulsory included in the Program of adaptation to the conditions of deprivation of liberty, which aims to assist them in the process of adaptation to the institutional environmental conditions, in accordance with the requirements of the European Regulations and Recommendations for prison and according to the legal framework for the enforcement of custodial sentences, in order to raise awareness on the educational function of the punishment and increase the interest in participation in the recuperative programmes and activities.

11. The program has two components: one on the information of the inmates and another on the assessment and acknowledgement thereof, in order to determine the recuperative intervention, in accordance with the individual needs identified for each convicted person.

12. The information component is carried out within the framework of the group meetings and the assessment and knowledge component is achieved through individual activities, carried out by specialists on the three components: education, psychological support and social assistance.

13. The contents transmitted in the framework of the programme are summarized, made comprehensible to the convicts and accompanied by presentations aiming to catch their attention. Additionally, the inmates may study individually the informative material from the cell folders or the flyers available, may watch the prison presentation film, and may

watch informative shows broadcasted by the prison local television circuit or may access the info-kiosks available in all the subordinate units.

14. For the foreign prisoners, the most important information related to the regulatory framework for the punishments execution is also available in several languages, such as: English, French, Hungarian, German and Turkish.

15. Current situation of the info-kiosks located within the seven units visited is as follows:

- Aiud Prison – 9 info-kiosks, each detention section being equipped with such a system;
- Botoșani Prison – 7 info-kiosks, each detention section being equipped with such a system;
- Gherla Prison – 5 info-kiosks;
- Giurgiu Prison – 13 info-kiosks, each detention section being equipped with such a system;
- Iași Prison – 3 info-kiosks in three detention sections;
- Constanța-Poarta Albă Prison – 5 info-kiosks on each detention section E1, E2, E4, E5 and E6;
- Women’s Penitentiary Ploiesti-Târgșorul Nou – 3 info-kiosks in the pre-trial, closed regime and semi-open regime.

16. We mention that the information activities are included mainly in the Programme of adaptation to the deprivation of liberty conditions and it is mandatory for all the categories of inmates in the prison system to read it. The support materials available to the inmates are both texts of laws (general legislation and specific legislation to the penal-executional framework, decisions of the general director of the National Administration of Penitentiaries, provisions of the prison internal regulation) and also summarized documents in power point format. Other ways of informing the inmates about the content of these documents are: cell folders info-kiosk and the prison radio-TV broadcasts – permanently available. At their request, inmates may receive the penal-executional legislation, including copies.

17. Any change in the penal-executional field or prison interior regulation shall be brought to the attention of the inmates, based on signature.

Para. 32 – The national legal framework includes express provisions on both the mandatory legal assistance of the suspect or the defendant, the administration of evidence, and the penalties imposed in the event of undue pressure or unlawful administration. In this regard, we shall read below the relevant articles of the Criminal Procedure Code and the Criminal Code

“Criminal Procedure Code

Mandatory legal assistance provided to a suspect or defendant

Art. 90. - Legal assistance is mandatory:

- (a) when a suspect or defendant is underage, is admitted to a detention center or an educational center, when they are detained or arrested, even in a different case, and when in respect of such person a safety measure was ordered remanding them to a medical facility, even in a different case, as well as in other situations established by law;
- (b) when a judicial body believes that a suspect or defendant could not prepare their defense on their own;
- (c) during the course of trial, in cases where the law establishes life detention or an imprisonment penalty exceeding 5 years for the committed offense.

Court appointed counsels

Art. 91.

(1) In the situations listed under Art. 90, if a suspect or defendant did not select a counsel, the judicial body shall take steps to provide them with a court appointed counsel.

(2) During the entire course of criminal proceedings, when legal assistance is mandatory, if a retained counsel is unjustifiably absent, does not ensure a replacement or refuses unjustifiably to ensure the defense, even though the use of all procedure rights was ensured, the judicial body shall take steps to obtain appointment by the court of a counsel to replace them, by providing such replacement with a reasonable term and with facilities required for the preparation of an effective defense. This aspect shall be mentioned in a report or, as applicable, in the hearing report. During the course of the trial, when legal assistance is mandatory, if a retained counsel is unjustifiably absent from the hearing term, does not ensure a replacement or unjustifiably refuses to defend, even though the use of all procedure rights was ensured, the court shall take steps to appoint an ex officio counsel to replace them, by providing such replacement with a minimum term of 3 days to prepare the defense.

(3) The court appointed counsel is under an obligation to appear whenever they are called by the judicial body, by ensuring a concrete and effective defense in the case.

(4) The mandate of an ex officio counsel ceases when the selected counsel appears.

(5) If during the trial the counsel is absent and cannot be replaced under the terms of par. (2), the case shall be continued.

TITLE IV - Evidence, methods of proof and evidentiary processes

CHAPTER I - General rules

Evidence and methods of proof

Art. 97.

(1) Any factual element serving to the ascertaining of the existence or non-existence of an offense, to the identification of a person who committed such offense and to the knowledge of the circumstances necessary to a just settlement of a case, and which contribute to the finding of the truth in criminal proceedings represents evidence.

(2) Evidence is obtained in criminal proceedings through the following means:

- (a) statements by suspects or defendants;
- (b) statements by victims;
- (c) statements by civil parties or of parties with civil liability;
- (d) statements by witnesses;
- (e) documents, expert reports or fact finding reports, minutes, pictures, physical evidence;
- (f) any other methods of proof that are not prohibited by law.

(3) An evidentiary process is the legal method for obtaining evidence.

Object of evidence

Art. 98. - The following are items of evidence:

- (a) the existence of an offense and its commission by a defendant;
- (b) facts regarding the civil liability, when there is a civil party;

- (c) facts and factual circumstances on which the application of law depends;
- (d) any circumstance necessary for a just settlement of a case.

Burden of proof

Art. 99.

- (1) In a criminal action, the burden of proof rests primarily with the prosecutor, while in a civil action it rests with the civil party or, as applicable, upon the prosecutor initiating the civil action, if the victim lacks mental competence or has limited mental competence.
- (2) A suspect or defendant benefits from the presumption of innocence, has no obligation to prove their innocence, and has the right not to contribute to their own incrimination.
- (3) In criminal proceedings, victims, suspects and parties have the right to propose the production of evidence to judicial bodies.

Production of evidence

Art. 100.

- (1) During the criminal investigation, criminal investigation bodies gather and produce evidence both in favor and against a suspect or a defendant, ex officio or upon request.
- (2) During the trial, the court produces evidence upon request by the prosecutor, the victim or the parties and, subsidiarily, ex officio, when it deems it necessary for the creation of its own conviction.
- (3) An application regarding the production of evidence filed during the criminal investigation or the trial is sustained or denied, on a justified basis, by the judicial bodies.
- (4) Judicial bodies may reject an application regarding the production of evidence when:
 - (a) a piece of evidence is not relevant to the object of evidentiary in a case;
 - (b) it is decided that sufficient evidence has been produced for proving a factual element representing the object of evidentiary;
 - (c) a piece of evidence is not necessary, as the fact is of notoriety;
 - (d) a piece of evidence is impossible to obtain;
 - (e) an application was filed by a person who has no such right;
 - (f) production of evidence is contrary to the law.

Principle of loyalty in producing evidence

Art. 101.

- (1) It is prohibited to use violence, threats or other coercion means, as well as to promises or inducements for the purpose of obtaining evidence.
- (2) Hearing methods or techniques affecting the capacity of persons to remember and tell conscientiously and voluntarily facts representing the object of the taking of evidence may not be used. Such prohibition applies even if a person subject to such hearing gives their consent in relation to the use of such hearing methods and techniques.
- (3) Criminal judicial bodies or other persons acting on their behalf are prohibited from entrapping a person into committing or continuing commission of a criminal act for the purpose of obtaining evidence.

Exclusion of evidence obtained illegally

Art. 102.

- (1) Evidence obtained through torture, as well as evidence deriving from such may not be used in criminal proceedings.
- (2) Evidence obtained unlawfully may not be used in criminal proceedings.
- (3) The nullity of a document ordering or authorizing the production of evidence or based on which such evidence was produced triggers exclusion of that evidence.
- (4) Derived pieces of evidence are excluded if these were obtained directly from evidence obtained unlawfully and could not be obtained in other way.

Assessment of evidence

Art. 103.

- (1) Pieces of evidence do not have a value pre-established by law and are subject to the free discretion of the judicial bodies, based on the assessment of all pieces of evidence produced in a case.
- (2) In making a decision the existence of an offense and on a defendant's guilt, the court decides, on a justified basis, on the basis of all the assessed pieces of evidence. Conviction is ordered only when the court is convinced that the charge was proven beyond any reasonable doubt.
- (3) A court sentence ordering a conviction, waiver of penalty, or delay of penalty may not be based decisively on statements of the investigator, of informants or of protected witnesses.

CHAPTER II - Hearing of persons

Special rules regarding the hearing

Art. 106.

- (1) If, during the hearing of a person, such person shows visible signs of excessive fatigue or symptoms of a disease that affect their physical or psychological capacity to participate in the hearing, judicial bodies shall order cessation of the hearing and, if the case, shall procure that the person is examined by a physician.
- (2) A detained person may be heard at the detention facility through videoconference, in exceptional situations and if judicial bodies decide that this does not harm the proper conducting of the trial or the rights and interests of the parties.
- (3) In the situation set by par. (2), if a person subject to hearing finds themselves in any of the situations set by Art. 90, their hearing may be conducted only in the presence of their counsel at the detention facility.

Manner of hearing

Art. 109.

- (1) Following fulfillment of the procedures set forth by the provisions of Arts. 107 and 108, a suspect or defendant shall be allowed to declare everything they want referring to the act set forth by the criminal law that was communicated to them, after which questions can be asked.
- (2) A suspect or defendant has the right to consult their counsel both prior to and during the hearing, and judicial bodies, when they deem it necessary, may allow them to use their own notes.
- (3) During the hearing, a suspect or defendant may use their right to remain silent in respect of any of the facts or circumstances about which they are asked.

Criminal Code

Abusive investigation

Art. 280.

(1) The use of promises, threats or violence against a person undergoing investigation, criminal prosecution or trial, by a criminal investigation body, a prosecutor or a judge in order to determine such person to give or to refrain from giving statements, to give false testimony or to withdraw testimony shall be punishable by no less than 2 and no more than 7 years of imprisonment and the deprivation of the right to hold a public office.

(2) The same penalty is applied to the production, counterfeiting or fabrication of false evidence by a criminal investigation body, a prosecutor or a judge.

Submission to ill treatment

Art. 281.

(1) Submission of an individual to serve a sentence, security or education measure otherwise than as provided by the legal stipulations shall be punishable by no less than 6 months and no more than 3 years of imprisonment and the deprivation of the right to hold a public office.

(2) Submission of an individual who is in custody, detained or serving a custodial security or custodial education measure to degrading or inhuman treatments shall be punishable by no less than 1 and no more than 3 years of imprisonment and the deprivation of the right to hold a public office.

Torture

Art. 282.

(1) The act of a public servant holding an office that involves the exercise of state authority or of other person acting upon the instigation of or with the specific or tacit consent thereof to cause an individual pain or intense suffering, either physically or mentally:

- (a) to obtain information or statements from that person or from a third-party
- (b) to punish them for an act committed by them or by a third party or that they or a third party is suspected to have committed
- (c) to intimidate or pressure them or a third-party
- (d) for a reason based on any form of discrimination,

shall be punishable by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(2) If the act set out in par. (1) has resulted in bodily harm, the penalty shall consist of no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

(3) Torture that resulted in the victim's death shall be punishable by no less than 15 and no more than 25 years of imprisonment and a ban on the exercise of certain rights.

(4) The attempt to commit the offenses set out in par. (1) shall be punishable.

(5) No exceptional circumstance, regardless of its nature or of whether it involves a state of war or war threats, internal political instability or any other exceptional state, can be raised to justify torture. The order of a superior or of a public authority cannot be called upon to justify torture either.

(6) The pain or suffering that result exclusively from legal penalties and which are inherent thereto or caused by them do not constitute torture.

Unlawful repression

Art. 283.

(1) The act of prosecuting, of taking measures different from custodial sentences or of bringing an individual before justice, while aware that they are not guilty, shall be punishable by no less than 3 months and no more than 3 years of imprisonment and deprivation of the right to hold public office.

(2) The act of detaining or arresting or sentencing an individual, while aware that they are not guilty, shall be punishable by no less than 3 and no more than 10 years of imprisonment and the deprivation of the right to hold public office.”.

Para. 34 – Fundamental safeguards for detention/arrest

18. This recommendation stems mostly from those set forth in par. 33 of the Report, that is to say, in reference to the insufficient legal safeguards for persons taken into custody at the police headquarters whose verifications can be carried out within 24 hours, (qualified by the SPT delegation as administrative detention), measure available to police officers under art. 31(1) b) of Law no. 218/2002 on the organization and functioning of the Romanian Police. Having analyzed these legal provisions in conjunction with the SPT’s recommendation and the practical necessities, Ministry of Internal Affairs would like to inform the SPT that all measures shall be taken to include this kind of legal safeguards in the Romanian Police’s internal norms and procedures. Steps have been taken to put together such normative dispositions in the near future and all the relevant parties have agreed to the necessity of implementing this procedure. Furthermore, the GIRP has found it necessary to include the complementary measure of introducing the practice of informing those who are subject of the procedure provided for in art. 31(1) b) of Law no. 218/2002 about their rights as soon as they arrive at police headquarters. This measure can be implemented analogous with the existing practice regarding the right of any person deprived of his/her liberty to be informed about the reason of his/her arrest and his/her rights during detention.

19. On the occasion of the transfer from one prison to another, the convicted person is entitled to personally inform or to request the administration to inform a family member or other person appointed by him/her about the prison where he/she is placed.

20. The legislator has also established the responsibility of the administration of the prison, the obligation to notify, without delay, the judge supervising the deprivation of liberty, the national prosecutor’s Office and the administration of prisons, the family of the person convicted, a person close to him/her or, where appropriate, the legal representative, when the convicted person has been affected seriously, in his/her bodily integrity or health. The prison administration has also the obligation to notify, without delay, the convicted person’s family or a person close to him/her, when the person convicted is transferred to a medical facility for treatment of a mental illness. The notification shall be made with the consent of the convicted person, if it can be expressed.

Para. 40 – Non-custodial alternative measures

21. Important steps have been made in the recent years regarding the reform of the criminal legislation which brought positive changes in the functioning of the correctional system (prison and probation). For the first time since the establishment of the probation service in Romania in 2001, by Government Ordinance no. 92/2000 on the organization and functioning of services for the social reintegration of the offenders and for the supervision of the execution of non-custodial sanctions, today, the number of persons under its supervision is higher than those in detention in prisons.

22. Thus, five years ago the number of the inmates was more than 33,000 and those under the supervision of the National Probation Directorate were almost 20,000, while now the number of inmates is near 27,000 and the persons under the probation supervision is more than 70,000 (out of which 60,000 are for adults such as suspended sentence with supervision or postponement of the enforcement of the sanctions).

23. Moreover, according to the statistics on the European prisons – SPACE I (*Statistiques Pénales Annuelles du Conseil de l'Europe*),¹ – Romania Romania is at the upper limit in terms of condemned detainees conditional released. Thus, in 2013, 14,211 detainees were released from the prisons, from which 10,112 (namely 78.80%) detainees were released in some form of conditional release. As can be seen, the percentage of persons conditional released is extremely high, especially in relation to the European average, which, at the percentage level, was only 29.80%.

24. Also, from the analysis of the statistical data communicated by the National Administration of the Penitentiaries, starting with the date of entering into force of the new Criminal Code (01.02.2014) until 05.06.2016, the percentage of the persons released on probation was the following:

- 2014 = 69.21% [namely 10,937 detainees released on term from a total of 15,804 detainees released from the penitentiary in 2014];
- 2015 = 70.91% [namely 10,278 detainees released on term from a total of 14,494 detainees released from the penitentiary in 2015];
- 2016 = 69.75% [namely 6,194 detainees released on term from a total of 8,881 detainees released from the penitentiary in 2016 – until 05.06.2016].

Statistical data on the number of released persons provided by the National Penitentiary Administration

Year	Released in total	Conditional released	Released on term	Other reasons:
				(acquittal, annulment of the execution warrants, judicial control, deceased, extradition, ceasing the criminal proceedings, liberated on the basis of the court decision on immediate release, conditional suspension serving the sentence, suspended sentence with supervision)
2014	15 804	10 937	967	3 900
2015	14 494	10 278	890	3 326
05.09.2016	8 881	6 194	650	1 967

25. According with the new penal legislation introduced in 2014, the probation system manages ten freedom non-custodial sanctions (postponement of penalty enforcement, suspended sentence with supervision, conditional release, replacement of the obligation to pay a fine by the obligation to perform community service, and concerning minors, civic traineeship, supervision, curfew on weekend, assistance on a daily basis, releasement from an educational or detention center and replacement of the internment in an educational or detention center by the educational measure of daily assistance) instead of 2 (suspended sentence with supervision and concerning minors, supervised liberty, before 2014). This reflects the measures taken already by Romania to sustainable develop and use non-custodial sanctions.

26. The decrease of the number of inmates generated an increase of the number of persons under the supervision of the probation services which reflects that, on one hand, due to the above criminal legislative reform from 2014, the courts have more options in what concerns penalty execution and, on the other hand, that the system of non-custodial alternative measures is functioning in Romania.

¹ Council of Europe Annual Penal Statistics SPACE I – Prison Populations Survey 2014, a se vedea Tabelul 9: Fluxul liberărilor din unitățile penitenciare în 2013, pp. 105–106 http://wp.unil.ch/space/files/2016/05/SPACE-I-2014-Report_final.1.pdf.

C. Resources

Para. 43 – Supplementary investments in resources

At police level

27. With regard to the proposed assessment of the ratio of security staff to detainees, Ministry of Internal Affairs would like to emphasize that in the case of the Police's detention facilities, this endeavor is almost impossible to properly tackle. As opposed to detention facilities managed by the National Administration of Penitentiaries, in the Police's Centres for Detention and Preventive Arrest (CDPA), the number of detainees greatly fluctuates a lot. As a consequence, it is considerably more difficult to estimate reliable long-term needs. Nevertheless, acknowledging these limitations, steps were made for analyzing ways of modifying the current organization of CDPA's and for implementation of new operational plans capable to provide Information about the evolution of the numbers of detainees.

28. Complementary to these measures, the General Inspectorate of the Romanian Police (GIRP) concentrates on training and specialization for its security staff. Currently, all CDPA managers have risk management capabilities and risk management training is currently projected for all other security staff. Furthermore, there are training openings in the field of torture prevention and non-discrimination with a particular focus on detention facility personnel. Two stages of stress and risk management training during the course of the current year are under approval.

29. Given that the initial training of police officers incorporates general principles of the system of protection of human rights in Romania (both internal and international instruments are covered), the system of continuous training in this field is generally organized with an emphasis on particular issues. Police officers participated in training sessions as follows: Training for prevention and investigation of all forms of discrimination, torture and ill-treatment (a total of 757 police officers during the last 7 years), Applied management of the activities carried out in CDPAs (16 police officers), Prevention and investigation of gender violence (36 police officers in 2016–2017).

30. In the same field of training the GIRP has developed a common programme in partnership with the Ministry of Justice which worked on two general issues – training of police officers working in CDPAs and properly equipping the CDPA spaces. Following this programme, a total of 832 police officers were trained between 2014-2016, with a supplementation of 100 more between 2016 and 2017.

At the level of penitentiary system

The employment of the prison system vacancies in 2016 consisted in vacancy announcement of 2,408 posts, of which 1,260 occupied positions, while for 735 positions the employment procedure is ongoing. In the year 2017, the process has been continued by vacancy announcement of 332 positions in all the prison system.

31. Relevant information concerning the 7 units visited, for the year 2016:

- Prison of Aiud: vacancy announcement of 74 positions, 39 occupied positions, 31 positions – ongoing procedure;
- Prison for women Ploiesti-Târgșorul Nou: vacancy announcement of 43 positions, 30 occupied positions, 5 positions – ongoing procedure;
- Botoșani Prison: vacancy announcement of 95 positions, 52 occupied positions, 35 – ongoing procedure;
- Giurgiu Prison: vacancy announcement of 77 positions, 51 occupied positions, 12 positions – ongoing procedure;
- Iasi Penitentiary: vacancy announcement of 98 positions, 70 occupied positions, 8 positions – ongoing procedure;

- Gherla Prison: vacancy announcement of 56 positions, 23 occupied positions, 32 positions – ongoing procedure;
- Poarta Albă Prison: vacancy announcement of 135 positions, 75 occupied positions, 39 positions – ongoing procedure.

32. In 2017, in the 7 visited units the vacancy announcement of positions is the following:

- Aiud Prison: vacancy announcement of 3 positions;
- Prison for women Ploiesti-Târgșorul Nou: vacancy announcement of 12 positions;
- Botoșani Prison: vacancy announcement of 4 positions;
- Giurgiu Prison: vacancy announcement of 10 positions;
- Iași Prison: vacancy announcement of 15 positions;
- Gherla Prison: no-vacancy announcement until now;
- Constanța-Poarta Albă Prison: vacancy announcement of 28 positions.

33. From the staff standardization activity requirements, in relation to the specifics of each prison, it has appeared that the optimal number of the Romanian prison system employees is of 20,102, compared with the 15,041 existing positions. After filling in the existing vacancies in the flowcharts of the prisons, it will be taken into account a strategy to increase the position number, until reaching the optimal number of 20,102 employees.

34. At the same time, by the Memorandum no. 20/7329/SSC/26.04.2016 regarding the “Approval of the calendar of the necessary measures to be taken in order to improve the detention conditions and the probation system” the National Administration of Penitentiaries aims to create new places of detention, which can be sustained only by the allocation of more human resources. In this respect, the required positions estimation for creating new detention places is the following: 2016 – 110 positions, 2017 – 19 positions and 2018 – 76 positions.

35. Beginning with 2016 until now, 867 positions were occupied in the operative sector, 52 psychologists, 51 social workers and 146 positions in the medical sector.

36. Regarding the 7 visited prisons, the situation is as follows:

- Aiud Prison: 27 positions in the operative sector, 2 psychologists, 1 social worker, 5 positions in the medical sector;
- Prison for women Ploiesti-Târgșorul Nou: 23 positions in the operative sector, 1 psychologist, 1 social worker, no positions in the medical sector;
- Botoșani Prison: 35 positions in the operative sector, 2 psychologists, 3 social workers, 6 positions in the medical sector;
- Giurgiu Prison: 33 positions in the operative sector, 2 psychologists, no social worker position, 3 positions in the medical sector;
- Iași Prison: 53 positions in the operative sector, 2 psychologists, 2 social workers, 6 positions in the medical sector;
- Gherla Prison: 12 posts in the operative sector, 3 psychologists, 1 social assistant position, 3 positions in the medical sector;
- Constanța-Poarta Albă Prison: 57 positions in the operative sector, 4 psychologists, 2 social workers, 4 positions in the medical sector.

37. Regarding the lack of awareness of the medical staff on effective investigation and documentation about torture and other cruel treatments, mentioned in the Istanbul Protocol, we point out that the medical staff in the prison system is fully aware about the importance of investigating torture and other cruel treatments and applies all legal provisions in this area. We mention that, in Romania, the responsibilities consisting in carrying out surveys, examinations, findings, laboratory examinations and other forensic works on alive human beings, corpses, biological products and *corpus delicti*, in order to establish the truth in the

cases concerning offences against life, body integrity and health or in other situations foreseen by the law, belong to the legal medicine institutions, entities which are operating outside the prison system.

38. Thus, the National Administration of Penitentiaries signed, in December 2015, a collaboration protocol with the National Institute of Forensic Medicine “*Mina Minovici*”, in order to ensure the specific framework for caring out forensic expertise, when the subject of the forensic assessment is an inmate, and for the training of the prison system medical staff, according to the international human rights standards.

39. We also mention that there is now an ongoing consultation on a common draft Order of the Minister of Health and the Minister of Justice regarding the providing of medical assistance for the inmates in the custody of the National Administration of Penitentiaries, stipulating provisions regarding the setting of records, as recommended by the United Nations Office concerning the documentation on torture and other cruel, inhuman or degrading treatments.

40. In 2016, in the continuous training of the deputy directors working in the social reintegration field were included human rights themes and the presentation was provided by a representative of the non-governmental organization Apador-CH. This year, the “Courses Catalogue” is in process of being finalized and promoted and it includes the following training modules for all staff categories:

- European Committee for the Prevention of Torture and Punishment or Inhuman or Degrading Treatments – specific legislation, notions, visit system and situational tests;
- Equal opportunities;
- Human rights – ways of preventing discrimination, especially in case of Roma people.

D. Registers

Para. 45 – Digitization of prisoners’ records

41. At police level, the General Inspectorate of the Romanian Police has assembled a fully digital central data base of all detainees which is updated in real-time (that is, every time a detainee’s legal status changes, security staff update his/her record as soon as possible). There is work done on a second version of this database with new and improved features which is scheduled to be released in the course of the current year.

42. In the penitentiary system, for the registration of inmates, the computerized application PMS Web is used. All relevant data are recorded in this application, such as: details about the convicted person, the transfers between prisons, court subpoenas, convictions delivered by the courts, updated status regarding the conditional release deadlines, decisions regarding the conditional release, carried out activities, the requests made by the inmates, the granted visits, the educational, psychological and social assessments and activities, the financial situation of the inmates, information about the inmates’ health, the execution regimes for each inmate and other necessary data for the execution of custodial sentences and observance for the inmates’ rights.

43. The specialty medical exams upon the inmates, the allocation of food diets, the ability to work and the elaborated prescriptions are also recorded in the PMS Web application. Also, providing the primary medical care on demand/as emergency must be highlighted in the consultation registers, because these are forensic records where the inmates sign for receiving chronic/acute medication and for any medical procedure. At the same time, the inmates sign for accepting or refusing to receive the medication recommended by the medical staff.

44. Regarding the educational, psychological and social information which are part of the Education and Psychosocial Assistance File, we mention that the measures to simplify

the records have already been taken in order to be directly generated from the PMS Web application.

45. All data and information mentioned above can be sorted and centralized in 130 different reports.

E. Segregation of detainees

Para. 48 – Separation on certain criteria

46. All detainees are separated according to their sex in Police's Centres for Detention and Preventive Arrest (CDPA). As for separation according to the gravity of the offence, we hold the view that all detainees must be treated equally, since CDPAs are only used for holding detainees only during their criminal trial. Therefore, any such separation would infringe the detainees' right to be presumed innocent until proven guilty by a court of law. In regard to separation on the other criteria mentioned by the SPT, there are some issues, all of which are caused by the inadequate detention facilities, especially the lack of housing space. Seeing the great hardship through which the detention facilities must be put to accommodate the detainees properly, the main priority of our institution is to treat every detainee as best as we can, given our limitations. In light of this principle, Ministry of Internal Affairs generally prefer to prioritize the prevention of overcrowding over the separation of detainees based on their age (of course, some exceptions might be made, taking into account all the particular circumstances, in order to insure the prevailing of the most humane treatment possible).

47. In prison units, by the Law it was established the way in which the imprisonment punishments are executed by the special categories of convicts. Thus, convicted women execute the punishment separately from convicted men and the young convicts execute the punishment separately from the convicts aged over 21 or in special designed places of detention. The minors serve the educational measure of deprivation of liberty separately from young persons and the ones aged over 21. The separation or grouping of the inmates may also be based on other criteria, such as: convicted, under pre-trial custody or confined, intellectual and cultural compatibility, interest in work and the degree of risk or vulnerabilities.

48. The young persons are serving the imprisonment punishments in special designed prisons or in special designed sections or spaces, in order to ensure their social, school, educational, professional, psychological, medical and physical protection and assistance, which are necessary taking into account their age, gender and personality.

49. The accommodation of young inmates is made in compliance with separation criteria, including those relating to gender, execution regime and the risk they represent for the safety of the prison.

50. The Law provides that during the trial, the minors in pre-trial detention execute the preventive measure in detention centres (units with a distinct legal regime compared to prisons).

51. In order to be presented to judicial bodies, the minors in pre-trial detention may be transferred to special pre-trial sections in prisons, for maximum 10 days, being accommodated separately from adults.

The severity of the committed offence is identified by the final amount of the punishment which results in the execution regime established by the prison administration, the legal framework imposing the separation of the categories of inmates on the basis of the applied detention regime.

52. By the decision of the General Director of the National Administration of Penitentiaries are established the prisons or the prison hospitals, where special psychiatric sections for inmates with severe psychiatric disorders will function, including those caused by alcohol or other psychoactive substances. The inmates with severe decompensated mental disturbances, who could endanger their own safety or the safety of the other inmates, are hospitalized in special sections from hospitals, including those in the prison system, for

specific medical treatment and psychosocial assistance, as provided in the Regulation implementing Law no. 254/2013.²

53. When the decision concerning the set out or change of the execution regime is final, the inmates are accommodated in detention sections corresponding to the regime. The inmates who could represent a risk for the security of the prison are accommodated separately, in special designed rooms, on the maximum security sections. Also, the legislation in this matter foresees the possibility to accommodate separately, in special rooms, the vulnerable inmates and the vulnerable and threatened witnesses.

54. We also mention that the persons convicted to an imprisonment punishment, who are investigated on remand in other case, are accommodated separately from the persons on remand on-going judgment.

55. The separation of the inmates from prison-hospitals or infirmaries is made depending on medical criteria and the gender of the inmates.

56. Concerning the new received inmates, these persons are accommodated in the quarantine and observation section, separately from the other inmates, in order to make the medical surveillance and for adapting, in 21 days, to the prison environment.

57. We point out that there weren't cases of common accommodation of the healthy inmates with the ones having risk of contagious diseases in the 7 visited prisons.

F. Torture and ill-treatment

58. As a general rule, as we mention in the section on Reprisals (para. 9), the Criminal Code incriminates and punishes the submission to ill treatment (article 281) and the torture (article 282). Besides this, we also highlight the obligation to inform the judge supervising the deprivation of liberty of any intervention that could cause ill-treatment or torture.

59. "Art. 26. Informing the judge for supervision of deprivation of liberty (Law no. 254/2013): Using the means of restraint and weapons, the temporary accommodation of the detainee in the protection room and the surveillance through cameras shall be brought, in writing, to the knowledge of the judge for supervision of deprivation of liberty."

60. Moreover, according to article 106 para. 1 let. c) of the Law no. 254/2013: "The administration of each penitentiary shall draw up the register concerning the use of means of restraint, which records the year, month, day and hour of application and cessation of use of means of restraint, including the accommodation in the protection room."

61. In the case of physicians, obligations are also provided for the purpose of discovering and punishing acts of ill-treatment or torture:

"Art. 162 Measures occasioned by finding traces of violence (Regulation implementing the Law no. 254/2013):

(1) In case the medical examination establishes that a detainee shows signs of violence, the doctor shall have the obligation to document the findings in the medical record, to immediately notify the prosecutor and to inform the director of the penitentiary, the provisions of Article 159 (8) being applied accordingly;

(2) In the cases provided in paragraph (1), the detainee shall have the right to request, in writing, to be examined by a forensic doctor or by a doctor outside the penitentiary administration system;

(3) The findings of the doctor outside the penitentiary administration system are documented in the detainee's medical record, and the forensic medical certificate shall be enclosed to the medical record, after being notified of its contents, against signature;

(4) The expenses for the medical examinations provided in paragraph (2) shall be borne by the applicant, unless it is established that the detainee does not have the

² Approved by Government Decision no. 157/2016.

necessary cash funds to pay the personal contribution, in which case the costs shall be borne from the unit's budget. The provisions of Article 72 (5) of the Law shall apply accordingly.”.

62. By Decision no. 566/2011 of the general director of the National Administration of Penitentiaries, it has been approved *The Handbook* concerning the associated structures for special security measures, constraint and control, as for using the immobilization means and techniques, which represents the general legal framework by which the specialized, trained and equipped staff acts, by reactive and planned intervention, in order to solve the incidents which could imply using force. Also, the handbook regulates the way in which the specialized intervention structures are constituted, organized, trained, equipped and are functioning.

63. We mention that these intervention structures have been organized and constituted as a guarantee of a professional intervention in solving the incidents, preventing and eliminating the possible abuses.

64. Also, their use in case of interventions is exclusively made for solving and discouraging the illegal, unauthorized and perturbing situations which could affect life, health and corporal integrity of the inmates, staff or other persons and which could represent a danger for the missions or the normal course of the activities in prisons.

65. For guaranteeing legal, efficient and safe interventions, the intervention teams act on the basis of the following fundamental principles: defending the human beings, legality, security, force proportionality, graduality, non-surprise and minimum risk principle.

66. All these rules aim to ensure the observance of all norms and recommendations established by the international bodies in the domain of protection and defense of the rights of persons deprived of their liberty.

Depending on the events occurred in the Romanian prison system, National Administration of Penitentiaries will reiterate to the staff the fact that torture or other way of punishment or degrading of inhuman treatment are absolutely forbidden and can't be tolerated under any circumstance, otherwise being taken measures accordingly.

67. On the basis of the elements mentioned in the report in paragraph 50, we would like to point out that at the level of the Directorate for the Investigation of Organized Crime and Terrorism Offences, it was not possible to identify the reported case. Moreover, we specify that the Directorate for the Investigation of Organized Crime and Terrorism Offences does not include Special Forces.

68. Upon request of the Directorate for the Investigation of Organized Crime and Terrorism Offences (DIICOT), the Ministry of Internal Affairs can provide DIICOT with police forces on various operative actions. The Romanian police periodically disseminates to all members of the law enforcement forces (of all grades and of all services) a tough message of “zero tolerance” about ill-treatment. It is reminded to all law enforcement officers that they should not apply force unless strictly necessary.

Paras. 51–53

69. Concerning the referrals to the criminal investigations bodies we inform you that during the year before the visit in the units subordinated to the National Administration of Penitentiaries the management of the 7 visited prisons formulated 22 reports concerning possible aggressions made by the staff members over the inmates. From the information available at the level of the prison units, it results that one case has been closed in the investigation phase, by classifying the criminal case file and the other referrals are pending.

70. In what concerns the issues raised by the SPT regarding Iași Prison (paragraph 51), we mention that it was not possible to start a concrete investigation due to the lack of evidence to be corroborated with the oral declarations of the heard or questioned inmates. Thus, in the content of the report there is no evidence or elements which can be considered as starting point for what it has been mentioned in this section. Moreover, we mention that, at the level of the prison, there is no staff member convicted following a criminal

complaints made by the inmates, for a possible offence committed against the convicted inmates.

71. Regarding the cases with operational incidents, we mention that all actions are recorded by a video operator having this attribution. This obligation is coming from the provisions of the Regulation concerning the security of the detention places subordinated to the National Administration of Penitentiaries. The 7 visited prisons have surveillance cameras and video cameras placed on the members of the associated teams for special security, constraint and control measures, as follows:

- Aiud Prison – 3 portable video cameras, 1 video camera placed on the transfer vehicle (Aiud-Craiova) and 138 video cameras for the surveillance of the detention spaces;
- Botoșani Prison – in the unit are placed surveillance cameras in the E3 section, in the visit sector, in check point no.1, in check point no.2, food unit, central heating, hydrophore, workshops where the inmates selected for work are developing their activity and at the waste separate collection dumpster, the total number being of 27 cameras;
- Gherla Prison – it has 117 surveillance rooms, as follows: 9 are in the detention sections, 4 in the courtyards, 14 in the check points, 13 on walkways and tableland, 2 at the level of the workshops, 5 at the level of the prison perimeter, 2 in the prison shops, 10 in the visit sector, 48 in the Therapeutic Centre, 6 in the Exterior Section Cluj-Napoca. The members of the special operative team use a cameraman for recording all the interventions;
- Giurgiu Prison – in the prison there are installed 49 fixed surveillance cameras and 2 mobile cameras for recording the interventions. These cameras are allocated to a member of the special operative team and to the cameraman in duty;
- Iași Prison – 171 functional surveillance cameras, as follows: 70 for the prison perimeter, 28 inside, at the A and B pavilions, 45 at D pavilion (open regime), 20 at the courtyards, 8 at the visit sector;
- Constanța – Poarta Albă Prison – at the level of the prison there are surveillance systems installed for the surveillance of two detention sections (E4 and E5), visits sectors and access in the detention sector, the total number being of 58 cameras; the Prison has obtained the approval for an investment consisting in making an electronic surveillance system for the Exterior Section Valu lui Traian, the activity being now in the technical project phase;
- Prison for women Ploiești – Târgșorul Nou – in the prison are placed 63 fixed surveillance cameras.

72. The data on self-aggressive behaviors, at the level of all units in the prison system, are registered and analyzed, by the National Administration of Penitentiaries, starting with 2010, from a multidisciplinary perspective. Concerning the reason why the inmates resort to this type of behavior, we mention that this is one of the criteria taken into account in the above mentioned analyses. In the period 2010–2016, in none of the situations the young inmates (or other inmate) mentioned that the reason of their self-aggressions was to avoid to be beaten by associated teams for special security, constraint and control measures. From the National Administration of Penitentiaries database, it results that the main reasons are: family problems, lack of some goods (cigarettes), discontents regarding the juridical situation, misunderstandings with other inmates.

73. With respect to overcrowding in prisons (paragraph 53), we would like to remind that in the case of *Muršić v. Croatia*, the European Court of Human Rights held that providing an individual space of 3 square meters, compensated by administrative measures, in order to spend a generous amount of time outside the detention room, does not constitute an inhuman or degrading treatment.

74. In order to compensate the lack of individual space of 4 square meters, the inmates have the possibility to participate to activities developed outside the detention room, the daily programme being differentiated depending on the profile of the prison, the execution

regime, age, health and involvement in working or other kind of activities, season and also in connection with the resting days.

75. In the daily program are specified the hours for the working time, time at the disposition of the inmate and the resting time, as the time for developing administrative-house holding activities, as cleaning, hygiene, walking, school training and professional training, educative activities, of social and psychological assistance, religious, sports, recreation and exercising some rights.

76. We mention that for the sick inmates, hospitalized in hospitals or infirmaries, as for the pregnant women or the ones taking care of their children up to 1 year, the daily program is set up by the doctor of the prison, and in the case of the hospital-prisons, by the deputy director for medical problems.

77. By planning the activities during the daily program we seek to offer to the inmates as much time as possible outside the detention rooms. The inmates have access to the courtyards (daily), clubs/workshops, sports ground, sports room, church, classroom, and other spaces for exercising their rights.

Para. 54 let. (a) – Impartiality and promptness of alleged acts falling under the scope of art. 281 and 282 of the Criminal Code

78. The Romanian Government considers that the current legal provisions offer sufficient safeguards for the impartiality and promptness of criminal trials. Particularly for the crimes of torture and ill-treatment (art. 281–282 Criminal Code), the Criminal Procedure Code states, in art. 56 (3) b), that the prosecutor is responsible of following through with criminal proceedings in cases of torture or ill-treatment. These provisions should be corroborated with art. 132 (1) of the Romanian Constitution which states that “prosecutors operate under the principles of legality, impartiality and hierarchical control, under the authority of the minister for justice”. Also relevant in this case is art. 3 (1) if Law no. 303/2004 on the Statute of judges and prosecutors which states that “prosecutors [...] have stability in their public function and are independent [...]”.

If the prison management finds out about an aggression between the inmates, or if there is the suspicion of ill treatments or torture against convicted persons, it is obliged, in accordance with the criminal-executional legal framework, to refer to the criminal investigation bodies, as well as the judge for the supervision of deprivation of liberty.

Para. 54 lit. (b) – Providing training for law enforcement personnel in order to properly identify signs of torture and ill-treatment

79. The General Inspectorate of the Romanian Police personnel working in the field of criminal investigation and public order have benefited from general training in judiciary police (103 officers trained between 2016 and 30.05.2017). We emphasize that the primary signs of torture and ill-treatment must be ascertained by medical professionals. Following this primary ascertainment, the officer can order the execution of a medical expert’s report.

80. Within the framework of the continuous preparation of the prison system staff are included topics relating to the prevention of torture and ill-treatment, discrimination and human rights. Moreover, within the Project “Strengthening the capacity of the prison system for the human resources development with regard to prison staff” during 2016 were carried out courses focused on “Human Rights - Ways of preventing discrimination”, especially in the case of the Roma ethnic population (50 participants) and “European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) Rules” (40 participants).

81. With regard to the initial training, the curricula specified above have been used during 2016 for the didactic process for 751 junior officers and agents. For 2017, it is considered the drafting and posting on the e-learning platform of the topics related to the identification of signs of ill-treatment to which persons deprived of their liberty might be subject. These support documents are intended for several professional categories: medical staff, operative staff, social reintegration staff (psychologists, social workers). A practical

aspect related to the specialized meetings for the categories mentioned, refers to lectures given by the representatives of the Romanian forensic network.

Para. 54 let. (c) – Accountability of special intervention forces

82. The general principles for use of force in the Romanian Police are stated in Law no. 218/2002 and Government Decision no. 991/2005 on the Code of ethics and deontology of police officers which provide the principles recommended by the SPT (see especially art. 9 of said Code). On the subject of body-worn cameras, Ministry of Internal Affairs wish to inform the SPT that the subject has been broached in various forms by our institution and it is generally accepted as being a project with a net positive impact in law enforcement activities. However, most difficulties appear when budgetary matters are concerned. Primary rough estimates put the cost of equipping all uniformed policemen with a body-worn cameras at about €48,000,000. If considered a more restrained project of equipping body-worn cameras only on special forces police officers, the estimate should revolve between €565,000 and €1,400,000. The GIRP wishes to inform the SPT that a pilot project is undergoing through which police officers working in public order units will carry a body-worn camera so that citizens' talks are recorded and stored. The subject remains open and various ways of obtaining the necessary funding and adjusting the existent legal framework are carefully considered.

83. We reiterate the fact that, at the level of the prison units, started a process of endowment of the members of the associated teams for special security measures with mini body worn camera. The action will continue, for endowing all the members in the mentioned structures with this kind of devices. See above the answer provided at para.51-53 from the SPT report.

84. Regarding the recommendation about the SASS teams intervention only in emergency situations, we mention the following:

85. The general elements regarding the way in which are managed the operational incidents have been included in the training activity for other security staff (surveillance, accompanying, escorting), for officers in execution positions as well as for the management board, with the aim to know certain ways of action and to act professionally, whenever the situation imposes it. The training modules include: solving incidents by using communication techniques by the staff who works directly with the inmates, operational incidents management, first aid, human rights issues, video recording of the way in which an incident is solved etc.

86. The professional training of the security staff in solving the incidents is a guarantee that the intervention of SASS teams is the last resort, if any other methods of managing the incidents didn't achieve their purpose.

87. In conclusion, taking into account the SPT recommendations, we point out that the associated teams for special security, constraint and control measures (SASS) provide the guarantee of a professional intervention in solving the incidents, intervening only in emergency situations, as the last form of action against the acts which could jeopardize the order, discipline and safety of the prison.

Para. 54 let. (d) – Implementing an easy-to-use complaint procedure, with an emphasis on accessibility to the most vulnerable prisoners

88. The Romanian Government would like to remind that the persons deprived of their liberty can file their complaint either directly to the detention facility management (Police's Centres for Detention and Preventive Arrest or prison units), either by correspondence to any national or international body they want to address. In this context, the Romanian Government would like to emphasize that the right to correspondence is not limited what so ever for detainees in the detention places subordinated to the Romanian Police or the National Administration of Penitentiaries, so they can file complaints at any moment and turn to any institutional body they might choose.

89. According to Law no. 254/2013, the National Administration of Penitentiaries and the administration of the penitentiary shall have an obligation to ensure the protection and assistance of the threatened or vulnerable witnesses, executing a custodial sentence or a

measure of deprivation of liberty and also, the protection and assistance of vulnerable detainees. The criteria concerning the vulnerability and the protective measures are established by the regulation implementing the Law no. 254/2013, as follows:

- (a) Sexual orientation;
- (b) Disabilities;
- (c) Mental disorders;
- (d) Ethnic origin;
- (e) HIV/AIDS infections;
- (f) Committing offences against minors or on the integrity and sexual freedom;
- (g) A particular social and family situation, lack of support from the support environmental, the decreased socio-economic status or the socio-economic situation well above the average;
- (h) The profession or position held prior to arrest;
- (i) Providing information to the institutions responsible for public order and national security on committing an offence or a disciplinary misconduct;
- (j) Any other similar situations, states or circumstances that may render the detainee vulnerable.

90. These criteria do not determine by themselves the classification of the detainee as vulnerable, only if the detainee is a danger for himself, for others or for the security of the penitentiary.

91. Pursuant to the provisions of the Regulation implementing Law no. 254/2013, within the penitentiary there may be established up special units for juveniles, women or other categories of persons, who require a specialized detention regime.

92. Regulation implementing Law no. 254/2013 provides the following protection measures for the vulnerable detainees and vulnerable and threatened witnesses:

- (a) The accommodation in a detention room for the elimination of risk factors. The accommodation in these spaces may be ordered by the director of the penitentiary, on safety reasons or at the request of the detainees concerned, for the duration required for taking such measure;
- (b) Establishing the places and hourly schedule of conducting the activities, the travelling itineraries and persons with whom the detainee came into contact;
- (c) The appointment of experienced staff for guard, escort, accompanying, surveillance, monitoring and operational intervention;
- (d) Creating a system to ensure timely information of decision-making factors in order to remove the potential danger;
- (e) The operative verification of all notifications of detainees, of their family members and of third parties with regard to acts of violence on them, in order to take the legal measures;
- (f) Developing adequate educational, psychological assistance and social assistance programmes and activities.

93. If the indicate measures are not sufficient the transfer to another penitentiary or hospital-penitentiaries may be ordered.

Para. 54 let. (e) – Prohibition of all forms of violence against children

94. As duly noted in the Report, the SPT did not find any evidence of ill-treatment in the Police's Centres for Detention and Preventive Arrest and the only complaint formally lodged did not stem from a child. Therefore, the General Inspectorate of the Romanian Police holds that children's rights are held in high regard in its detention facilities and reaffirms its commitment to continue in this positive light in the long run.

95. According to the law, it is forbidden for the educational centre or detention centre staff (subordinated to the National Administration of Penitentiaries) to use immobilization means when dealing with the confined person, with certain exceptions provided by the law.

96. The minors in educational centres are a special category of inmates, whose personality is in the most important stage of the growing process, so all the activities carried out with this category of confined persons are centred on educational activities, schooling and psycho-social assistance, with emphases on positively influencing the behavior and stimulating the strengthening of constructive relations with the support environment. Therefore, taking into account the high vulnerability of the confined minors, intervention units (operational groups/teams) are not established in the educational centres. In order to solve violent or aggressive incidents involving confined minors, the staff of these detention spaces uses mainly communication and negotiation techniques.

97. The staff working with minors and young inmates must benefit of proper training so that they should be able to carry out their professional responsibilities efficiently, especially in order to get to know teenagers' psychological particularities, communication with young inmates, as well to know the international standards and norms on Human Rights.

98. In 2016, within the project called "Strengthening the capacity of Bacău Prison for minors and young inmates to observe the relevant instruments concerning human rights", developed through the Norwegian Financial Mechanism 2009–2014, a team composed by specialists of the National Administration of Penitentiaries and the prisons having under custody minors and young inmates, elaborated a training course addressed to the staff working with this category of inmates, as it is a complex activity of high difficulty, which requires specific and innovative training and approach by the prison staff. Thus, in order to emphasize the educational approach and the rehabilitation of the minors and young inmates in conflict with the law, a number of training sessions were developed, as follows: 5 training sessions targeting the staff who works directly with these categories, for 60 civil servants with special status (detention security and prison regime, social reintegration and medical sectors) and 2 training sessions for the staff who use the tool for assessing the re-offending risk of the minors and young persons deprived of their liberty.

Para. 54 let. (f) – Constant improvement of detention facilities

99. On this subject, we would like to specify that there are several Police's Centres for Detention and Preventive Arrest which are currently being modernized in order to align them with national and international human rights standards. An action plan has been put together which extends up to 2020 and which follows according to the designated timeline. There are 7 Centres for Detention and Preventive Arrest where work commenced last year and 5 more in which it has started this year.

100. During 2016, a total of 5,355,300 lei (approx. €1,170,000) was issued for current reparations and purchasing of beds and mattresses of Centres for Detention and Preventive Arrest, of which 4,988,420 lei were spent (approx. €1,100,000). For 2017, a total of 1,172,620 lei (approx. €257,000) were issued for the same purpose. Further funds may be obtained if deemed necessary.

101. In the General Inspectorate of the Romanian Polices Investment programme for 2017, funds of 10,386,970 lei (approx. €2,275,000) were issued for construction, consolidation or modernization of Centres for Detention and Preventive Arrest (in Alba, Maramureş, Iaşi, Arad, Giurgiu, Galaţi and Covasna counties) and 3,912,020 lei (approx. €856,000) for technical experts reports and framing of approval documents (for Harghita and Cluj counties).

102. In order to improve the detention conditions in penitentiaries, in 2016 there was allocated, especially for this purpose, the amount of 8,161,000 lei, for current repairs and maintenance. Until the 31st of December 2016, 2,657 rooms from 3,222 planned were repaired/cleaned out, meaning a percentage of 82.5%.

G. Complaints mechanisms

Para. 58 – Establishing an independent body for receiving and investigating torture and ill-treatment complaints

The Romanian Government considers that the current complaint mechanism establishes sufficient safeguards for the independence of criminal proceedings.

103. As mentioned before, solving the ill-treatment and torture cases is under the competence of the judicial bodies, courts, which are totally independent, according to the Romanian Constitutional order. These independent bodies have to deliver a decision in an independent and impartial way, in two levels of jurisdiction, on torture and ill-treatment offences.

104. Also, the involvement of the judge supervising the deprivation of liberty, according to the article 26 of the Law no. 254/2013, is one more proof of the implication of an independence factor into the penitentiary administration. In accordance with the provisions of the Law, the president of the Court of Appeal, under whose territorial jurisdiction belongs the prison, the centre for detention and preventive arrest, the arrest house, the educational centre or a detention centre, shall appoint, annually one or more judges for supervising the deprivation of liberty. For the purposes of the normative act, the judge for supervising the deprivation of liberty, which has the office inside the prison, oversees and controls the legality of serving the sentences and measures involving deprivation of liberty. When exercising his/her duties relating to the supervision of serving the sentences and custodial measures, the judge cannot conduct other activities at the court from which he/she came.

105. The judge for supervising the deprivation of liberty exercises the following tasks:

- (a) Solves the inmates complaints on the exercise of the rights provided for in the law;
- (b) Solves the complaints on the establishment and changing regimes of serving sentences and custodial educative measures;
- (c) Solves the inmates complaints on the disciplinary sanctions enforcement;
- (d) Participates in the procedure of food denial;
- (e) Participate, as president, in the meetings of the Parole Commission;
- (f) Carry on any other duties provided for in the law.

106. Against the measures taken by the prison, relating to the exercise of the rights provided for in Law no. 254/2013, the convicted persons may file complaint to the judge for supervising the deprivation of liberty, within 10 days from the date when they became aware of the action taken, in accordance with the Law.

107. We would like to underline that the mechanism for the protection of detainees was repeatedly appreciated by the European Court of Human Rights as being an efficient protection mechanism. In this sense, the Strasbourg Court has found that a complaint filed to the judge for supervising the deprivation of liberty is an efficient remedy in the situations in which they refer to specific aspects of serving the custodial sentences, e.g. the access of a detainee to medical assistance, disciplinary measures, harassment of a detainee because of his/her ethnical origin.³ Such an internal mechanism was appreciated by the European Court at Strasbourg as being in concordance with the admissibility criteria of an individual application, stipulated by the article 35 paragraph 1 in the European Convention for the Protection of Human Rights and Fundamental Freedoms. Therefore, the complaint filed to the judge for supervising the deprivation of liberty and, subsequently, the appeal before the court against the minute delivered by the judge for supervising the deprivation of liberty shall be deemed domestic remedies in the sense of the European Convention which a

³ Decision on 17th December 2013, in the case of *Szemkovics v. România*, no. 27117/08, § 24, decision on 20 May 2014, in the case of *Matei v. România*, no. 26244/10, § 36–39, inadmissibility decision on 2nd February 2016, in the case of *Șopârlă v. România*, no. 76884/12.

person deprived of freedom must exhaust before applying to the European Court of human Rights.

108. At police level, first of all, we underline that there is no subordination between detention facility personnel and judicial police officers. Furthermore, as it has already shown (see the answer provided at the recommendation of the paragraph 54 let. a) from the SPT report), the investigation is led by independent professionals of magistrate status. Any such complaint is forwarded to the competent prosecutor's office and any actions executed by policemen are strictly supervised by the prosecutor. Judicial police officers are held accountable to prosecutors and are independent of their police hierarchical chiefs in judicial matters, according to the provisions of Law no. 364/2004 on the organization and functioning of the judicial police (especially art. 8 of this law).

109. Another relevant normative framework is that of the Government Ordinance no. 27/2002 on the regulation of the activity of solving petitions. Petition means the application, the complaint, the referral or the proposal formulated in writing or sent by e-mail, that a citizen or a legally constituted organization may apply to the public authorities and central and local public institutions, decentralized public services of ministries and other central bodies, companies and national corporations, commercial companies of the county or local interest, as well as autonomous administrations.

110. In conclusion, any person, including the inmate, has the possibility to make petitions addressed to the management body of the prison, to the judge for supervising the deprivation of liberty, to the courts, to the NGOs which activate in the field of defending human rights, the National Preventive Mechanism within the institution of the Ombudsman, as well as to other public authorities and institutions.

H. Health

Para. 60

111. As far as the aspects within the SPT report are concerned on the fact that "the initial medical examination of persons deprived of liberty was superficial and the description of the health status was incomplete", we should clarify that upon receiving an inmate in a prison unit (as well as during detention or wherever it is necessary), a general clinic check-up is performed with a view to identifying obvious signs of aggression, addiction, mental disorder, suicidal risk and to discovering the pathological antecedents and chronic diseases. When confirmed, they entail the immediate start of an adequate medication and food diet, as well as the identification of infectious contagious and parasitological diseases which require isolation from the others until recovery or, if necessary, hospitalization in a hospital unit.

112. The possibility to have an incomplete description of an inmate's health when they enter the prison can be caused mainly by the medical history provided by inmates, as most of them did not have a medical insurance in the health system outside the prison environment and were not aware of their diseases. The medical check-up delivered when entering the prison unit is completed by a general medical examination in the first 72 hours after their entrance.

Para. 61

113. When the National Strategy for Controlling Tuberculosis (TBC) in Romania (Government Decision no. 121/2015) entered into force, it became compulsory to perform investigations for identifying pulmonary TBC before entering the prison system.

114. As far as the notion of quarantine is concerned, through the Joint Order of the Ministry of Health and Ministry of Justice no. 429/2012, it was established a 21-day quarantine period when, besides getting adjusted to the prison environment, recently received inmates are provided with clinical and epidemiological surveillance for the following reasons:

- (i) Many of the inmates present a high risk of getting ill, as they come from disadvantaged social environments or are ex drug users with a risk of getting infested with HIV, B or C Hepatitis Virus or co-infested with B+C or HIV+B+C);
- (ii) During this period of clinical and epidemiological surveillance, para-clinical laboratory examinations (complete blood count, urinalysis, glycaemia, TGO, TGP etc.) are carried out and if these analyses lead the doctor to a certain disease, additional tests are requested;
- (iii) The 21-day clinical and epidemiological surveillance was decided upon, in compliance with the incubation period of some contagious diseases, so that they could manifest by the end of this period, allowing for the necessary measures both for treating and fighting against them. This 21-day period of time was divided in one week periods, in order to limit the number of the inmates getting into contact with each other and to avoid mixing the persons who are at the end of the monitoring period of time and the new comers (who have not been investigated yet). Thus, in the first week from the arrival, there could be signs of diseases with up to 7-day incubation (acute respiratory infections, flu, severe diarrheic diseases), in the second week, signs of diseases with an average 10 to 14-day incubation. In the third week, there could be signs of diseases with maximum 21 to 23-day incubation (for instance, chickenpox, epidemic parotiditis).

Para. 65 – Independent medical staff

115. In the Romanian Police's detention facilities, healthcare issues are managed by medical professionals from the Medical Directorate of Ministry of Internal Affairs.

116. The Medical Directorate of the Ministry of Internal Affairs finalized the procedure for hiring civil personnel to serve as doctors in each Centres for Detention and Preventive Arrest around the country. The examination was organized in full compliance with the provisions of the Order of the Minister of Health no. 869 / 09.07.2015, which stipulates the methodology for organizing and conducting competitions for occupations of doctors, including the fact that the members of the commission are doctors appointed by the Romanian College of Physicians. Unfortunately, only 4 doctors (2 in Bucharest and 2 in Oradea) passed the exam, due to the general lack of doctors in Romania. These are hired as civil staff and not as a police officer, so the status is similar to doctors in the public health units under the subordination of the Ministry of Health.

117. Regarding the status of the doctors working in Centres for Detention and Preventive Arrest, Ministry of Internal Affairs want to mention that there is no subordination relation between them and the police structures. They are members of the Romanian College of Physicians, having the obligation, in the exercise of this profession, to respect the rights of assisted persons under national law. Physicians have a free practice authorization targeted annually according to the national regulations in force, by the Romanian College of Physicians.

118. According to the regulations of the Order of Minister of Health no. 1171 of September 21st, 2015, concerning the population in penitentiaries and other correctional institutions it is foreseen that all persons deprived of liberty be presented for conducting pulmonary X-ray and specialized examinations, so that at the moment of their entry in the penitentiary the "pneumo-physiological status" of the patient is known to the doctors. All persons deprived of their liberty, whose detention period in Centres for Detention and Preventive Arrest exceeds 24 hours, are planned for the specialized examination (pneumo-physiological and radiological) for the active detection of tuberculosis infection.

119. Although the medical staff are employed by the prison system, they comply with all the norms of the Ministry of Health on profession and on job training. They are full members of the professional organizations in the field, namely of the Doctors' College in Romania and the Order of Generalist Nurses, Midwives and Nurses in Romania.

120. In the prison system, medical staff's professional independence is guaranteed. The whole professional activity of a doctor is dedicated exclusively to defending the life, health, physical and mental integrity of the human being.

121. We consider that this recommendation is already implemented in the prison system, being regulated by the law of serving the sentences. Thus, ambulatory medical care can also be provided in the specialist ambulatories of the medical units in the field, which have concluded a contract with the health insurance companies, or the inmate can ask to be examined for a fee, at the detention place, within the medical sector, by a doctor from outside the prison system. The findings made by the doctor from outside the prison system are written down in the inmates' medical file.

Para. 66 – The involvement of the Ministry of Health into monitoring prison health

122. As for the recommendation that the Ministry of Health should be involved into monitoring prison health, we underline that this ministry does not have subordinated health units to offer a territorial coverage to all the prisons and, in case there is one, it provides only hospital and ambulatory medical assistance. The Cooperation Protocol between the Ministry of Health and Ministry of Justice, concluded in December 2016, specifies measures for providing the medical care in the public health network.

123. Concerning the activities related to inmates' medical care, the Ministry of Health supports the medical work of the prison system, as follows:

- **Recruiting the staff who provides care**

In the prison system, medical staff with higher education is employed following a competition procedure, according to the legal provisions of the Ministry of Health, namely the Minister of Health Order no. 698/2001 on approving the methodologies for recruiting, transferring and posting/deploying doctors, pharmacists, biologists, biochemists and chemists, and other specialized personnel with higher studies in public health facilities, with subsequent amendments. Also, the members of the competition commissions are part of the public health network, and they are approved by the Ministry of Health;

- **Training, evaluation of the clinical practices and certification/attestation**

In their activity, the medical personnel that works in prisons corroborate the provisions of the Ministry of Health orders and the criminal execution law. Since 2006, there has been a joint order of the Ministry of Justice and Ministry of Health on providing medical assistance to the inmates placed in the units subordinated to the National Administration of Penitentiaries. Also, the surgeries in the prison units and the prisons hospitals receive a sanitary authorization only from the Ministry of Health, through the Public Health Directorates. In order to obtain the authorization, the surgeries and prison hospitals must comply with the norms of the Ministry of Health;

As far as the prison hospital accreditation is concerned, it is ensured by the National Authority for Health Quality Management, institution functioning under the authority of the Romanian Government;

- **Inspection**

To implement health policies and programs, public health authorities, public services under the Ministry of Health have responsibilities for:

- Controlling and evaluating how prophylactic and curative health care is provided;
- Controlling the enforcement of the operating norms of the medical and pharmaceutical units, no matter how they are organized, and of the measures in cases of non-compliance;
- Monitoring the enforcement of quality control criteria of the medical services;
- Identifying the potential public health problems, and intervening in order to solve them out, among disadvantaged groups.

Para. 67 – Specialization of health professionals

124. Regarding the training of medical personnel providing medical assistance in the Romanian Police’s detention facilities, in particular, the training in the field of torture prevention and ill-treatment, there are concrete mentions regarding the attributions of the medical staff in identifying and recording the existence of signs of aggression, traces of ill-treatment/violence.

125. At the same time, the annual Plan of the Professional Development of medical staff no. 4518841/13.02.2017 includes topics related to measures to prevent situations involving inhuman/degrading treatment, developed in accordance with the Istanbul Protocol, as recommended by the SPT delegates.

126. On the occasion of the medical check, the person declares on his own responsibility, under his signature, whether he has been physically assaulted or not, and the doctor records in writing the injuries or the physical signs of aggression/ill-treatment, as well as what measures have been taken, including informing the prosecutor.

127. The National Administration of Penitentiaries shall ensure the framework for the professional training of the medical staff within the penitentiary system, in compliance with the international standards on the health in detention, including those provided for by the Istanbul Protocol. By the Protocol concluded with “Mina Minovici” National Institute of Forensic Medicine, the National Administration of Penitentiaries aims at training the medical personnel, as recommended by the United Nations Office concerning documentation on torture and other cruel, inhuman or degrading treatment.

III. Situation of persons deprived of their liberty**A. Police Detention****1. Confinement and preventive arrest centres****Paras. 70–71 – Limitation of the use of pre-trial detention**

128. The Romanian Government believes that ample progress has been made in the field of alternative pre-trial measures following the entry into force of the Criminal Procedure Code. Furthermore, the Code provides general safeguards which come to restrict the action of agents of the state. Arbitrary action from their part is excluded by the legal safeguards, corroborated with the severe punishments for illegally detaining or otherwise limiting the freedom of movement of any person.

129. On the issue of transferring detainees to penitentiaries sooner to prevent overcrowding, there have been ample discussions with all stakeholders. The conclusion was that the best option is currently to invest in the improvement of the current system. The reasons are that the National Administration of Penitentiaries does not have detention facilities in all counties, so transferring detainees between them and police stations, prosecutor’s offices and/or courts of law would be costly and not time-effective. Seeing that procedures implying pre-trial measures need to be very fast, as a general rule, time is always of the essence.

2. Material conditions**Para. 76 – Speeding up of investments in detention facilities**

130. Ministry of Internal Affairs would like to reaffirm our commitment to improving all the detention facilities under the General Inspectorate of Romanian Police management, to the point where the international instruments are being fully respected.

B. Penitentiary institutions

1. Overcrowding

Para. 79 – Reducing overcrowding

131. The problem of overcrowding is well known at the level of the Romanian Government, especially in the context in which, on 25th April 2017, the European Court of Human Rights rendered the pilot-judgment in the case of *Rezmiveş and others v. Romania*. By the pilot-judgment of 25th April 2017, the European Court of Human Rights decided that, within six months from the date on which the judgment became final, the Romanian Government had to provide, in cooperation with the Committee of Ministers of Council of Europe, a precise timetable for the implementation of the appropriate general measures aiming to solve the problem of prison overcrowding and of material conditions of detention, according to the European Convention for Human Rights principles as stated in the judgment.

132. We would like to remind that by the Memorandum on “The intention of the European Court of Human Rights to apply the pilot-judgment in cases regarding the conditions of detention”, adopted on 19th January 2016, the Romanian Government undertook the improving of the situation of overcrowding in penitentiaries hoping to avoid the pilot-judgment.

133. On 27th of April 2016, the Romanian Government adopted a Memorandum on “The approval of the calendar of the necessary measures to be taken in order to improve the condition of detention and the probation system”, under which a budget of EUR 740,234,582 has been allocated to the National Administration of Penitentiaries for investment in prison infrastructure for the next seven years (2016–2023). By the Memorandum of April 2016, the consolidation of probation services is also envisaged, in particular by supplementing human resources and improving working conditions, in the light of statistical data on the evolution of the number of persons under the surveillance of probation services in the last five years (see the answer provided above at the recommendation of the paragraph 34).

134. In July 2016, the Ministry of Justice adopted (together with the National Administration of Penitentiaries) an *Action Plan* aiming to improve the conditions of detention and to diminish the overcrowding phenomenon.

135. On the basis of the *Action Plan*, the National Administration of Penitentiaries initiated measures to increase and modernize accommodation capacity, following that, by the year 2020, the penitentiary system will no longer have a shortage of accommodation. On 27th of June 2017, the shortage of accommodation, for a space of 4 square meters per detainee, was 7,955 accommodation places. The *Action Plan* on improving the condition of detention provides the expansion of accommodation capacity with 10,895 accommodation places. The *Action Plan* includes the construction of two new penitentiaries, the date of putting into service is 2021.

136. The administrative measures are accompanied by the promotion of normative acts that, at the time of entry into force, will bring a reduction of the overcrowding phenomenon:

- Draft Law on pardoning of punishments and educational measures depriving of liberty, under debate at the Chamber of Deputies (the decision-making chamber of the Romania’s Parliament);
- Law no. 169 of 14.07.2017 amending and supplementing Law no. 254/2013 on the execution of custodial sentences and of measures involving deprivation of liberty ordered by the judicial bodies during criminal trial, which introduces a compensatory day-earnings mechanism for the execution of a custodial sentence in inappropriate conditions (published in the Official Gazette of Romania, Part I, No 571 of 18.07.2017).

The Romanian Government reaffirms its commitment to continue its efforts to remedy the situation on detention conditions in the Romanian penitentiary system in order to comply with the standard imposed by the European and international instruments in the field.

2. Material conditions, hygiene and sanitation

Para. 80 – Detention room facilities

137. In accordance with the Annexes to the Regulation on the security of the detention places subordinated to the National Administration of Penitentiaries, approved by the Minister of Justice Order no. 1676/C of 24th of June 2010, the rehabilitation and endowment of the rooms accommodating inmates involve various elements depending on the prison regime of the detention room. Of these elements, we can identify the following: heater, barred window, console-type reinforced concrete table or foldaway table, metallic chair built in the floor or plastic chairs, couchette-like bed or bunk beds, storing alcove or space, hall stand, TV, interphone, wire broadcasting system, shower and showering tub, curtains, wash basin and one-piece toilet, door or grating metallic door, shelves.

138. We emphasize that the analysis results of drinkable water in the 7 visited units were and still are under normal parameters, being in compliance with the admitted limits, which are established by means of periodical analysis of water probes in authorized laboratories outside the prison system.

Para. 81 – The food

139. According to Government Ordinance no. 26/1994 on the rights to food, different caloric norms are provided to each category of inmates on a daily basis, for each food norm, namely:

- 3,645 calories/day/person for the pre-trial inmates;
- 3,820 calories/day/person for the minors;
- 2,855 calories/day/person for the convicted;
- 3,175 calories/day/person for the sick persons.

140. Also, besides these basic food norms, the inmates also benefit from a series of supplements if they carry out productive activities or suffer from certain medical conditions:

- 790–1,065 calories/day/person for light or heavy work;
- 1,400 calories/day/person for TBC-infected inmates;
- 1,195 calories/day/person for prisoners with neuropsychiatric diseases;
- 825 calories/day/person for dystrophic inmates.

141. Inmates' food is prepared in specially endowed spaces – kitchens with specific machinery and equipment, namely stainless steel pressure cookers, machines for peeling potatoes and vegetables, cooking stoves, fridges etc.

142. For the inmates suffering of diabetes or those who are followers of other religions, the menus are correspondingly adjusted, being prepared separately from the other inmates' food.

143. In order to improve the detention material conditions, the prison units bought in 2016, a number of 302 fridges, as follows: Botoșani – 2 pieces, Brăila – 11 pieces, București Rahova – 1 piece, Bistrița – 20 pieces, Deva – 16 pieces, Giurgiu – 41 pieces, Iași – 1 piece, Mărgineni – 2 pieces, Miercurea Ciuc – 1 piece, Oradea – 32 pieces, Ploiești – 18 pieces, Pelendava – 8 pieces, Satu Mare – 8 pieces, Ploiești-Târgșorul Nou – 49 pieces, Târgu Mureș – 3 pieces, Târgu Jiu – 43 pieces, Vaslui – 24 pieces, Centrul Educativ Buziaș – 6 pieces, Găești – 5 pieces, Spital Dej – 11 pieces.

Para. 82 – Improving the existent conditions in Poarta Albă Prison

144. In 2016, at Constanța – Poarta Albă Prison, current repairs and maintenance works were performed with the view to improve the accommodation conditions, consisting of:

- Waterproofing for toilets;
- Remaking the faience and floor tiles in the bathrooms;
- Replacing damaged sanitary items;
- Replacing the water installation (the old network was replaced with an installation which is more resistant to intensive use);
- Redoing the inner coating;
- Repairing the carpentry (doors and windows);
- Filling in the galley shelves;
- Applying a polishing plaster coat and painting the walls and the ceilings;
- dye works;
- Refurbishing locally the floor.

145. The total value of the finalized current repairs was of RON 600,689.84 in 2016.

146. At the time of the visit, the number of inmates in custody at Constanța – Poarta Albă Prison was of 1,586. The legal accommodation capacity of the prison, for a space of 4 square meters for each prisoner is of 881 accommodation places. Thus, the index of the accommodation occupation capacity reached the value of 180% at the moment of the visit.

147. We also mention that Constanța-Poarta Albă Prison accommodates inmates in the semi-open and open regime. The detention rooms accommodating the inmates in the semi-open regime are open during the day; those accommodating the inmates in the open regime are unlocked both during the day and night. These categories of convicted persons have unlimited access to the walking yards corresponding to the detention pavilion they are sheltered in throughout the day.

148. Taking into account the SPT report according to which, at the time of the visit, 23 inmates were accommodated in a detention room of 64 square meters, with a single window which did not allow its proper airing, we present the characteristics of the accommodation rooms, whose surface is between 60 square meters and 66 square meters, in Constanța – Poarta Albă Prison, as follows:

<i>Room</i>	<i>Accommodation space Square metres</i>	<i>Endowments in the accommodation rooms</i>
E5.5	65.33 m ²	<ul style="list-style-type: none"> • 2 windows room dimensions 1.5/1.4 4.20 m² • 1 window bathroom dimensions 0.6/0.6 m² • 1 window food room dimensions 0.6/0.6 m² • 2 toilets, 4 washbasins and 1 shower tub
E5.15	66.53 m ²	<ul style="list-style-type: none"> • 2 windows room dimensions 1.5/1.4 (4.20 m²) • 1 window bathroom dimensions 0.6/0.6 m² • 1 window food room dimensions 0.6/0.6 m² • 2 toilets, 4 washbasins and 1 shower tub
E6.9	62.70 m ²	<ul style="list-style-type: none"> • 2 windows room dimensions 1.15/1.5 (3.42 m²) • 3 windows bathroom dimensions 0.6/0.6 m² • 1 window food room dimensions 0.6/0.6 m² • 3 toilets, 5 washbasins and 1 shower tub

Room	Accommodation space	
	Square metres	Endowments in the accommodation rooms
E7.9	62.88 m ²	<ul style="list-style-type: none"> • 2 windows room dimensions 96/1.08 (1.10 m²) • 2 windows bathroom dimensions 0.6/0.6 m² • 2 toilets, 4 washbasins and 1 shower tub
E7.10	62.87 m ²	<ul style="list-style-type: none"> • 2 windows room dimensions 96/1.08 (1.10 m²) • 2 window bathroom dimensions 0.6/0.6 m² • 2 toilets, 4 washbasins and 1 shower tub.
E8.5	64.48 m ²	<ul style="list-style-type: none"> • 2 windows room dimensions 96/1.08 (1.10 m²) • 1 windows bathroom dimensions 0.6/0.6 m² • 1 window food room dimensions 0.6/0.6 m². • 2 toilets, 3 washbasins and 1 shower tub

149. Following the SPT recommendations, the National Administration of Penitentiaries monitors the overcrowding phenomenon which Constanța – Poarta Albă Prison faces, taking measures to diminish the number of inmates in custody.

Para. 83 – Improving the existent conditions in Iași Prison

150. In 2016, there were purchased 775 polyurethane fireproof foam mattresses with covers, 3,700 sheets, 2,613 pillowcases, 1,347 beds, 10 bed sheets for the intimate visit room (1 bed sheet = 2 pillowcases, 1 sheet, 1 envelope sheet), 1,396 pillows made of polyurethane fireproof foam with covers and 50 waterproof cover pieces, 100 bed sheets for metal beds.

151. Also, in 2016, at the prison system level, the following material goods necessary to improve detention conditions were purchased:

- Mattresses – 6,538 pieces;
- Blankets – 7,762 pieces;
- Pillows – 5,199 pieces;
- Pillowcases – 23,880 pieces;
- Sheets – 29,875 pieces;
- Metal beds – 2,303 pieces.

Para. 84 – Improving the food quality

152. To improve the quality of food for inmates, the National Administration of Penitentiaries initiated a draft order of the Minister of Justice on increasing the financial value of food norm, in order to diversify the range of food products and to increase the financial value of food norms for pre-trial inmates, minors, convicted persons and sick inmates. The draft order is currently under examination within the Ministry of Justice.

Para. 85 – The control of the food and water quantity and quality, the hygiene and the cleanness by the medical staff

153. The sanitary staff frequently verifies the hygienic conditions in the prisons and reports on the proven malfunctions to the management body, proposing measures to be taken. The prison director analyses the reports and the chief doctor's proposals and he decides the measures to be taken. In case the aspects proven are not of his competency, the presence of some specialists in public sanitary network is requested.

154. The quality of the menus corresponding to each food norm is checked on a daily basis by a commission consisting of the prison unit doctor/nurses, shift chief who writes

down the results of these controls in a registry and confirms that the food is good to eat. The food is given to then inmates within two hours from preparation. Also, a representative of the inmates, who is changed on a monthly basis, participates in controlling food process. The control aims the hygienic status of the kitchen building and checking the quality, the expiration dates and the manner in which the products are stored and prepared, the observance of the product circuit, so that the healthy and unhealthy phases of food preparation do not interfere. Also, they verify if the food samples are stored accordingly in the fridge within the 48 hours.

155. The chief doctor notifies immediately the management staff of the prison in case of food hygiene deficiencies. The epidemiological risk situations are immediately notified to the areal coordinator and to the Medical Directorate within National Administration of Penitentiaries.

3. Confinement of prisoners

Para. 88 – The time spent outside the detention cell

156. The convicted persons serving the sentence in a maximum security regime are subject to some strict measures of guard, surveillance and escort and are accommodated, as a rule, individually, they work and pursue educational, cultural, therapeutic, psychological counselling and social assistance activities, moral-religious, school education and professional training activities, in small groups, in spaces especially designed inside the prison, under constant surveillance, according to the terms laid down by the Regulation for implementing the Law no. 254/2013.

157. The inmates classified in a maximum detention regime who do not perform labor activities or do not participate in educational or professional activities, take part in leisure activities, educative, psychological and social assistance, sport and religious activities, within the limit of 3 hours daily, according to the provisions of the Regulation.

158. In the light of the same Regulation, the inmates classified in a maximum detention regime who do not perform labor activities, do not participate in educative, psychological and social work activities or do not undertake school education and professional training have the right to have a daily walk of at least two hours, in special designed court yards outside. The inmates classified in a maximum detention regime who perform work activities, participate in educative programs, psychological and social assistance programs or undertake school education and professional training have the right to have a daily walk of at least one hour.

159. The convicted persons serving the sentence in a closed regime are accommodated, as a rule, together. They work and pursue educational, cultural, therapeutic, psychological counselling and social assistance activities, moral-religious, school education and professional training activities, in groups, inside the prison, under surveillance, according to the terms laid down by the Regulation implementing Law no. 254/2013.

160. The inmates classified in a closed detention regime may perform labor activities and participate in educational and cultural activities outside the prison, under continuous guard and surveillance, with the approval of the director of the prison.

161. The daily schedule comprises work activities, educational, cultural, therapeutical and sport activities, psychological counselling, social work and moral-religious assistance, school education and professional training, medical care, walk, rest time and other necessary activities to stimulate the inmates' interest classified in closed regime to be responsible. The activities with inmates classified in closed regime are performed individually or in groups, under the permanent guard and surveillance of staff.

162. The inmates classified in a closed regime who, for certain reasons, are not used for labor activities or school education or professional training, take part in leisure activities, educative, psychological and social assistance, sport and religious activities, within the limit of 4 hours daily, according to the provisions of the *Regulation*.

163. In the light of the same *Regulation*, the inmates classified in a closed regime who do not perform labor activities and do not participate in other activities have the right to have a

daily walk of at least three hours. The inmates who perform labor activities and take part in educational or psychological and social assistance programs have the right to have a daily walk of at least one hour.

164. At prison system level, in 2016, the inmates were included in various programs and educational, psychological and social assistance programs, each individual having the possibility to participate in more than one recuperative intervention of the three pillars:

- Educational programs/activities – 39,281 adults and 1,108 minors;
- Psychological assistance programs/activities – 13,562 adults and 393 minors;
- Social assistance programs/activities – 15,717 adults and 217 minors.

165. In 2016, the average number of inmates in the prison system was of 27,984 (we mention that in the same period of reference there were registered 12,539 entrances, 13,257 exits).

166. Regarding the situation of the inmates participating in programs and activities in the 7 visited prison units, we mention the following:

- Aiud Prison:
 - Educational programs/activities – 4,311;
 - Psychological assistance programs/activities – 241;
 - Social assistance programs/activities – 124.

We add that the average number of inmates in 2016 was 861 (we mention that in the same period of reference there were registered 473 entrances, 377 exits and 1,783 transfers – entrances, 1,800 transfers – exits);

- Botoșani Prison:
 - Educational programs/activities – 4,287;
 - Psychological assistance programs/activities – 205;
 - Social assistance programs/activities – 267.

We add that the average number of inmates in 2016 was 1,000 (we mention that in the same period of reference there were registered 348 entrances, 438 exits and 1,248 transfers – entrances, 1,344 transfers – exits);

- Constanța – Poarta Albă Prison:
 - Educational programs/activities – 16,224;
 - Psychological assistance programs/activities – 223;
 - Social assistance programs/activities – 228.

We add that the average number of inmates in 2016 was 1,550 (we mention that in the same period of reference there were registered 672 entrances, 766 exits and 4,110 transfers – entrances, 3,930 transfers – exits);

- Giurgiu Prison:
 - Educational programs/activities – 6,979;
 - Psychological assistance programs/activities – 252;
 - Social assistance programs/activities – 299.

We add that the average number of inmates in 2016 was 1,225 (we mention that in the same period of reference there were registered 304 entrances, 237 exits and 2,380 transfers – entrances, 2,551 transfers – exits);

- Gherla Prison:
 - Educational programs/activities – 4,177;
 - Psychological assistance programs/activities – 205;

- Social assistance programs/activities – 377.

We add that the average number of inmates in 2016 was 960 (we mention that in the same period of reference there were registered 422 entrances, 376 exits and 2,081 transfers – entrances, 2,216 transfers – exits);

- Iași Prison:
 - Educational programs/activities – 7,333;
 - Psychological assistance programs/activities – 437;
 - Social assistance programs/activities – 567.

We add that the average number of inmates in 2016 was 1,415 (we mention that in the same period of reference there were registered 561 entrances, 448 exits and 2,549 transfers – entrances, 2,584 transfers – exits);

- Prison for women Ploiești – Târgșorul Nou:
 - Educational programs/activities – 3,758;
 - Psychological assistance programs/activities – 1,222;
 - Social assistance programs/activities – 171.

We add that the average number of inmates in 2016 was 627 (we mention that in the same period of reference there were registered 285 entrances, 332 exits and 971 transfers – entrances, 853 transfers – exits).

4. Treatment of persons with mental disabilities

Para. 91 – The transfer of the persons with mental disabilities to hospital units

167. Regarding the isolation of inmates with mental disorders in prisons, we mention that the right to medical care of the inmates is a guaranteed right. Medical care services are granted within the National Administration of Penitentiaries' own medical network, in the public medical network or public medical centres that have an agreement signed with the health insurance houses. The inmates with serious mental disorders, who may endanger their own security or the security of other inmates, are confined in specialized profile sections of hospitals, in order to be granted special medical treatment and psychosocial care. In case an ill inmate needs a specialized treatment to be applied in the medical network of the National Administration of Penitentiaries or in the public medical network, nearby the territorial area of the prison unit, the medical staff takes all measures to confine the ill inmate in a medical centre where he/she could benefit of special medical care.

168. The National Administration of Penitentiaries makes constant efforts that the medical care, in general, and the special medical assistance of inmates with mental disorders, in particular, to meet the standards of the conditions applied in the public medical network. In this perspective, it makes steps forward to organize psychiatric special sections in detention and in the prison hospitals for the inmates with severe mental health problems. These sections shall be specialized to grant necessary treatment and to ensure the implementation of specific intervention programs.

169. To improve the situation of the persons with mental disabilities deprived of their liberty in a prison units, it is envisaged to initiate a collaboration between the central authorities concerned (Ministry of Justice – National Administration of Penitentiaries, Ministry of Labor and Social Justice – National Authority for Persons with Disabilities, Ministry of Health).

5. Work and recreational activities

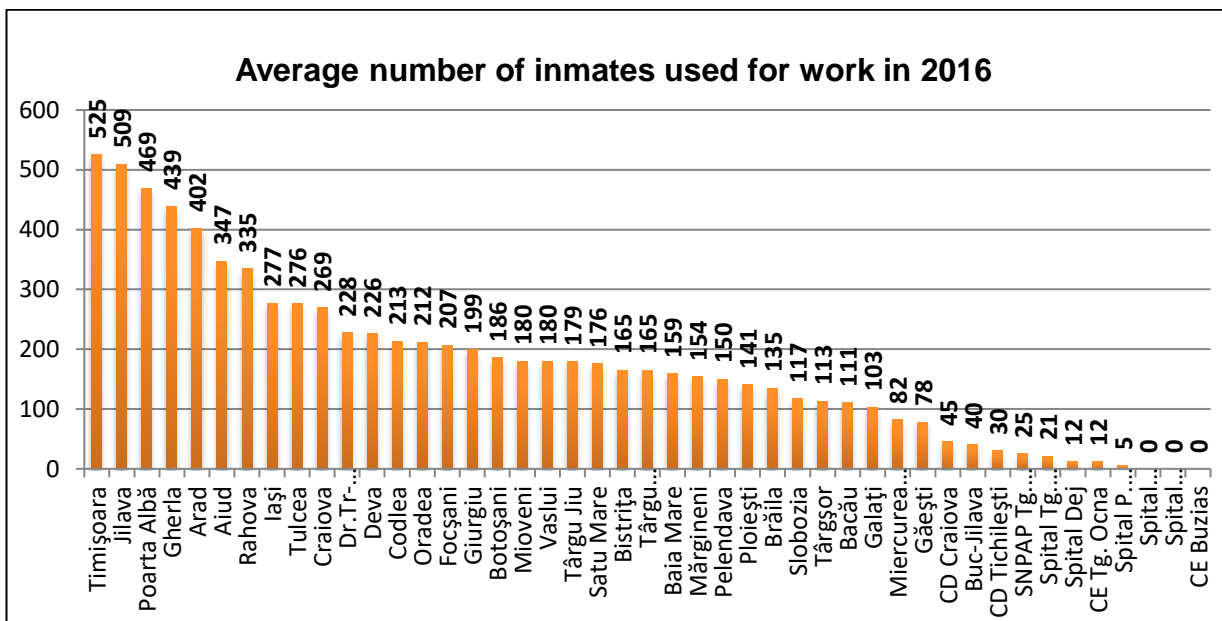
Paras. 94–95 – Diversification of working and recreational activities

170. The work performed during the punishment execution has the purpose to develop the capacity of the inmates to support themselves after release. In this view, the increase in

number of inmates involved in labor activities is one of the main objectives of the National Administration of Penitentiaries and the subordinated units.

171. Out of the total average number of inmates of 27,984, over 7,892 persons in average were selected and placed in labor activities.

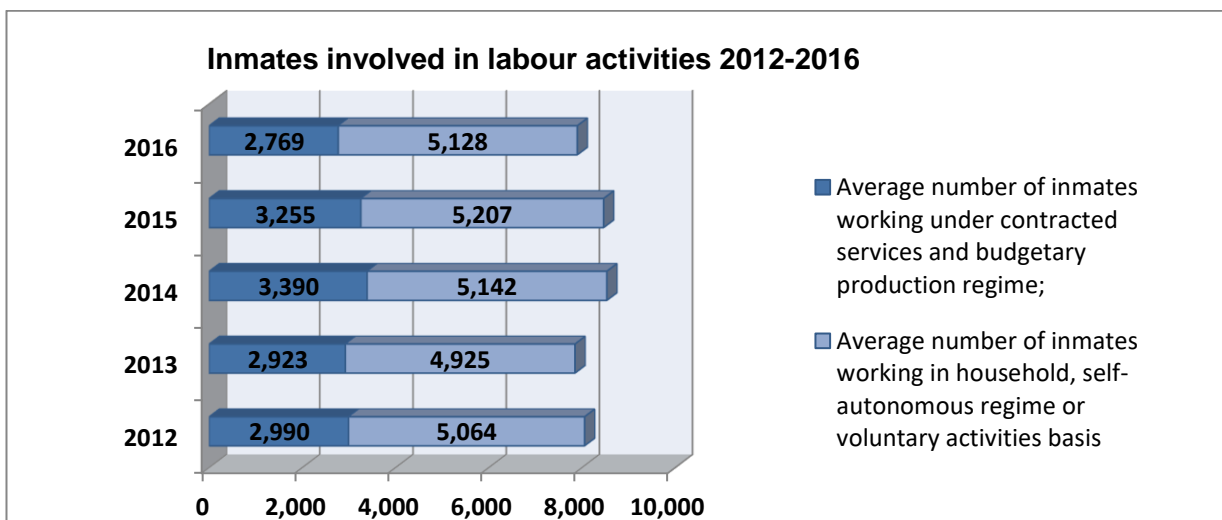
172. The situation of inmates used in labor activities in 2016, per prisons, is presented in the following chart:



173. A total number of 2,769 inmates in average performed labor activities on the basis of a service performance agreement (35 % of the total number used for work), which represent 15 % lesser than 2015. There were 110 inmates selected for work in the budgetary production sector, representing 1.4 % of the average total number used for work.

174. The prisons that are visible in using large amounts of inmates for remunerated work are: Timișoara – with an annual average of 320 inmates; Gherla – 246 inmates; Arad - 211 inmates; Aiud – 197 inmates; Poarta Albă – 184 inmates; București Jilava – 151 inmates; Craiova – 124 inmates; Deva – 111 inmates; Iași – 110 inmates; Codlea – 102 inmates and Târgu Jiu – 97 inmates.

175. Below it is a representative comparative chart regarding the inmates involved in labour activities in the period 2012–2016:



176. In terms of the participation in the social reintegration structured or semi-structured actions, in 2016, at the prison system level, there were registered the following data:

- 2,455 inmates registered in school activities, during the school year 2016–2017;
- 2,627 inmates participated in counselling-information activities and work mediation, as well as in initiation and professional training classes;
- 328,039 inmates⁴ participated in educative approaches;
- 88,571 inmates⁵ participated in psychological approaches;
- 87,657 inmates⁶ participated in social assistance approaches.

177. The offer of educative, psychological and social assistance programs and activities comprises individual and group activities and programs covering all categories of inmates, regardless of their executional stage and/or their risks and needs. This is available in visible and easily accessible places for inmates, as well as at Info Points, being also translated in German and Hungarian.

178. The offer of programs and activities is individualized at the level of each prison, depending on its specificity and on the human and material resources available. There are explicitly specified in its content: the categories of semi-structured activities – activity projects, thematic and sport competitions and the categories of structured activities – educative programs, psychological and social assistance activities, school education and professional training. The offer of programs and activities is annually updated, in accordance with the inmates’ needs.

179. Another institutional objective is to attract institutional partners. Therefore, in 2016, there were concluded/reedited cooperation protocols with 36 partners. There are 88 protocols in place in total, having the purpose to implement programs and actions to contribute to the social reinsertion of inmates.

6. Security classifications

Para. 96 – Minors’ situation in Iași prison

180. In the prison system, the persons against whom the measure of confinement in a prison was applied are under custody and perform activities separately from the persons convicted to imprisonment punishments, to whom specific norms are applied as according to their category. For this category, the administration of Iași Penitentiary allocated the E9 section.

181. At the time of the SPT visit, within E8 (maximum security) section, there was a section for the minors in transit (for a period of maximum 10 days), in order for them to be presented before the courts. Following the SPT recommendations, the minors in transit were reallocated within section E9.

Para. 97 – Reviewing the classification system of detainees into different regimes

182. In a legal sense, by serving sentences regime we refer to the total number of rules, rights, obligations, programs and activities aiming at a good cohabitation in order to encourage behaviors, attitudes and abilities which could influence the social reintegration of inmates. The imprisonment punishments are executed in one of the following regimes: maximum security, closed, semi-open and open.

183. The applicable legal norms set up a progressive and regressive system of serving sentences, the inmates having the possibility to move from one to the other, according to law. The progressive system means that the person moves from an executional regime to a

⁴ Please note that some of the detainees participated in more than one activity or program during the reference period.

⁵ Idem 4.

⁶ Idem 4.

lesser severe one and the regressive one means that he/she moves to a more severe executional regime.

184. In each penitentiary, a commission for establishing, individualization and changing the regime of execution of custodial sentences is set up, consisting of: the director of the prison, who is also chairman of the commission, the head of department or of the office for the application of the regimes and the head of the education department or office or the head of the psycho-social assistance department or office. The Commission for establishing, individualization and changing the serving of sentence regime carries on its activity, as a rule, once a week.

185. The serving of sentence regime is established by the above mentioned commission, at its first meeting, after the completion of the period of quarantine and observation or after the application of the provisional regime. When determining the regime of execution the following criteria are considered:

- (a) The duration of the custodial sentence;
- (b) The risk level of the convicted person;
- (c) The criminal record;
- (d) The age and health condition of the convicted person;
- (e) The conduct of the convicted person, positive or negative, including in the previous detention periods;
- (f) The identified needs and abilities of the convicted person, necessary for the inclusion in the educational programs, psychological assistance and social assistance programmes;
- (g) The availability of the convicted person to perform work and to participate in educational, cultural, therapeutic, psychological counselling and social assistance activities, moral-religious, school education and professional training activities.

186. Changing the serving of sentence regime is ordered by the same commission. The commission has the obligation to examine the conduct of the convicted person and the reintegration efforts, and to prepare a report which shall be notified to the convicted person, under signature, after a period of 6 years and 6 months of serving the sentence, in case of life imprisonment, and in the case in which one fifth of the length of the imprisonment sentence has been executed.

187. Changing the imprisonment punishment regime to the regime immediately below as severity degree may be ordered, taking into account the nature and manner of committing the offence, if the convicted person:

- Had a proper conduct, established by reference to the rewards granted and sanctions applied and has not taken actions that indicate a negative constant in conduct;
- Has persisted in work or has been actively involved in the activities set out in the Individualized Plan of assessment and educational and therapeutic intervention.

188. The change of the serving of sentence regime to a more severe one may be ordered, at any time of executing the sentence, if the convicted person has committed an offence or has received a disciplinary sanction for very serious and serious disciplinary offences.

189. As far as minors are concerned, we mention that the competence to order, as a priority, the application of educational measures involving non-deprivation of liberty and only finally the ones involving deprivation of liberty was granted to the courts, under the conditions of the Criminal Code. The educative measures involving non-deprivation of liberty are: the stage of civic training, surveillance, registration at the end of week and daily assistance. The measures involving deprivation of liberty applicable for this category are: confinement in an educational centre and confinement in a detention centre.

190. The regime of execution of the educational measure of confinement in an educational centre is common to all confined persons, being individualized from the point

of view of the recovery approaches designed for them, in order to meet the physical and mental development needs.

191. The regimes of execution of the educational measures of confinement in a detention centre are based on the progressive and regressive systems, the confined persons going from one regime to another, under the terms provided by the Law. The regimes of execution of the educational measure of confinement in a detention centre are: closed regime and open regime. The establishing, the individualization and the change of execution regime of the educational measure of confinement in a detention centre are performed by the commission for establishing, individualizing and changing the serving of sentence regime.

192. In conclusion, we point out that the minors serving an educational measure involving deprivation of liberty are not placed in the maximum security regime, as the constraints of such a serving regime are not applicable to this category of persons in custody.

7. Disciplinary punishment

Para. 100 – The use of alternative mechanisms for solving the disputes between the inmates

193. Steps regarding the alternative mechanisms for solving the disputes between the inmates (other than the disciplinary sanctions) applied by the prison administration, imply the inmates' involvement in recuperatory interventions such as: semi-structured group programs and activities, individual psychological and social counselling, aimed at reducing the tensions among inmates that could degenerate into conflicts. Moreover, at penitentiary system level, a package of measures, applicable to all prisons, has been formalized as part of the Annual Plan of the Strategy to reduce the aggressive behavior.

194. Particularly applicable to Iași Prison, the ordered measures for preventing the occurrence of the negative events, recorded in the Annual Plan for the implementation of the above mentioned Strategy, are focused on:

A. Preventing aggressive phenomenon (reference year 2016):

1. Written approaches, in the social assistance field, for the unvisited young inmates;
2. Written approaches, in the social assistance field, for those inmates who are not visited by their families, answers, statistic evidence;
3. Developing the psychological assistance program for self-knowledge and personal development through the Art-therapy method;
4. Developing the program for the development of decisional abilities in criminal risk situations, which has the following objectives: developing the skills of evaluating the alternatives in criminal risk situations, undertaking the consequences of the decisions made, acquiring and exercising the skills for resisting to the pressure exerted by the group;
5. Implementing the Project aimed at reducing aggressiveness among youth;
6. Implementing the Project "Creative conflict resolution";
7. Implementing the Project "Say NO to violence!";

B. Intervention for managing the aggressivity and for reducing the vulnerability of the aggressivity victims (reference year 2016):

1. Implementing a specific psychological assistance program for people with aggressive behavior;
2. Implementing a specific psychological assistance program aimed at reducing the anger;
3. Providing psychological and social counselling services, etc.;

C. Preventing the aggressivity phenomenon (reference year 2017):

1. Written approaches, in the social assistance field, for those inmates who are not visited by their families;
2. Broadcasting an informative video named „Preventing aggression”, through closed-circuit television;
3. Implementing the decision-making skills development program in criminal risk situations, which has the following objectives: developing the skills of evaluating the alternatives in criminal risk situations, undertaking the consequences of the decisions made, acquiring and exercising the skills for resisting to the pressure exerted by the group;
4. Implementing the Project „Creative conflict resolution”;
5. Piloting the activity project aimed at diminishing the aggressive behavior and violence, which has been developed at the level of the specialized directorate from the prison system headquarter;

D. Intervention for managing the aggressivity and for reducing the vulnerability of the aggression victims (reference year 2017):

1. Implementing a specific psychological assistance program for the people with aggressive behavior;
2. Providing psychological and social counselling services, as well as other approaches, according to the Annual Plan for the implementation of the Strategy to reduce the aggressive behavior, at Iasi Prison in 2017.

8. Solitary confinement**Para. 103 – Solitary confinement as disciplinary sanction**

195. The specialized Commission applies a progressive system for establishing the disciplinary sanction, the isolation for up to 10 days being a last resort measure, ordered only in exceptional situations. The disciplinary sanction involving isolation for up to 10 days is applied only in those situations when serious disciplinary offenses have been repeatedly committed, as well as for committing very serious disciplinary offenses.

196. According to the Regulation for implanting the Law no. 254/2013:

- The disciplinary sanction involving isolation is usually enforced individually in the maximum security sections of the prisons or in specially arranged rooms, regardless the punishment regime where the sanctioned person is;
- The rooms for the enforcement of the disciplinary sanction involving isolation have natural lighting and ventilation, are provided with heating systems, water supply and other facilities necessary to maintain the hygiene;
- The inmates executing disciplinary sanction involving isolation are examined daily by the detention place’s physician. At detention place’s physician suggestion, the disciplinary sanction involving isolation can be interrupted for health reasons;
- The inmates executing the disciplinary sanction involving isolation may exercise their right of petition, correspondence and information through written press, receive food according to the rules in force, medical assistance and daily walk of at least one hour, in specially arranged spaces, in open air, separated from the other inmates. Smoking is allowed only during the walking activity;
- During executing the disciplinary sanction involving isolation, the inmates are not involved in work activities, do not participate in cultural, educational and sports activities, are deprived of the possibility to keep and use radio-TV and IT devices;
- During the execution of the disciplinary sanction involving isolation, inmates are suspended from the right to receive goods, to receive visits, except for visits by the lawyer, officials or diplomatic representatives, to make phone calls and to shop,

besides the necessary goods for petitioning, correspondence, smoking and individual hygiene.

197. In all prisons (excluding education and detention centres) in 2016, 1,071 sanctions involving isolation for up to 10 days were applied. Considering that in 2016 the prison system registered an approximative number of 40,000 coming and going people, the maximum percentage of people who received a sanction involving isolation for up to 10 days is of 2.7%.

198. The temporary accommodation in the protection room and the supervision of the inmates through surveillance cameras were provided by the Law, being measures that should not be confused with the disciplinary sanction involving isolation.

199. Thus, if there are indications that an inmate intends to use self-aggression or to suicide, injure another person, destroy goods, or seriously disturb the order, the prison director may order that he/she be accommodated individually in a special designed and endowed room. The measure can be applied until the state that generated it ceases, but for no more than 24 hours.

200. During the stay in the security room, the inmate is permanently under observation with surveillance cameras.

201. In the case of accommodation of an inmate in the protection room on grounds of preventing self-aggression or suicide, the medical staff has the obligation to monitor and evaluate the inmate's condition, whenever necessary but not less than once every 4 hours. During the stay in the protection room, the inmate receives psychological counselling. The inmates accommodated in the protection room shall have their meals and satisfy their physiological needs in a place other than the one where they are staying.

202. The prison director may order, based on the information of the personnel directly involved in activities with the inmate, the inmate accommodation in the protection room, if there is an imminent danger of the occurrence of one of the following events:

- (a) Self-harming or suicide;
- (b) Injuring another person, if there is no possibility of their separation;
- (c) Destroying goods or seriously disturbing the order.

203. The bringing of the inmate into the security room shall be carried out in the presence of the medical staff, after carrying out the detailed bodily search and replacing the personal clothing with clothes appropriate to the season, provided by the administration of the prison.

204. The surveillance staff monitors the inmates temporarily accommodated within the protection room by observing their physical and psychological condition and by informing the decision makers about the possible deterioration of their health status, or about the imminent occurrence of negative events.

205. As mentioned above, moving inmates in this area is a temporary measure and does not constitute a disciplinary sanction, being a preventive and safe measure ordered by the administration of the prison. This type of measure is similar to the one used in such cases in the public health network, as evidenced by the legal norms in force regarding the norms for the application of Law no. 487/2002 on mental health and the protection of persons with psychiatric disorders.

9. Instruments of restraint

Para. 105 – The use of means of restraint

206. The use of handcuffs or other means of restraint is only allowed when other measures to maintain order and discipline amongst inmates failed, in situations as the following:

- (a) To prevent escape during inmates movement;
- (b) To protect inmates from self-harming or to prevent injury against others or to damage goods;

(c) For restoring the order and discipline, as a result of the inmates opposition to a decision of the judicial bodies or prison staff.

207. The use of restraining means must be authorized in advance by the prison director, except in those cases where the emergency does not allow for it, situation which is immediately brought to the attention of the director. The judicial bodies decide upon the application, maintenance or removal of restraining means during the presence of the inmates in front of them.

208. According to the Regulation for implementing the Law no. 254/2013, the use of restraining means is made gradually, without exceeding the real needs of the inmates' immobilization, and ceases as soon as the purpose of the intervention has been achieved, according the Law. In the case of the inmates restrained in bed, hospitalized in a health facility, the metallic handcuffs shall not be used.

209. Physical force can be used, according to the legal provisions, in self-defense cases, prison-break, active or passive physical resistance to a provision stipulated in the Law, in the Regulation or in the subsequent normative acts. Any intervention shall be conducted in accordance with the principle of proportionality between the intervention manner and the cause that generated it, without unjustified use of violence.

210. The use of restraining means and weapons, the temporary accommodation of the inmate in the protection room and the surveillance through cameras shall be communicated in writing to the judge for the supervision of deprivation of liberty.

10. Contacts with the outside world and visits

Para. 107 – The intimate visit

211. The right to intimate visit is guaranteed to inmates by the provisions of Law no. 254/2013. According to the Regulation for implementing the Law no. 254/2013, persons who meet the following conditions cumulatively can benefit of an intimate visit:

(a) They are convicted and assigned to a punishment execution regime, respectively they are on remand during the trial;

(b) There is a marriage, proven by a certified copy of the marriage certificate or, as the case may be, a partnership similar to the relations established between the spouses;

(c) They did not have the permission to leave the prison within the last 3 months prior to requesting the intimate visit, in the case of convicts;

(d) They have not been disciplinary sanctioned during the last 6 months prior to the request for the intimate visit, or the sanction has been annulled in the case of the convicted persons, while in the case of persons on remand, during the trial, within the last 30 days prior to the request;

(e) They actively participate in educational, psychological assistance and social assistance activities and programs or work.

212. The following conditions for granting the right to intimate visit have also been established by Law:

- The married convicted person may receive an intimate visit only with his spouse;
- For the similar relationships to those established between spouses, for the intimate visit, the partners must have had such a relationship prior to the date of imprisonment;
- The proof of the existence of the partnership is made by an affidavit, certified by the notary.

213. The convicts or the person on remand during the trial are entitled to one intimate visit every 3 months, lasting for 3 hours, complying with the legal conditions in the field.

214. If the intimate visit takes place as a result of getting married, the duration of the visit is 48 hours. The visit takes place with the consent of the prison director, who sets the date of the visit, informing the person in due time.

215. The right to intimate visit is granted to inmates in strict compliance with the applicable legal framework.

216. In the 7 visited prisons, intimate visits were granted during the reference period January–May 2016, as follows:

- Prison Aiud: 94 intimate visits, of which 6 were of 48 hours;
- Prison Botoșani: 127 intimate visits, of which 91 of 2 hours, 31 of 3 hours and 5 of 48 hours;
- Prison Gherla: 201 intimate visits, of which 194 of 2 hours and 7 of 48 hours;
- Prison Giurgiu: 20 intimate visits, of which 19 of 2 hours and 1 of 48 hours;
- Prison Iași: 124 intimate visits;
- Ploiești – Târgșor-Nou Prison for women: 79 intimate visits, of which 77 were of 3 hours and 2 were of 48 hours;
- Prison Constanța – Poarta Albă: 143 intimate visits, of which 126 were of 2 hours, 7 were of 3 hours and 10 were of 48 hours.

11. Transfer of prisoners

Para. 110 – The transfer of detainees, in particular of women, children and sick inmates

217. In the case of the transfer of minors and female inmates among the prisons, a special attention is paid to the compliance of separation criteria, taking into account the vulnerability of these categories. Considering the fact that in the case of transfers the numerical preponderance is represented by male adults, the actual transport of minors and female inmates is usually carried out in separation bunks.

218. During prison transit (locations where the inmate transport vehicles are stopping in order to deliver or receive the inmates planned for the respective transport), it is granted the access to toilets, drinking water, eventually medical check etc. separately and with priority over other categories of people. The inmates' transport vehicles have all the necessary technical equipment so that minors and female inmates are provided with optimal conditions throughout the transport. The transport vehicles are endowed with ventilation, air conditioning, natural light and artificial light, by case. Also, in order to ensure separation and optimal conditions, these categories of persons will be placed separately in the transport vehicles.

219. We also must specify that the sick persons with infectious-contagious diseases are transferred only individually by the ambulances in order to be placed in the hospital prison, complying with the epidemiological criteria and measures.

C. Centres for migrants and asylum seekers

220. Regarding the paragraphs no. 111 and 112, we would like to mention that the SPT delegation paid only two visits (and not three as it comes out from the two paragraphs mentioned before) in relation with the foreigners on the Romanian territory: one in Giurgiu center for asylum seekers and one in the Otopeni Detention Centre for Foreigners (two times).

Para. 113 – Treatment of migrants

221. The SPT delegation paid two visits to the Otopeni Detention Centre for Foreigners. During the first visit of the delegation, no third country national staying in the center was found locked up in the room. During the second visit, the SPT delegation found that all

rooms were open, except one room in which, at his express request, a citizen suffering from psychological problems was accommodated. The daily program is in accordance with the Regulation of the accommodation centers of the foreigners, and during night time (22.30 pm–7.30 am), foreigners are not allowed to leave the rooms, except in the duly justified cases, with the approval of the staff at the center (art. 41 from the Internal Regulation approved by Order of Ministry of Internal Affairs no. 121 of July 30, 2014). All the daily activities are held without the third country national being locked up in their rooms.

Para. 115 – Interpretation services

222. It is to be noted that the centers benefit from the services of authorized translators, especially in court proceedings, in case of health checks or interviews related to their legal situation. Using relatives and friends or other migrants during the day-life in the center may be, sometimes a solution used as an exceptional situation when authorized translators are not identify or cannot be used (art. 3 paragraphs 3⁴ from Law no. 122/2006 on asylum in Romania).

Para. 117 – Psychological examination

223. According to the Romanian legislation, the migrants have the right to receive psychological assistance. In the case mentioned by the SPT delegation, in paragraph no. 116, the analysis of the evidences in the center revealed that in the reference period, two migrants refused psychological assistance, and they were not registered with disorders that impose psychiatric control or hospitalization in a specialized clinic. Even in case of refusal of psychological assistance, the internal regulation provides measures to be taken for the continuous observation of the person.

D. Psychiatric institutions

1. Involuntary placement and legal safeguards

Para. 120 – Procedural safeguards regarding the involuntary placement

224. Following the SPT visit and their report regarding psychiatric institutions in Romania, the Ministry of Health and the National Mental Health and Antidrug Centre, as the specialized mental health institution subordinated to the Ministry of Health, continued their efforts in order to offer a legal framework and administrative measures to enhance quality of mental health services at national level. We focused especially on involuntary placements and forensic mental hospitals with emphasis on protecting human rights according to Convention on the Rights of Persons with Disabilities. On April 2016 the Minister of Health Order no. 488/2016 on the approval of the updated version of the Rules on the implementation of the Law on Mental Health and protection of persons with mental disorders no. 487/2002 revised, brought more precise procedures concerning involuntary placement and legal safeguards, measures of isolation and constraints. The National Mental Health Centre and Antidrug has actively been in contact with the psychiatric hospitals through regular correspondence and by disseminating relevant information concerning the rights of people with disabilities.

225. A team of members from the Ministry of Health, National Mental Health and Antidrug Centre, the Ministry of Justice, the Romanian Governmental Agent for the European Court of Human Rights from the Ministry of Foreign Affairs visited during the last half of 2016 several psychiatric and forensic hospitals in order to discuss with the management and medical staff the necessary improvements on the mental health law. The visits will continue in 2017.

226. As far as the involuntary placement and legal safeguards in the Sapunari Mental Hospital are concerned, the internal procedure provides permissions for leaving the hospital when requested, but not before having the approval of his/her doctor or chief of section.

227. There is no difference made in the rules concerning the outfits of the patients in the psychiatric hospitals, all Romanian hospitals, including mental hospitals, conform to the requirements of the national health law, which state that patients wear pajamas when admitted. The mental health staff was trained on how to obtain the informed consent upon admission and treatment in order to avoid the repetition of the previous situations observed during the SPT visit. A special emphasis was placed on the cases when the informed consent cannot be obtained and when voluntary placement is replaced by the procedures for involuntary admissions. We are aware of the insufficient intermediate centers to provide support pending discharge from the psychiatric hospital but we would like to point out that steps have been taken to gradually implement the social support necessary for the accomplishment of the deinstitutionalization process for the persons suffering from mental health issues.

228. The Psychiatric ward of Cluj-Napoca Emergency Clinical County Hospital was allocated a sum of 139,674.49 LEI in 2016 and 100,000 LEI in 2017 in order to improve the living conditions in the psychiatric wards. Part of the furniture was replaced, future funding will focus on improvement of outpatient's unit and emergency room. The management encourages patients to wear their own clothing during the day.

Para. 122 – Adopting measures for setting up half way houses

229. Given both the UN Convention on persons with disabilities⁷ requirements as well as those of the National Strategy: “A society without barriers for persons with disabilities 2016–2020” (including its operational plan),⁸ Romania has undertaken the obligation of respecting the rights of all persons with disabilities. One of the strategic keys within this document is promoting alternative social services which aim over other things, also at transforming a mainly institutionalized system into a modern society through services such as half way houses, so that the persons with disabilities especially those without a family or a family representative, may benefit from a series of measures to facilitate their social integration (actions to be developed: activities for an independent life, for developing a personal autonomy, for developing a social autonomy, social integration, socialization, normalizing adaptability).

2. Patients admitted by court decision

Para. 125 – Material conditions in the security psychiatric hospital Pădureni-Grajduri

230. In order to improve the living conditions of the patients in the security psychiatric hospital Grajduri, Iasi County, the management has started the procedures to rehabilitate and modernize the accommodations in order to reduce overcrowding by transforming an administrative unit into a psychiatric ward for patients. Furthermore, they have arranged special rooms where patients can be involved in occupational therapy (i.e. tailoring, art-therapy, gym and seasonal gardening). The occupational therapy program is financially supported by the Ministry of Health through the National Mental Health and Psychosocial Rehabilitation Program.

231. Regarding the increase of human resources for mental health care, we indicate that the distribution of the workload for mental health personnel (doctors, nurses, occupational therapists, psychologists, social workers) is done in accordance with ministry of health order no. 1224/2010 on approving the medical staff scheme and, in our opinion, it needs to be revised in the sense of setting up the possibility for the hospitals to hire occupational therapists, as currently occupational therapists can only be employed by community mental health centers and not by psychiatric hospitals. The National Mental Health and Antidrug Centre has initiated consultations with all national psychiatric and forensic hospitals in order to submit a comprehensive updated proposal to the Ministry of Health and change the aforementioned order.

⁷ Ratified by Romania through the Law no. 221 on 11th November 2010.

⁸ Approved through the Government Decision no. 665 on 14th September 2016.

232. Upon the request of the Ministry of Health regarding the excessive use of medication, the management of the forensic psychiatric hospital Grajduri has reassured the proper use of medication following the diagnostic and treatment guidelines only in order to achieve clinical remission of psychiatric symptoms and not for other intents and purposes. Moreover, the management board of the hospital notifies on the lack of family support of some of the patients that have been admitted under compulsory placement and mentions the lack of community based intermediate centers or half-way houses for providing support pending discharge from the psychiatric hospital. Lack of any housing opportunities sometimes influences the judicial courts opinion in keeping the compulsory placement into psychiatric forensic hospitals, on the basis of article 110 of the Criminal Code, thus providing the necessary accommodation and the inherent overcrowding. The management board of Padureni-Grajduri psychiatric forensic hospital states that the proposal for changing the statute from art. 110 to art. 109 in the Criminal Code is made by a commission appointed by the Medical Legal Institute in Iasi and is composed of two forensic doctors and two psychiatrists, the latter being members of the Padureni-Grajduri psychiatric forensic hospital. This commission assesses both the medical and forensic issues as well as the social circumstances of each patient. The medical and forensic commission's expertise is then submitted as a report to the court, the only judicial body competent and responsible for deciding on keeping the art. 110 measure or changing into art. 109 Criminal Code.

233. Regarding the recommendation from the paragraph 127, see the answer provided above at para. 122.

Para. 129 – Amending the legislation in the sense of creating an independent mechanism of representing the persons with mental disabilities

234. National Mental Health and Antidrug Centre together with professional associations of psychiatrists have started a process to enhance the community – based services and to develop community mental health centers.

235. The multidisciplinary working group, coordinated by the Romanian Governmental Agent for European Court of Human Rights in the Ministry of Foreign Affairs, with joint representatives from the Ministry of Health, the National Mental Health and Antidrug Centre, the Ministry of Labor and Social Justice and the Ministry of Justice, focuses on amending the national legislation in order to grant the persons with mental disabilities the right to independent legal representation.

236. According to the mental health law and the rules of implementation for Mental Health law, all mental health services need to have a complaint register in order to record and respond to possible complaints filed by patients and/or family members.

237. Finally, we would like to highlight the fact that the Ministry of Health supported the amendments and harmonization of the national specialized legislation in order to promote the rights of people suffering from mental health disorders and to reinforce the influence of the competent bodies in monitoring, protecting against and preventing ill treatments for this vulnerable population. To this end, the Mental Health Law was revised in 2012 due to the fact that during its implementation multiple inconsistencies were signaled both with internal laws like the Family Code, the Penal Code, as well as with international treaties concerning fundamental rights and freedoms, like the Universal Declaration on Human Rights, United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

IV. People's Advocate Response

On 3 May and 12 May 2016, the Subcommittee on the Prevention of Torture (SPT), during its first regular visit to Romania, had a meeting with the People's Advocate and members of the Field on the prevention of torture in places of detention, which fulfils the duties of the National Prevention Mechanism against Torture in Places of Detention.

Regarding the issues noted by the members of the Subcommittee on the Prevention of Torture, we mention the following:

238. By the Government Emergency Ordinance No. 48 of June 26, 2014 for amending and completing the Law No. 35/1997 regarding the organization and functioning of the People's Advocate Institution, as well as for the modification and completion of some normative legal acts, approved by Law No. 181/2014, the People's Advocate Institution has been designated as the only national structure to exercise the powers provided for in the Optional Protocol, adopted at New York on 18 December 2002, to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted at New York on December 10, 1984, ratified by Law No. 109/2009.

1. Regarding the steps taken to prevent and investigate any possible reprisals

239. In terms of reprisals, we specify that after the SPT visit, a person was designated as a focal point for investigating possible post-visit reprisals, but no such situations were reported. During the subsequent visits by the representatives of the Field, they took proactive actions to collect information on possible post-visit reprisals without identifying such cases.

240. Visited authorities that have subordinate places of detention have been informed about their obligation to comply with the provisions of Art. 15 of the Optional Protocol, according to which "No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the Subcommittee on Prevention or to its delegates any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way."

241. Also, the public authorities were reminded the provisions of Article 21 (1) of the Optional Protocol, according to which "No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the national preventive mechanism any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way", as well as those of art. 29¹⁰ of the Law No. 35/1997 regarding the organization and functioning of the People's Advocate Institution, republished, with the subsequent amendments and completions, which state that "No person can be held accountable for the information communicated to the visiting team members."

242. Please note that during May–July 2016, visits were made to more types of detention facilities, of which we mention:

- Penitentiaries: Ploiești Penitentiary, Poarta Albă Penitentiary, Iași Penitentiary, Botoșani Penitentiary, Craiova Penitentiary;
- Centres for Children: "Maternus" Maternal Center Iași, "Ana" Placement Centre Râmnicu Vâlcea, "Sfântul Stelian" Centre Ghimbav Brașov, "Cristina" Community Services Complex Constanța County, "Dacia" Placement Centre Brașov;
- Psychiatric hospitals and centres for neuropsychiatric recovery and neuropsychiatric rehabilitation: "Socola" Psychiatric Hospital Iași, Poiana Mare Dolj Psychiatric Hospital, Neuropsychiatric Rehabilitation and Neuropsychiatric Rehabilitation Centre for Adults with Disabilities "Călinești";
- Detention and Remand Centres: Detention and Remand Centre No. 1 Bucharest, Detention and Remand Centre Vaslui, Detention and Remand Centre Neamț, Detention and Remand Centre Timiș;
- Residential Homes for the Elderly: The home for elderly people "Sf. Elena" Târgoviște, the home for elderly people Periș – Ilfov County, the home for elderly people Bacău, the home for elderly people Brașov, the home for elderly people Gherla;
- Centres for Migrants: Accommodation and Procedures Centre for Asylum Seekers Giurgiu, Centre for Accommodation of Aliens Taken into Public Custody Arad.

243. In this context, with regard to the prevention of reprisals, we mention the following elements.

244. On July 12, 2016, the representatives of Bacău Zonal Centre and of Iași Territorial Office carried out the verification of the issues reported in the press, regarding the protests of persons deprived of their liberty in Iași Penitentiary, who expressed their discontent with the conditions of detention and resorted to various forms of protest, escalating buildings, burning objects and refusing food.

245. With regard to the protests of July 11, 2016, they began at 7.10 PM in Sections 9, 3, 5, 7 and 8, when inmates offended security personnel, knocked in the bars of the windows, in the doors of the rooms and in the dishes, destroyed and removed some outside nets from the windows.

246. The leadership of the unit held talks with the protesters in their rooms, the atmosphere calmed down a little, and the evening appeal could be made, with the exception of three rooms where the inmates barricaded the doors. The prison staff did not enter by force, talks were held, and at 22.00 PM the inmates opened the doors of the barricaded rooms as well.

247. On 12.07.2016, starting at 09.15, inmates began to chant slogans in some rooms about the inadequate accommodation conditions.

248. When they were taken out in the courtyard, a number of 17–18 inmates climbed on the roof neighbouring the courtyard, and in the 9th and 5th sections, the inmates removed the outer nets of the windows.

249. A bed mattress in a room on the 9th section was set on fire. There were 3 inmates in the room who took a mattress, put it in the window of the room and set it on fire. The prison staff intervened immediately, the fire was extinguished, and the persons in the room were evacuated to ventilate the room.

250. Discussions were held with the director of Iași Penitentiary, the rooms where the incidents occurred were verified and were held talks with the protesters and other persons deprived of their liberty.

251. While we were visiting the rooms, the inmates calmed down, presented their complaints and discussed the problems they face daily. Seven people deprived of their liberty have descended from the roof, discussed with representatives of the People's Advocate Institution, and were sent to the medical office to monitor their state of health.

252. Throughout the visit, the inmates from all the sections of the penitentiary chanted against the Director of Iasi Penitentiary, demanding his resignation, cried out that they could not stand the conditions in the penitentiary, swore the staff, knocked the outside nets of the windows with their feet, throwing various objects (pieces of glass) from the windows which were without outside nets.

253. After the talks with the protesters ended, the representatives of the People's Advocate Institution visited a number of 10 rooms in sections 3, 5 and 9, where the inmates were accommodated. For example, in room E 5.8, with a surface of about 35 square meters, were accommodated 26 people deprived of their liberty, who showed their vehement dissatisfaction with overcrowding, the presence of insects, although pest control was being done weekly, improper food quality, lack of natural light in the room, high food prices in the prison store.

254. Most of the rooms visited by the People's Advocate institution's team (E.5.9, E.5.10, E.5.12, E.3.5, E.3.15 etc.) had a surface of about 35 square meters, accommodating 26 or 24 detainees which had about 1.3 to 1.4 square meters as a personal space calculated with the bathroom included. The residents complained of overcrowding, lack of ventilation, inappropriate food, lack of medical assistance, and too short TV program. All those with whom we spoke declared themselves in refusal of food and urged urgent action to improve prison conditions and health care.

255. Most people deprived of their liberty have complained that appointments to the medical office of the penitentiary or the medical offices in the city were made with great

delays due to the lack of medical and security staff as well as the lack of cars for the transport inmates.

256. On July 14, 2016, representatives of Suceava Territorial Office carried out the verification of the issues reported in the press, regarding the protests of the persons deprived of their liberty in Botoșani Penitentiary, concerning the accommodation conditions, food quality, medical and psychological assistance, lack of occupational therapy programs, non-granting of permits, prices in prison stores. On this occasion, it was found that a crisis cell was set up to manage the protests to which the persons deprived of their liberty had resorted. Motivated by the fact that the protests of the inmates in Iași and Botoșani Penitentiaries did not cease, on the grounds of Art. 14 and art. 297 of the Law No. 35/1997 on the organization and functioning of the People's Advocate Institution, republished, with the subsequent amendments and completions, on July 14th and 15th, 2016, were made unannounced visits to Iași and Botoșani Penitentiaries, having as object the verification of the treatment applied to the persons deprived of liberty.

257. Iași Penitentiary: At the time of the visit, 1467 inmates were accommodated in the penitentiary, with a legal capacity of 730 places, which represented an occupancy rate of approximately 201% of the legal capacity.

258. During the visit to Iași Penitentiary, the leadership of the unit informed the visiting team that, in order to restore order, in a number of about 14 rooms, where the call could not be made and where the persons deprived of liberty barricaded themselves and were acting noisy and violently, the prisons staff intervened with specialized teams.

259. According to the detainees' allegations, on July 13, 2016, after the verifications made on July 12, 2016, by the representatives of the People's Advocate Institution, special forces of the Gendarmerie and of the Emergency Situations Inspectorate (ISU), have violently entered the detention rooms, using tear gas as well as immobilization means (handcuffs, tonfa) in the case of about 55 inmates.

260. Most of the inmates expressed their concern to speak openly to the team members, as they expected again post-visit reprisals, as it happened on the night of 13.07.2016.

261. On the occasion of the visit, it was found that almost all the persons deprived of their liberty in the visited detention rooms showed signs of violence (facial, thoracic, abdominal and limb facial bruises; traumatic marks with the clear form of a rod, tonfa or boot located on different anatomical regions, variable hematomas, multiple palpebral, zygomatic and facial ecchymosis, minor scalp wounds, nasal pyramid trauma and bruises).

262. In the context of these events, the following cases were noted: one person had the upper limb immobilized in a gypsum, alleging that it had been fractured during the intervention of the law enforcement officers of the previous evening; A person deprived of his liberty was presented urgently at the Emergency Unit U.P.U. Iasi, with the diagnosis of polytrauma by aggression, multiple thoraco-abdominal contusions, pelvic contusion, nasal pyramid contusion, spontaneous epistaxis, panic attack. Were made orthopedic, general surgery, neurology and neurosurgery consultations, as well as a cerebral CT scan, which has shown the absence of intracranial lesions at the time of examination.

263. From the consultation records of the medical office, the medical examination records of inmates transferred and the emergency consultation registers, resulted that during the period 12.07–15.07.2016, and especially 12 and 13 July 2016, a number of 31 persons who were medically examined showed different physical signs of aggression.

264. For a total of 21 persons deprived of their liberty, were made referrals to the Forensic Medicine Service Iași.

265. Also during the same period, specialized examinations of orthopedics, traumatology, neurology, neurosurgery, general surgery were performed for those in the situation detailed above and who wanted to be examined.

266. Regarding the cases of physical aggressions produced during 11–16.07.2016, according to the letter No. X/34244 dated 10.08.2016 of the Iasi Penitentiary, during the period 11.07.2016–09.08.2016, were sent 70 letters of notification to the Prosecutor's

Office attached to Iasi Court, as a result of the detainees' declarations regarding the aggressions suffered.

267. Botoșani Penitentiary: At the time of the visit, 1010 inmates were detained in the penitentiary, with a legal capacity of 1174 places, representing an occupancy rate of approximately 86% of the legal capacity.

268. The protests in Botoșani Penitentiary began on 12.07.2016, when the persons deprived of liberty chanted against the inadequate accommodation conditions in the unit. The manifestations continued throughout 13 July 2016 and the night of 13/14 July 2016.

269. On July 14, 2016, 4 inmates continued the protest on the roof of the E2 Section courtyard and 6 detainees on the roof of the E 5 Detention Section. During the night of 14/15 July 2016, as the inmates on the roof of the E2 courtyard proceeded to destruction, disobedience and instigation to violent revolt of the other inmates, the intervention group was ordered to restore order and security climate in the penitentiary. Throughout the duration of the incidents, specialized units belonging to Botoșani Gendarmerie Inspectorate, Botoșani County Police Inspectorate, Botoșani Emergency Situations Inspectorate "Nicolae Iorga" and Bacău Gendarmerie Mobile Brigade acted as support forces, their mission being limited to deterrence and surveillance actions.

270. From the consultation records of the medical office, the medical examination records of inmates transferred and the emergency consultation registers, resulted that between 12.07–15.07.2016, and especially on the dates of 12 and 13.07.2016, several people examined showed different physical signs of aggression, from excoriations to hematomas, bruises, nasal, facial injuries, self-induced cuts on the upper limbs.

271. For a total of 4 people deprived of their liberty, were made referrals to the Forensic Service.

272. Also, for all 4 cases, the Prosecutor's Office attached to Botoșani Court was notified.

273. In view of the above, the Visit Reports of the Field on Prevention of Torture in Places of Detention (NPM) included a series of recommendations to Iași and Botoșani Penitentiaries, which referred to the following aspects:

- Compliance with the provisions of Art. 29¹⁰ of the Law No. 35/1997 regarding the organization and functioning of the People's Advocate Institution, republished, as amended and supplemented, according to which "No person can be held accountable for the information communicated to the members of the visiting team", as well as the provisions of Art. 15 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, prohibiting intimidation, abuse or retaliation of persons deprived of their liberty after visits by representatives of the National Preventive Mechanism (Iași Penitentiary, Botoșani Penitentiary);
- Managing the incidents according to the legal provisions, observing the principle of the proportionality in the use of the intervention procedures, without harming the physical integrity of the persons deprived of liberty or subjecting them to ill-treatment (Iași Penitentiary, Botosani Penitentiary);
- Identification of appropriate measures for negotiation and management of protests (Iasi Penitentiary, Botosani Penitentiary);
- Guaranteeing unrestricted access to specialist healthcare for all persons deprived of their liberty involved in incidents; (Iași Penitentiary);
- Hiring the medical personnel necessary for carrying out the medical activities in Iași and Botoșani Penitentiaries;
- The purchase of a means of transport, to ensure the access of persons deprived of their liberty to the medical care provided outside the penitentiary unit (Iași Penitentiary);
- Examining the possibility of solving the inmates' claims, especially those related to overcrowding in Iasi Penitentiary (at the time of the visit 1467 persons deprived of

their liberty were detained, with a legal capacity of 730 places, which represented an occupancy rate of approximately 201% of the legal capacity) and improving the conditions of detention in both penitentiaries.

274. The findings of the visiting team were brought to the attention of both the National Administration of Penitentiaries and the Ministry of Justice.

275. Also, the Field on Prevention of Torture in places of detention notified the Prosecutor's Office attached to Botoșani Court and the Prosecutor's Office attached to the Iasi Court, as well as the Prosecutor's Office attached to the Iasi Tribunal and the Prosecutor's Office attached to the Court of Appeal Iasi, who successively took over the criminal files.

276. Regarding the recommendations sent, Iași and Botoșani Penitentiaries, as well as the National Administration of Penitentiaries, communicated the following responses:

277. In order to restore order in the two penitentiaries, negotiations have been held by specially trained personnel. In view of the magnitude of the incidents, the support of the Ministry of Internal Affairs forces was requested, according to Art. 15 of the Law No. 254/2013 and the Protocols thereto and common procedures. Thus, given the context of collective protest actions of some of the inmates in the custody of Iași and Botoșani Penitentiaries, from 11 to 16 July 2016, during which have carried out actions of instigation and direct participation in acts of violence, destruction of the security systems of the rooms, namely forcing the metal bars of the windows by using objects dislodged from the furniture of the rooms (stools and metallic elements resulting from the destruction of beds) and the acts committed by them, which prevented the day-to-day running of the detention facility and endangered both the safety of the detention facility and of the prison staff in service, and taking into account the fact that after the negotiation and the summons, the detainees did not stop the acts of disorder, the National Administration of Penitentiaries considered that the solving of some isolated incidents through intervention was carried out under the legal provisions in force.

278. It has also been appreciated that the interventions have complied with the principles of using immobilization means. After the intervention, in order to observe the principle of defending the human person, all inmates who were subject to the intervention or on whom were used for immobilization means, were presented to the medical office of the unit. In cases where the examiner considered it necessary to send the patients to a specialized service, referrals were made, and for those who submitted a request to be examined by the forensic doctor of the unit, were made referrals to IML – the Institute of Forensic Medicine. At the same time, following the declarations of the persons deprived of their liberty regarding possible physical aggressions, were notified the competent criminal investigation bodies. Also, at the level of the two penitentiary units, no inmate was held accountable for the information provided during the discussions with the representatives of the People's Advocate Institution. No incident reports were made to the inmates for information provided to the institution's representatives, but only for the acts of incitement to violence and acts of violence.

279. At the same time, the following were mentioned:

- With respect to reprisals, no cruel, inhuman or degrading treatment has been applied and the prisoners who have had discussions with representatives of the People's Advocate Institution and they have not been prejudiced in any way; (Iasi Penitentiary, Botoșani Penitentiary, National Administration of Penitentiaries);
- Regarding the management of incidents according to the legal provisions, it was answered that the resolution of certain isolated incidents by intervention was carried out according to the legal provisions in force and it was appreciated that the interventions complied with the principles of using the immobilization means (Iași Penitentiary, Botoșani Penitentiary, National Administration of Penitentiaries);
- The medical assistance was granted on the basis of an approved consultation program, the organization of competitions for filling vacant positions will continue and a properly equipped ambulance will be purchased in 2017 (Iași Penitentiary, Botoșani Penitentiary);

- As for examining the possibility of solving the detainees' requests, especially regarding the management of overcrowding in Iasi Penitentiary and the improvement of the conditions of detention, we were informed that, due to exceeding the legal capacity, transfers were made to other units and was proposed to extend the penitentiary by constructing a new building with the capacity of 536 places on the premises of the penitentiary. It was also proposed to remove the third level from the bunk beds in the detention rooms, was purchased furniture, mattresses, bed linen, and a permanent process of repairing and sanitizing the detainees' rooms was undergoing; The leadership of Botosani Penitentiary has stated that the improvement of the accommodation conditions, in accordance with the national and international standards, is a goal assumed in a responsible and realistic manner, thus, within the limits of the existing resources, was drafted a Plan for carrying out the maintenance and repair works in the detention rooms: replacement of wood carpentry with PVC and aluminium carpentry, waterproofing, replacement of sanitary facilities and installations, restoration of finishes, repair / replacement of non-functional electrical installations.

280. Also, regarding the events that took place between 11–15 July 2016 in Iasi Penitentiary and Botosani Penitentiary, complaints were filed with the Prosecutor's Office attached to Iasi Court and the Prosecutor's Office attached to the Botosani Court.

281. The Prosecutor's Office attached to Iasi Court communicated to the People's Advocate Institution, through the letter No. 10350/IV/5 26.08.2016 that 72 information notes were received from Iasi Penitentiary, which resulted in 25 ex officio referrals initiated by the prosecutors, as a result of finding indications regarding the criminal offense of abusive conduct, provided by Art. 296 of the Criminal Code. There were also registered complaints directly from persons deprived of their liberty, being opened a total of 40 criminal cases having as object the criminal offense of abusive conduct. According to the Prosecutor General's Order no. 214/29.10.2015, the cases concerning the offense of abusive conduct brought against ANP officers were submitted to the Prosecutor's Office attached to Iași Court of Appeal, and the cases concerning the offense of abusive conduct brought against ANP agents were submitted to the Prosecutor's Office attached to Iasi Tribunal.

282. After the checks were carried out, the Prosecutor's Office attached to Iasi Tribunal replied by letter No. 5456/IV/5/2016 of 15.09.2016 that all the aforementioned cases were taken over by the Prosecutor's Office attached to Iași Court of Appeal.

283. By letter No. 3168/II/1/206 dated 23.09.2016, the Prosecutor's Office attached to the Iași Court of Appeal informed that 43 criminal cases have been registered, regarding the detainees' complaints or the Iași Penitentiary's notifications concerning the violence and the injuries suffered as a result of the action of the intervention troops who were sent to suppress the manifestations within the penitentiary unit. By the ordinances of 19.09.2016 and 22.09.2016, the unification of the 43 criminal cases was ordered, and the merged file was registered under No. 509/P/2016. In this case, was ordered the commencement of criminal prosecution regarding the offense of abusive conduct provided by Art. 296 par. 1 and par. 2 of the Criminal Code.

284. By letter No. 729/VIII/1 dated 21.11.2016, the Prosecutor's Office attached to Botosani Court informed that they had registered eight criminal cases, which were later taken over by the Prosecutor's Office attached to Botosani Tribunal. In all eight cases investigations were carried out concerning the offense of "abusive conduct" provided by Art. 296 par. 1 and 2 of the Criminal Code, the files being not settled.

285. By letter No. 4 / 71.411 / 1.03.2017, registered at the headquarters of the People's Advocate Institution with No. 4302 / 07.03.2017, the Minister of Justice sent to the People's Advocate Institution the information provided by the Public Ministry regarding the criminal prosecution actions carried out in the files dealing with the complaints of the persons deprived of their liberty in Iași Penitentiary and Botoșani Penitentiary.

286. Thus, the Prosecutor's Office attached to Iasi Court received a number of 71 information notes regarding medical examinations done by the medical office of the detention facility to persons deprived of their liberty, who invoked acts of aggression from other persons deprived of their liberty or from the staff of the National Administration of

Penitentiaries. Analysing this information, the prosecutors within the Prosecutor's Office attached to Iasi Court drafted 7 ex officio referral reports, finding indications regarding the commission of the offense of abusive conduct provided by Art. 296 Criminal Code in 22 cases. These cases were taken over by the Prosecutor's Office attached to Iași Court of Appeal, according to Order No. 214/2015 of the Prosecutor General of the Prosecutor's Office attached to the High Court of Cassation and Justice.

287. Between 10.08.2016–26.08.2016, were registered at the Prosecutor's Office attached to Iași Court of Appeal the notifications made by Iasi Penitentiary, under the provisions of Art. 72 par. 3 of Law No. 254/2013, on the medical examination of 25 detainees who claimed to have been assaulted by members of the intervention teams. Also, were registered at the Prosecutor's Office attached to Iași Court of Appeal the complaints made by the 14 detainees from Iasi Penitentiary, who claimed to have been physically and verbally assaulted by the members of the penitentiary's intervention groups.

288. Taking into account that the complaints were related to the action of the intervention troops in Iasi Penitentiary, in order to improve the justice process, the cases were brought together. Thus, by the ordinance dated 19.09.2016, 42 criminal cases were merged by the Prosecutor's Office attached to the Court of Appeal Iași, under No. 509/P/2016.

289. The criminal investigation was started on 19.07.2016, in criminal file No. 3761/P/2016 of the Prosecutor's Office attached to Botosani Court, forwarded and registered at the Prosecutor's Office attached to Iasi Court under No. 10147/P/2016, taken over and registered with the Prosecutor's Office attached to Iași Court of Appeal under No. 511/P/2016 and subsequently merged with file No. 509/P/2016, concerning the offense of abusive conduct provided by Art. 269 par. 1 and 2 of the Criminal Code.

290. During the criminal prosecution, information was requested from the institutions concerned on the manifestations of the detainees and on the interventions of the law enforcement bodies. Data and information on medical consultations and forensic findings in custody were also requested.

291. According to the information received, by the ordinance of 18.10.2016, was ordered to decline de competence, considering the capacity of the person, to the Iasi Military Prosecutor's Office.

292. After receiving the file at the Military Prosecutor's Office attached to the Iasi Military Tribunal, the case prosecutor drew up an investigation plan and carried out checks to identify the place where the injured parties were and then quoted them for the hearing. Taking into account that, following the checks carried out, some injured persons were found in other penitentiary units, orders were issued for the delegation of judicial police workers from Alba, Bacău, Oradea, Dolj, Vrancea, Vaslui, Botoșani, Harghita, Dâmbovița. The case is pending.

293. Regarding the incidents that occurred at Botosani Penitentiary, 11 criminal cases were registered with the Prosecutor's Office attached to Botosani Tribunal.

294. In these cases also, was started the prosecution for the offense of abusive conduct provided by Art. 296 par. 1 and 2 of the Criminal Code, forensic examinations were carried out, the persons involved and the witnesses were heard and the documents drawn up at the event were requested. The cases are pending.

“Mention: following the visits to Iași and Botoșani Penitentiaries and the notification of the criminal prosecution bodies regarding the cases of physical aggression, by the letter No. 600696/MC dated 21.09.2016, registered at the Bacau Zonal Centre of People's Advocate Institution with No. 140 / 30.09.2016, Botoșani County Police Inspectorate – Criminal Investigation Service requested, regarding the unannounced visit made at the Botoșani Penitentiary on July 15, 2016, the identification data of the two nurses and the doctor of the visiting team “who alleged that a number of people deprived of their liberty have been hit during the intervention of specialized teams, having various traumas.”

295. Regarding the requested data, the People's Advocate addressed the Head of the Botosani County Police Inspectorate – the Criminal Investigation Service and the Minister

of Internal Affairs, informing them of the legal provisions regarding the prohibition of reprisals on the members of the visiting team and on the persons with whom they met.

296. It was also mentioned that information on the visit can be found in the Visit Report (published on the People's Advocate Institution's website, NPM Section, Reports), thus considering that for any additional information are applicable the legal provisions on NPM.

2. Lack of legal provisions regarding the independence of the NPM or its members, outside the general provisions regarding the independence of the People's Advocate from any other public authorities

297. The designation of the People's Advocate Institution as NPM had in mind the very role of this institution for the defense of citizens' rights and freedoms in relation to the public authorities, as well as its independence from any other authority.

298. In this respect, according to Art. 2 par. (1)–(3) of the Law No. 35/1997, republished, as amended and supplemented, "The People's Advocate Institution is a public authority autonomous and independent of any other public authority, under the law. In exercising its duties, the People's Advocate does not substitute itself for public authorities. The People's Advocate cannot be subjected to any imperative or representative mandate. No one can oblige the People's Advocate to obey his instructions or orders."

299. Also, according to Art. 29⁵ par. (2) and (3) of the same normative act: "During the performance of duties, external collaborators shall follow the institution's staff obligations regarding the confidentiality of works and other rules of internal discipline of the institution. In carrying out specific activities on the prevention of torture in places of detention, visiting team members are independent."

300. In addition, the legislative proposal for amending and completing the Law No. 35/1997 on the organization and functioning of the People's Advocate Institution, republished, as subsequently amended and supplemented and amending certain legal acts, currently pending in the Legal Commission for appointments, discipline, immunities and validations Of the Senate (Law 566/2016), includes the provision that the National Prevention Mechanism is a distinct structure from the other fields of activity, with functional, operational, financial, and personnel autonomy, exercising a preventive role.

3. Budgetary independence by providing adequate independent financial and human resources for the NPM

301. The provisions of art. 29¹⁹ of Law no. 35/1997, republished, as amended and supplemented, stipulate that "Current and capital expenditure funding for activities to prevent torture and cruel, inhuman or degrading treatment shall be provided from the state budget and funding for it are part of the budget of the People's Advocate institution."

302. Consequently, there is a budget allocated to the Field for the Prevention of Torture in Places of Detention (NPM), which covers the expenses of visiting and any other activities, but its budget is an integral part of the People's Advocate institution budget.

303. The budget for the year 2015 allocated to the Field for the prevention of torture in the places of detention was 1,868 thousand lei; In 2016, the budget was 2,700 thousand lei, and for the year 2017, 2,546 thousand lei.

304. The legislative proposal for amending and completing the Law No. 35/1997 on the organization and functioning of the People's Advocate Institution, republished, as subsequently amended and supplemented and amending some normative acts (Law No. 566/2016) includes the proposal that the annual budget of the National Prevention Mechanism to be proposed and elaborated by the Deputy People's Advocate who coordinates the National Prevention Mechanism, and approved by the People's Advocate and to be used exclusively for the expenses of the Mechanism.

305. Also, the legislative proposal for amending and completing the Law No. 35/1997 concerns the payment of transport, food and accommodation expenses for representatives of NGOs.

306. Taking into account the fact that the NPM was in the first years of its activity and that its activity will be widened, as well as the proposal to ensure the payment of transportation, food and accommodation for NGOs, it is necessary to supplement the budget allocated to NPM.

307. As regards the provision of transportation means for NPM visiting teams to places of detention, we present the steps taken to acquire them:

308. Government Ordinance No. 80/2001 on the establishment of expenditure norms for the public administration authorities and public institutions regulates the expenditure norms for the public administration authorities and the public institutions, regardless of the way of financing their activity.

309. Point 4 of Annex No. 3 to Government Ordinance No. 80/2001 on the establishment of expenditure norms for the public administration authorities and the public institutions stipulates that the ministries and other specialized bodies of the central public administration with up to 400 positions can have 2 cars in the common car fleet.

310. Based on par. (3) of Art. 1 of the normative legal act, expenditures that are subject to the Government Ordinance No. 80/2001, included in the budgets of the Presidential Administration, the Parliament, the Chancellery of the Prime Minister, the General Secretariat of the Government and the institutions in the field of defence of the country, public order and national security, shall be established through their own norms.

311. Pursuant to the above provisions, the abovementioned entities shall incur protocol expenses on the basis of the administrative acts issued by the principal authorizing officer of each institution.

The current legislative framework does not allow the People's Advocate, despite its rank as a fundamental institution with a role in defending citizens' rights and freedoms, to set their own norms for protocol expenses, travel abroad, car equipment and monthly fuel consumption within the annual budget approved, not being exempted from the application of Government Ordinance No. 80/2001.

312. In this context, there were some institutions, including the Ministry of Justice, who considered that the provisions of Government Ordinance No. 80/2001 are not applicable to the People's Advocate Institution also in view of the provisions of Art. 39 of the Rules of Organization and Functioning of the People's Advocate Institution, republished, as amended, which stipulates that the norms of expenses for protocol, travel abroad, purchase of cars and monthly fuel consumption should be established by order of the People's Advocate, according to the law.

313. Different interpretations of the legal rules by competent institutions create the premises of possible illegalities in the use of public funds. Thus, in order to comply with the legal provisions, legal steps were taken in order to endow the Mechanism for the prevention of torture in the places of detention with the necessary cars for carrying out the activity in appropriate conditions.

314. To this end, in the year 2015, the Secretary General of the Government initiated a draft Decision on the regulation of the number of cars and the fuel consumption for the specific activities of the Field for the prevention of torture in the places of detention and its regional centres, which operate within the People's Advocate Institution.

315. It was signed by the Secretary General of the Government, and endorsed by the Minister of Public Finance. The Ministry of Justice has submitted a point of view, which states essentially that "there is no legal basis for the approval by Government Decision of the number of cars and fuel consumption norms for the People's Advocate, which should be approved by order of the People's Advocate". In this regard, it was stated that "although the People's Advocate Institution is not expressly mentioned in this text (Article 1 paragraph (3) of the Government Ordinance no 80/2001), there is no reason for which the normative acts of expenditure would be approved by the Government".

316. However, in the 2015 budget of the People's Advocate Institution, were allocated the amounts necessary for the purchase of cars (money which later returned to the state budget because they were not spent). Moreover, in 2016, the amounts of money needed for

the purchase of cars were provided, and the steps continued in 2016, but without a favorable result that was urgently needed.

317. The Ministry of Justice has considered that some of the exceptions to the spending rules, set at the primary level, may be approved by Government Decision, but only for the institutions and authorities expressly covered by the legal provisions (Articles 4 (1) and 5 (1) of the Ordinance). Moreover, the Ministry of Justice appreciated that “Government Ordinance No. 80/2001 is applicable to the People’s Advocate, but if the institution considers that the norms established by the ordinance do not cover the monthly consumption needs or wants to establish other norms for endowment with cars, it is necessary to fill in the text of the Ordinance, either by including the People’s Advocate in the enumeration from Art. 1 paragraph (3), or by amending the ordinance texts regulating exceptions allowing the approval of norms different from those set out in the ordinance. In this respect, we mention that the initiator of Government Ordinance No. 80/2001 and subsequent amendments is the Ministry of Public Finance”.

318. With a view to the initiation by the Ministry of Public Finance of a draft Government Decision regulating the number of cars and fuel consumption for the specific activities carried out by the Field for the prevention of torture and other cruel, inhuman or degrading treatment in places of detention and by its regional centres, which operate within the People’s Advocate Institution, this institution communicated to us the following:

- Initiates draft normative legal acts in its field of activity and aims at their harmonization with the EU legislation in the field;
- The legislation in force does not authorize the Ministry of Public Finance to initiate draft normative acts establishing the norms for cars for the main state budget administrators, such as the People’s Advocate Institution;
- From the opinion of the Ministry of Public Finance, the provisions of Art. 1 paragraph (3) of the Government Ordinance no. 80/2001 on the establishment of expenditure norms for public administration authorities and public institutions are only applicable to the authorities and institutions listed therein;
- The endowment with cars for the specific activities of the People’s Advocate Institution may be regulated by a Government Decision, as in the case of the Superior Council of Magistracy;
- To initiate a draft Government Decision on the regulation of the number of cars and fuel consumption for the specific activities carried out by the Field for the prevention of torture and other cruel, inhuman or degrading treatment or punishment in the places of detention and by its zonal centres, which operate within the People’s Advocate Institution, the Ministry of Public Finance recommended that we contact Mr. Ioan Dragoş Tudorache, Chief of the Prime Minister’s Chancellery.

319. The General Secretariat of the Government stated that the People’s Advocate has the right of legislative initiative, according to the provisions of Art. 1 letter a) of the Rules on Procedures, at the Government level, for drafting, endorsing and presenting draft public policy documents, draft normative acts, as well as other documents for adoption/approval, approved by Government Decision no. 561/2009 namely “the following public authorities have the right to initiate draft public policy documents and draft normative acts for the adoption/approval by the Government, according to their powers and their field of activity: the ministries and the other specialized bodies of the central public administration, subordinated to the Government, as well as autonomous administrative authorities”.

320. At present, there is a Legislative Proposal in Parliament to amend and supplement Law No. 35/1997 on the organization and functioning of the People’s Advocate Institution, as subsequently amended and supplemented, as well as for the modification and completion of other normative acts, within the meaning of paragraph 3 of Art. 1 of the Government Ordinance No. 80/2001, as subsequently amended and supplemented, the People’s Advocate Institution, together with the other institutions stipulated in the Constitution and whose organization and functioning is established by organic law, respecting the necessity of a decision-making autonomy of the institutions in relation to their powers, including the dimensioning of the car fleet through its Order.

321. Thus, this legislative proposal was adopted by the Senate on 1.11.2016. At present, Plx 521/2016 (Draft Law amending Article 1 paragraph (3) of the Government Ordinance No. 80/2001 on establishing certain normative acts for the expenses for public administration authorities and public institutions) is on the agenda of the Chamber of Deputies' sittings.

322. The memorandum of the reasons states: The current legislative framework does not allow the People's Advocate, despite its rank as a fundamental institution with a role in defending the rights and freedoms of citizens, to set their own normative expenses for protocol, travel abroad, car expenses and monthly fuel consumption, within limit of the approved annual budget, not being exempt from the application of Government Ordinance No. 80/2001 regarding the establishment of some expenditure norms for the public administration authorities and public institutions.

323. The Legal Commission of the Senate approved the inclusion of these provisions in the draft law on amending Law no. 35/1997 regarding the organization and functioning of the People's Advocate Institution.

324. By including in paragraph (3) of Art. 1 of the Government Ordinance No. 80/2001, with the subsequent amendments and supplements, the People's Advocate Institution together with the other public institutions stipulated by the Constitution, whose organization and functioning are established by organic law, is observed the necessity of the institutions to have decision-making autonomy in relation to their duties.

4. The composition of the NPM visiting team, referring to the nomination of the NGO representative by the People's Advocate; Involving civil society in NPM visits and drafting reports; NPM cooperation with other prevention mechanisms

325. Art. 29⁴ para. (4) provides that representatives of non-governmental organizations active in the field of human rights protection, selected on the basis of their work, by the People's Advocate, will participate in the torture prevention activity.

326. Based on the Collaboration Protocols concluded with NGOs, each NGO designates its representatives to participate in the monitoring of places of detention.

327. Therefore, the People's Advocate selects non-governmental organizations that participate in the activity of the Field on Prevention of Torture in places of detention, selected on the basis of their work by the People's Advocate, but it does not designate the NGO that actually participates in the visits. The selection of the NGO attending the visit is done exclusively by the NPM jurist who coordinates the visit, depending on the specificity of the visit and the availability of the NGO representative to participate in the visit.

328. As for the collaboration with NGOs, in 2016, additional Protocols to existing Protocols were concluded for continuing the collaboration, and new Collaboration Protocols were concluded, so that currently the Field on Prevention of Torture in places of detention collaborates with 35 NGOs, as follows:

- At the level of Bucharest Zonal Centre (11 NGOs);
- At the level of Alba Zonal Centre (9 NGOs);
- At the level of Bacău Zonal Centre (9 NGOs);
- At the level of Craiova Zonal Centre (6 NGOs).

329. As a result, representatives of non-governmental organizations participate both in the visits of the Field on prevention of torture in places of detention and in the drafting of visiting reports.

330. We mention that through Law No. 8 of 18 January 2016 on the establishment of the mechanisms provided by the Convention on the Rights of Persons with Disabilities a Monitoring Council was established to implement the Convention in order to promote, protect and monitor the implementation of the Convention.

331. Given that the goal of the People's Advocate Institution is to protect the rights and freedoms of individuals, including the rights of people with disabilities, we are open to cooperation with the Monitoring Council.

5. With regard to solving the petitions by the People's Advocate, given the preventive role of the NPM mandate under OPCAT, as well as to drafting a NPM Report, separate from the Annual Report of the People's Advocate

332. In 2016, the first steps were taken on the legislative proposal for amending and completing the Law No. 35/1997 on the organization and functioning of the People's Advocate Institution, republished, with subsequent modifications and completions and for amending some normative legal acts (Pl-x 257/2016), which was approved, with amendments, by the Committee for Legal Matters, Discipline, and Immunities of the Chamber of Deputies, but was rejected by the Chamber of Deputies. Currently, the legislative proposal is on the agenda of the Committee for Legal Matters, Appointment, Discipline, Immunities and Validation of the Senate (Law No. 566/2016) and the final vote will follow.

333. The proposals for legislative amendment mainly concern:

- Replacing the name of the Field on Prevention of Torture in Places of Detention with the name of National Prevention Mechanism against Torture for harmonization with the provisions of the Optional Protocol;
- Drawing up an annual report on the activity of the National Prevention Mechanism, separate from the Annual Report of the People's Advocate;
- Solving petitions on torture, cruel, inhuman or degrading treatment in places of detention, depending on the type of place of detention, by the other fields of activity of the People's Advocate Institution that play a reactive role. In cases considered by the People's Advocate as exceptional, when it is necessary to involve specialists, he may order that the petitions or ex officio referrals be solved by the National Prevention Mechanism. In the case of the exceptions mentioned above, the Mechanism it will fulfil duties only in the field of preventing torture in places of detention by making regular visits to these places. The cooperation between the National Prevention Mechanism and the fields of activity of the People's Advocate Institution will be established by the Rules of Organization and Functioning of the People's Advocate Institution;
- The inclusion in the category of places of detention subject to NPM monitoring the means of transport by ground, air, river and sea used for the transport of persons deprived of their liberty, including the verification of how the measure of removal under escort is carried out;
- Examining and capitalizing on the NPM reports submitted by non-governmental organizations, prepared on the occasion of the monitoring of reception conditions in the regional centres of procedures and accommodation of asylum seekers, as well as in the monitoring of the removal under escort;
- The inclusion of express provisions regarding the prohibition of subjection to reprisals; no authority or official shall apply, allow or tolerate any sanction against any person or organization for communicating to the visiting team members any information. None of these individuals or organizations may be prejudiced in any other way; The National Prevention Mechanism will guide individuals who may be subject to retaliation after the visit to address the Fields of the People's Advocate Institution, depending on the type of place of detention, or to address the competent authorities depending on the nature of the retaliation, these petitions will be prioritized;
- Regulating certain safeguards for NPM members, namely: in exercising their duties, the members of the National Preventive Mechanism will benefit unconditionally from the guarantees and support of the authorities. The members of the National Preventive Mechanism are not legally liable for the opinions expressed or for the acts that they perform or documents they compile, in compliance with the law, in the

exercise of the duties provided by the law. It is forbidden to confiscate or oblige to disclose confidential documents and information obtained by NPM during the visit;

- Granting a single financial supplement proportional the hours of visits/surveys performed at those locations for staff visiting or investigating in places with high hazard factors which are likely to affect their physical and mental health and integrity.

6. Regarding the professional training of the personnel

334. We mention that following the inclusion of the Romanian NPM in the East European Network (October 2016), the staff received professional and logistic support by attending workshops, conferences and seminars, for example:

- The Conference of the SE Europe Network of National Prevention Mechanisms – Zagreb, with the following themes: the refugee crisis, the implementation of the Mandela Rules and strengthening the monitoring of the NPM recommendations;
- The Conference “Human Rights Protection for Refugees and Migrants in South-Eastern European Countries - Preventive Approach”, Belgrade, Serbia;
- The South Eastern Europe Network NPM Meeting on “Homes for the Elderly/Care Institutions and Dementia - Standards in Healthcare and Restriction of Freedom for Medication Reasons” and the Annual Meeting of NPMs – in the OSCE region – Vienna on “Strengthening the implementation of fundamental rights on the basis of EU criminal law through cooperation between the judiciary and the NPMs”;
- Also, NPM staff participated in 2016 in several training courses:
 - The final conference “Children’s Rights behind bars”, Brussels;
 - MNP Consultative Workshop “Strengthening the implementation of fundamental rights based on EU criminal law through cooperation between the judiciary and the MNP, “Ludwig Boltzmann Institute for Human Rights (BIM), Vienna, Austria;
 - Workshop “Monitoring Psychiatric Institutions “, Vilnius, Lithuania;
 - Summer University Courses, Monitoring of Police Departments, organized by the Association for the Prevention of Torture and the Institute for Human Rights in Lyon, France;
 - “An inclusive society through prison reform”, an event organized by APADOR CH, in collaboration with the Norwegian Helsinki Committee.

335. In 2017, NPM personnel benefited from professional training in the field of torture prevention through the workshop organized by APT here in Bucharest, with the support of the International Organization of the Francophonie “Monitoring of Detention Sites: Practical Workshop and Reflection”, with the following themes: Monitoring of Detention Places (Program and Visitation Strategy, Fundamental Principles of Monitoring, “Focus Detention” Database); Concept of vulnerability in detention (Intrinsic or contextual character of vulnerability; Personal environmental and socio-cultural factors; Multiple vulnerabilities; Role of NPM); Allegations of ill-treatment (Case identification and assessment; Differences between torture, inhuman treatments and degrading treatments); Preparing the visit to the Bucharest-Jilava Penitentiary (Practical and Logistic Information); Analysis of the visit; Monitoring strategies (Visiting reports, “SMART” Recommendations, mapping the actors, monitoring of recommendations and their implementation.

336. NPM also participated in:

- Southern Europe NPM network reunion, the treatment of people with mental disabilities in detention organized by the Ombudsman Serbia, Belgrade May 25–26, 2017;
- The UE NPM networking conference organized by the Council of Europe in Strasbourg 4–5 April 2017;

- MNP consultative meeting on the Set of rules on administrative detention of migrants, Strasbourg, 31 May–1 June 2017.

Regarding follow-up post-visit policy

337. In order to follow the implementation of the recommendations, visits were made to: “Pădureni-Grajduri” Psychiatric Hospital and Safety Measures, “Balaceanca” Psychiatric Hospital, “Bălăceanca” Neuropsychiatric Rehabilitation and Rehabilitation Center, Regional Center for Procedures and Accommodation for Asylum Seekers Timisoara and Arad Penitentiary.

338. As an example, we note the visits to verify the implementation of the recommendations made at the Psychiatric and the Pădureni-Grajduri Safety Measures Hospital.

339. In 2015, the Ombudsman Institution paid a visit to the Psychiatric Hospital and the Pădureni-Grajduri Safety Measures Hospital.

340. A visit aimed at verifying the accommodation conditions and treatment of custodians. The Ombudsman made an ex officio referral to the patients in the Psychiatric and the Pădureni-Grajduri Safety Measures Hospital, which, according to the press, were crowded into several rooms and allowed to wash once a week. The authorities claimed that they had no money or doctors to treat patients properly, and an assistant and two nurses had 90 patients under surveillance.

341. Following the visit, we found the following: Regarding the accommodation conditions: although the accommodation capacity was exceeded (there were 240 beds approved, accommodating 354 patients – no 7 m² and 20 m² air space was provided for each bed, according to the rules in force), the management did not could refuse admission to other patients, motivated by the fact that the new patient was interned on the basis of rulings issued by various courts in the country. According to the manager and the team’s doctors, the medical staff, with the approval of the Steering Committee, found temporary solutions for increasing the accommodation: the number of beds in the salons was supplemented, the recreational spaces were converted into salons. Because of this, access to some of the patients was restricted, a potentially dangerous situation in cases where emergency intervention was required and the patient’s movement space was considerably reduced, which created psychic stresses with potential for danger.

342. The pavilions contained between 3 and 20 lounges that were airy enough natural light (neon lights for night lighting), but they were overcrowded, with no room for passage between beds. Furniture, mattresses and bedding were clean, but there was an insufficient number of cabinets over the number of patients. The doors at the entrance to the salons were wooden, with the top cut, left without glass, which could be a possible danger. Sanitary groups were inadequate. The cold water was distributed continuously from three fenced wells, but was only used as domestic water. Use bottled water and dispensers for consumption. According to the authorities’ response to the hospital unit’s requests, the drinking water supply in a centralized system was to be made within the investments promoted by the Government under the Operational Program for Large Infrastructure (POIM) by 2020. The hot water was rationalized after a set schedule as needed, and patients were always supervised or helped to bath. Disinfection and disinfection, as well as chlorination of water, were done according to the legal norms and protocols established by the Department of Epidemiology within the hospital.

343. Media information on scabies of patients has been denied following checks by a representative of the Public Health Directorate of Iași – the Public Health Control Service.

344. The kitchen and laundry, located in pavilion 7, were clean and well-equipped. The menu of that day was displayed and corresponded to the patients’ needs. Food distribution was done by the service assistant in the dining room of each pavilion. The dining rooms did not have enough capacity for all the patients to be served at the same time, so they were divided into two series. There is a club in pavilion 3, equipped with chairs, side tables and a TV. Existing staff does not train patients to other activities, the sole objective being to supervise them. Discussions with some patients revealed that they are not satisfied with the

accommodation conditions, they want to be moved to other units, and the staff “spits them up and spits them”. As regards healthcare, the number of medical staff (doctors and nurses) was insufficient to meet all the needs of patients hospitalized.

345. Patients with agitation were leaning on the bed with leather links, according to the established protocols, the contentions being recorded in the Contention Register. The hospital was not equipped with a traumatic rooms. The hospital had only one clinician psychologist who was supposed to evaluate all hospitalized patients. Due to supernatural therapy, therapeutic efficacy was low. There is a shortage of caregivers and chefs, especially since, according to the unit manager, part of the staff no longer met the needs of the patients and had skills that affected the quality of the insured services. It was proposed to amend the Internal Regulation in the sense of applying the disciplinary sanction of termination of the labor contract in the event of deviations such as the presence at work under the influence of alcoholic beverages, undue behavior towards patients, but the union opposed. A special situation was the lack of specialized security staff and the lack of enclosure of the unit, especially since it is located in a forested area, and there is a risk that some patients leave the unit as well as other unauthorized or wild animals enter the Hospital (the courtyards of the pavilions were fenced and secured). There have been attempts to remedy this situation, but without result, in the inventory of the unit not included in the enclosure of the unit, and the funds allocated were for capital repairs, not for new investments.

346. The ambulance of the hospital unit was no longer technically satisfactory, so that, in emergency situations, the Iasi Ambulance Service was called, which made it difficult and delayed the access to the specialized medical assistance

347. The visit report included the following Recommendations:

- Avoiding overcrowding of the unit;
- Endowing all rooms with furniture appropriate to the needs of the beneficiaries and decorating the rooms and recreation areas;
- Providing an adequate number of sanitary facilities;
- Providing the necessary staff for the care and treatment of patients: doctors, nurses, clinical psychologists;
- Setting up a atraumatic chamber;
- Reassessing the professional training of care and supervision staff; Initiating and finalizing the procedures for ensuring the distribution of water in a centralized system;
- Delimiting the outer space and contracting a security company to ensure the safety of patients and staff;
- Purchasing an ambulance.

348. In 2016, the Ombudsman paid a visit to the Psychiatric Hospital and the Pădureni-Grajduri Safety Measures Hospital, hearing ex officio in connection with the patients from the Psychiatric Hospital and the Pădureni-Grajduri Safety Measures in Iași County, as following the appearance in the media of the news “Horror screenshots from a madhouse in Iasi. A nurse hits a sick man with the tail.” On the occasion of the visits, the implementation of the previous recommendations addressed to the Psychiatric and to the Pădureni-Scaunei Safety Measures Hospital in Iași County was carried out as a result of the visit made in 2015.

349. Regarding the news broadcast in the media, the unit manager said that the incident took place in June 2014. The employee involved in the incident was a nurse and on 30.06.2014 he applied several strokes to a patient with a mop queen Wood, causing bruising, swelling and plagues, for which healing needed 7–8 days of medical care, according to the medical certificate issued by IML Iasi.

350. Disciplinary research has been carried out with strict observance of the legal provisions. The employee was assisted, at his request, by a representative of the trade union

he was part of. The employee acknowledged and regretted the wrongdoing and did not request evidence in his defense.

351. Taking into account that the facts of the employee violated many provisions of the Internal Regulation of the unit, as well as the attributions and responsibilities that were attributed to him according to the job description, which the employee took over, by Decision no. 60/26.09.2014 the individual labor contract of the employee was terminated, starting with 24.10.2014.

352. In this case, criminal investigations have also been launched in respect of the offenses of "Loving and Other Violence", an act contemplated and punished by art. 193 par. (2) with the application of the aggravants provided in art. 77 lit. As well as the offense of "Abusive Usage" with the application of Art. 77, lit. E) and art. 38 para. (1) of N.C.P. The employee was convicted by the Iasi Court on March 10, 2016 for committing the offense of "abusive behavior" to the sentence of 2 years with suspension, under supervision for a period of 4 years.

353. As a result of this incident, the management of the unit proceeded to update and complete the job descriptions of all employees, all employees taking note of the new Job Fiches. Furthermore, following the previous recommendation on the need to re-evaluate the professional training of careers and supervisors, the Assistant Chiefs were responsible for daily and quarterly training of subordinate staff on all the tasks, duties and responsibilities contained in the Fact Sheets.

354. Regarding the conditions of the Psychiatric and the Pădureni-Grajduri Safety Measures Hospital and at the time of the second visit of the People's Advocate Institution, we highlight the accommodation capacity was exceeded, thus, although the hospital had a capacity of 240 approved beds, they were accommodated 348 Of patients (289 men and 59 women) in 8 pavilions.

On the occasion of the visit dated 06.04.2016, there was a significant improvement in the accommodation conditions and the treatment applied to the patients admitted to the unit through various investments aimed at ensuring greater security and increased patient comfort.

355. The management of the Psychiatric and the Pădureni-Stables Safety Measures Hospital took a series of measures to implement the previous recommendations. Thus, with regard to overcrowding in the unit, the hospital management team proposed to the Ministry of Health the extension of the accommodation space, at the time of the second visit, the funds necessary for carrying out the feasibility study for the transformation of the administrative pavilion into the patient's pavilion, And the space of the former laundry would be transformed into an administrative pavilion. Also, the bedding in the rooms has been modified, patients benefiting from spaces between beds.

356. Regarding the sanitary groups, although their number was not supplemented, all the sinks, showers and showers were changed, all functioning properly.

357. As regards the provision of the necessary staff for the care and treatment of the patients, the unit management has completed the contest for the medical director and the dentist, and after the approval of the annual budget, they will submit the other necessary posts.

358. As regards the delimitation of the hospital space, the fencing works were completed, at the entrance to the hospital courtyard a control point was installed where a barrier was installed and a security company employee verified the identity of the persons who wanted to enter the hospital perimeter.

359. Regarding the existence of a traumatic chambers for each section and the carrying out of occupational therapies, the management found as a solution the fitting of containers near each pavilion; Two containers that were under construction.

360. Regarding the furnishing of the rooms with furniture suitable to the needs of the beneficiaries, there were found the presence of the suspended cabinets in each room next to the wall, and for the other beds there were large cabinets, located next to the entrance door.

Also, tables of special materials (cannot endanger the physical integrity of patients) have been purchased for all food serving rooms.

361. With regard to the purchase of an ambulance, motivated by the fact that it did not meet the needs of the hospital, the amount needed to buy an 8+1 minibus for the transport of patients was included in the budget. Through the length of the hallways there were support bars, the doors of the rooms were new (there were no doors with broken tablets), and the dental cabinet was equipped with state-of-the-art equipment and worked.

362. Following the second visit, although the management of the visited unit took a number of steps to implement the previous recommendations, the Ombudsman recommended the management of the Psychiatric and the Pădureni-Grajduri Safety Measures Hospital to undertake the legal measures required for:

- Completing legal steps to expand the accommodation to avoid overcrowding in the unit and to ensure an adequate number of health groups relative to the number of patients admitted (conversion of administrative buildings into accommodation spaces sufficient for all patients);
- Completing the steps to ensure adequate space for the administrative staff;
- Taking steps to provide the necessary staff for patient care and treatment (employing clinic psychologists, doctors, nurses, social workers, carers, supervisors);
- Continuing the professional training of the care and supervision staff;
- Completing the layout of attamous chamber rooms where agitated and aggressive patients can be secured without being constrained.

363. Following the visit to the Psychiatric Hospital and the Pădureni-Grajduri Safety Measures, the visited institution sent the following responses to the recommendations received:

- For the completion of the legal steps to expand the accommodation space, the unit's management specified that these will be completed in The course of 2016;
- Regarding the implementation of legal steps to provide the necessary staff for the care and treatment of the patients, the management of the unit has decided, within the available budget, to take the competition in order to occupy the positions in the sectors with staff shortage;
- Regarding the continuing professional training of care and supervision staff, the hospital management informed us that this will be a milestone in its vision of improving the quality of the medical act offered to the underserved population.

During 2017 the monitoring activity of the Psychiatric and Forests-Stalls Safety Measures Hospital was continued.

364. We specify that regarding the accommodation conditions in the Psychiatric Hospital and the Pădureni-Grajduri Safety Measures, the accommodation capacity was exceeded in 2017, although the hospital had a capacity of 240 approved beds, accommodated 356 patients (295 men and 61 women) in eight pavilions. As a result, the norms in force stipulating the obligation to provide for each bed of an area of 7 square meters and 20 square meters of air were not observed.

365. In this respect, the management of the Psychiatric and the Pădureni-Grajduri Safety Measures Hospital has made numerous efforts at the Ministry of Health both in 2016 and in 2017. In 2016 a Ministry of Health memorandum was submitted to present. The situation in the Psychiatric Hospital and the Pădureni-Grajduri Safety Measures, Iași County. Among the problems identified as priority for the Hospital were the following: the extension of the hotel space, the need to conduct a feasibility study for connections to the water supply and sewerage system and the temporary redevelopment of existing buildings from the structure of the hospital in order to transform them into space Hotel accommodation for patients.

366. According to the responses communicated by the People's Advocate Institution's Hospital Administration as a result of the recommendations formulated, the legal steps for extension of the accommodation were completed and on 15.02.2017 they were submitted to

the Ministry of Health on electronic and paper support. Of the intervention works “Rehabilitation, Modernization and Removal Administration Administrative Pavilion for Change of Destination in Pavilion Patients, Psychiatric Hospital and Safety Measures Pădureni Grajduri, Grajduri Commune, Iași County”, as well as the Documentation for the approval of the Rehabilitation and Modernization of Laundry Pavilion in the View of Change of Destination in the Administrative Pavilion, Psychiatric and Forestry Safety Measures Hospital, Grajduri Commune, Iasi County. At the same time, it was requested to identify and allocate the financial resources in order to achieve the proposed objective, namely the extension of the hotel space.

367. Taking into account the findings of the 2017 inquiries and previous visits of the People’s Advocate Institutions’ team regarding the accommodation conditions in the Grajduri Hospital, the Ombudsman Institution issued a recommendation to the Ministry of Health requesting the disposal of legal measures to reduce overcrowding, Accommodation and meal conditions for patients in the Psychiatric Hospital and the Pădureni-Grajduri Hospital, Iași County, as well as ensuring decent working conditions for the administrative staff, namely:

- Management of overcrowding within the Psychiatric Hospital and for Measures of Safety of Pădureni-Stables, given that at the time of the visits, although the hospital had a capacity of 240 approved beds, 354 and 348 patients were accommodated, so that the norms in force The obligation to insure for each bed an area of 7 square meters and 20 m³ of air;
- Supporting the expenses related to the intervention works for the extension of the hotel space in the Psychiatric Hospital and the Pădureni-Grajduri Safety Measures, Iași County, in order to ensure the accommodation conditions for the patients from the Psychiatric Hospital and the Pădureni-Grajduri Safety Measures, Iași County, as well as decent working conditions for administrative staff.

Dialogue between state authorities and NPM

368. As far as the contact with the public authorities in custody of persons deprived of their liberty, in the year 2016 were concerned:

- Meeting of the People’s Advocate with the former Minister of Internal Affairs, Mr. Ioan Dragoș Tudorache;
- Meeting with Mr. Tiberiu Trifan, State Secretary of the Ministry of Internal Affairs, meeting with the purpose of involving the Ombudsman Institution in monitoring the return of illegal immigrants;
- Meeting with the new General Director of the National Administration of Penitentiaries, Mr. Marius Vulpe (which in the meantime has been replaced) and Mr. Dan Halchin, Deputy General Manager of the National Penitentiary Administration, occasioned by the following issues: monitoring of the prisons by Domain visit teams On the prevention of torture in places of detention; Solutions to implement the recommendations contained in the Domain Visitation Reports on the prevention of torture in places of detention; The dissemination of the Law no. 35/1997, republished, with further amendments and completions, of other information (informative materials) regarding the attributions and contact details of the Ombudsman Institution;
- Meeting with Mr. Dragoș Pislaru, Minister of Labor, Family, Social Protection and the Elderly, with the occasion of discussing issues regarding the monitoring of the centers where the minors and the elderly are being detained.

369. Correspondences were carried out with: The Association for the Prevention of Torture, which requested information on the activity of the National Torture Prevention Mechanism in the places of detention; The Vienna Institute for Human Rights and the European Law Academy in Trier on intensifying cooperation between the judiciary and the NPMs; Ministry of Foreign Affairs, regarding the monitoring of fundamental rights and freedoms of persons in psychiatric hospitals.

370. The People's Advocate requested relations from the Ombudsmen in Europe on how the National Preventive Mechanism is organized and functioning within their institution, the positive aspects being used in the draft amendment to the Law no. 35/1997 regarding the organization and functioning of the of the People's Advocate Institution, republished.

Large-scale dissemination of the NPM Reports, elaboration and distribution of more material on the mandate of the NPM and its activities, raising awareness of OPCAT.

371. On November 9, 2016, the Conference "OPCAT 10 YEARS OF PREVENTION OF TORTURE". The activity of the Department of the Prevention of torture in places of detention in the first years of exercising the powers of the National Prevention Mechanism took place at the Parliament Hall-Human Rights Hall.

372. The conference was attended by:

- Representatives of public authorities (Presidential Administration, Ministry of Foreign Affairs – Government Agent for Human Rights, Ministry of Justice, Ministry of Internal Affairs, Ministry of Labor, Family, Social Protection and Elderly People, National Penitentiary Administration, Forensic Medicine);
- Representatives of professional associations (National Union of Romanian Barriers, Romanian College of Physicians, National College of Social Assistants, Romanian Psychologists College, Life Quality Research Institute);
- Representatives of non-governmental organizations.

373. The themes of the Conference were:

1. "OPCAT 10 YEARS OF PREVENTION OF TORTURE". Domain activity on the prevention of torture in places of detention in the first years of exercising the powers of the National Prevention Mechanism";
2. "Prevention of torture in places of detention in Romania", in connection with which representatives of public authorities, professional associations and non-governmental organizations sent messages and intervened;
3. "Domain Collaboration on Prevention of Torture in Places of Detention with Public Authorities, Professional Associations and Civil Society", topic on which:
 - The representatives of the public authorities who have subordinate places of detention presented the measures ordered following the visits made by the Domain of Prevention of Torture in Places of Detention (NPM);
 - Specialists from the Domain highlighted the role of the physician, psychologist, social worker, lawyers in monitoring the conditions of detention and the treatment applied to persons deprived of their liberty;
 - Non-governmental organizations have shown the importance of their participation in visits and the deficiencies found during the monitoring visits;
4. "Domain Zonal Centers for the Prevention of Torture in Places of Detention". The presentation focused on the activity of the Area Areas of the Domain during the two years of activity, as well as the measures taken by the visited institutions to improve the conditions of detention, as examples of good practices;
5. "The role of public authorities in implementing the recommendations of the People's Advocate". The theme referred to the cooperation of the Domain on the prevention of torture in the places of "The role of public authorities in implementing the recommendations of the People's Advocate". The theme concerned the cooperation of the Domain for the prevention of torture in places of detention with the public authorities (Ministry of Justice, Parliament, Ministry of Labor, Ministry of Internal Affairs, Ministry of Health), for the implementation of the recommendations made after the visits, strengthening the protection of the persons Against torture and punishment and inhuman or degrading treatment and the exercise of their fundamental rights and freedoms without discrimination.

374. The materials distributed to the conference guests included informative materials (leaflet with OPCAT presentation and MNP attributions), thematic poster of the 10 year anniversary of torture prevention, synthesis of the Annual Report of the MNP and the Special Report on prison conditions in prisons and centers Detention and pre-trial detention.

375. The event was advertised in the press and television (Agerpress, Realitatea TV).

376. On November 15, 2016, the Domain Centers for Prevention of Torture in Detention Sites (Alba, Bacau and Craiova) organized roundtables and debates on 10 years of torture prevention.

377. The debates were attended by representatives of:

- Local authorities: Prefect Institution Bacau and Dolj; County Council Alba and Dolj; County Police Inspectorates Alba, Dolj and Bacau; Aiud, Craiova, Pelendava and Bacău penitentiaries; Craiova Detention Center; General Directorates for Social Assistance and Child Protection Alba, Dolj and Bacau; Home for elderly people Bacau; Neuropsychiatric Recovery and Rehabilitation Center Galda de Jos Alba; Center for Drug Prevention, Evaluation and Counseling Alba and Dolj; Probation Service Dolj; Spiru Haret University; The daily “The Word of Freedom”; Radio Oltenia Craiova;
- Representatives of Non-Governmental Organizations;
- Doctors, social workers and psychologists, external collaborators.

378. For the coverage of the event, the article entitled “10 Years of Torture Prevention in Romania” was published in the local press “The Word of Freedom” Craiova, and Radio Romania “Oltenia-Craiova” broadcast about the event on 11 and 15 November 2016, as well as on-site.

379. We also note that on June 14, 2017, the “Nicolae Golescu” Police Training Center, Slatina, organized a presentation of the MNP mandate, an action included in the information campaign on the role and attributions of the MNP.

380. A request for support was also addressed to the National Penitentiary Administration to carry out an information, education and training campaign to prevent torture and inhuman or degrading treatment or punishment in subordinate units.

Establish an Annual Activity Plan covering all preventive activities. Participating in various public debates on various projects/legislative proposals

381. The NPM has drawn up for 2017 an Action Plan, which includes, for example: actions to improve staff, organize events dedicated to the prevention of torture, round-table dialogues with institutions that have subordinate detention facilities; Thematic workshops with employees of places of detention; Compilation of informative materials; study visits.

382. NPM Experts/advisers attended meetings dedicated to the consultation on legislative initiatives/changes on the following topics:

(a) “Identifying sustainable solutions for the observance of human rights in Romania through the perspective of executing the custodial and non-custodial sentences”, “The Parliament of Romania, 21 March 2017, organized by the Commission for Human Rights, Cults and National Minorities, Chamber of Deputies. They were debated as topics: solutions for avoiding overcrowding in prisons, respectively for improving the conditions of detention; Active and complementary measures for the reintegration of persons deprived of their liberty into society.

(b) “The right to work of detainees”, the Parliament of Romania, 25 April 2017, organized by the Commission for Human Rights, Cults and Minorities within the Romanian Senate, in which the following topics were debated: Legislative proposal for amending Law no. 254/2013 on the execution of sentences and deprivation of liberty ordered by the judicial bodies in the course of criminal proceedings, for the purpose of enshrining the right of a person deprived of liberty to participate in the funeral of a family member and establishing an effective, effective procedure for the exercise of this right; Introducing the possibility for the prisoner to be a co-signatory to the service contract for the recognition of

the right to work; Professional qualification of detainees in the sense that this should be done at any time not only in the last year of detention; Identifying solutions to stimulate local authorities to use prisoners for community work; Social reinsertion of detainees, with priority in local council societies;

(c) “Application of the UN Convention on the Rights of Persons with Disabilities in the Psychosocial Segment, from Theory to Practice”, organized by the Senate Equal Opportunities Commission and the Romanian Association of Medico-Legal Psychiatry, in partnership with the National Council for Combating Discrimination and the Council National Disability in Romania, May 17, 2017 at the Palace of Parliament. Themes: Legislative project on the implementation of medical security measures in view of the implementation of the UN Convention on the Rights of Persons with Disabilities; Proposals of concrete ways of organizing an integrated system of psychosocial rehabilitation.

383. In view of the above, we note that the recommendations made by the SPT will be priorities for the NPM activity.
