



THE FIELD REGARDING THE PREVENTION OF TORTURE IN DETENTION PLACES

ACTIVITY REPORT 2018

The People's Advocate Institution

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TABLE OF CONTENTS

I. The prevention of torture and inhuman or degrading treatment or punishment, in the context of national and international regulations.....	3
II. The organization, operation and attributions of the field regarding prevention of torture in detention places.....	8
III. Statistical reports on monitoring detention places through the visits performed by the field regarding prevention of torture in detention places.....	18
IV. Relevant information on the activity of the field regarding prevention of torture in detention places.....	24
V. Actions for the dissemination of the attributions of the field regarding prevention of torture in detention places (NPM), taking part in conferences, national and international symposia, staff training.....	60
VI. Monitoring detention places by means of visits.....	91
1. A. Psychiatric hospitals, units for psychiatric treatment and safety measures.....	91
B. Neuropsychiatric recovery and rehabilitation centres.....	116
2. Residential centres for children	130
3. Residences for the elderly people.....	178
4. Centres for asylum applicants/migrants.....	219
5. Preventive detention and arrest centres.....	262
6. Penitentiaries.....	303

I. The prevention of torture and inhuman or degrading treatment or punishment, in the context of national and international regulations

The recognition of the inherent dignity of all people and of their equal and inalienable rights is the foundation of freedom, justice and peace around the world. At the same time, **the universal and effective respect for human rights and fundamental freedoms is a common concept for all peoples and nations striving for democracy.**

On an international level, **the absolute prohibition of torture and other cruel, inhuman or degrading punishment or treatment** is regulated by art. 5 of the Universal Declaration of Human Rights, by art. 7 of the International Covenant on Civil and Political Rights, as well as by art. 3 of the European Convention on Human Rights, which stipulate that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.

As a member of the United Nations, Romania signed the Universal Declaration of Human Rights, being a party to the two covenants adopted by the UN: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. At the same time, Romania has been a party to the European Convention for the Protection of Human Rights and Fundamental Freedoms as of 1994 and is subject to the jurisdiction of the Strasbourg-based European Court of Human Rights. Furthermore, as a member of the European Union, Romania signed the Lisbon Treaty in December 2007, which includes the Charter of Fundamental Rights.

Article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms protects persons against the arbitrary interference of a member state with their right to freedom. **Any deprivation of freedom is only legal when included in the exhaustive list of admissible reasons, as listed by the Convention. Detention measures must be provided by the law and should protect against arbitrary action. Authorities should perform an analysis of proportionality and necessity, including an analysis of methods that are**

alternative to detention (the case law of the European Court of Human Rights - O.M. V. Hungary (no. 9912/15)).

Therefore, detention, as deprivation of freedom, should be an exceptional, last-resort measure, stipulated in national legislation and only applied when absolutely required, proportional to a legitimate purpose, assessed under the particular circumstances of the case and in compliance with human rights.

Individuals who are deprived from freedom are the most likely to be subject to torture and other ill treatment, since detention places are, by definition, closed from the outside world. With no independent external monitoring, such abuses may occur at any time. Therefore, the more open and transparent detention places are, as they take visits, the less abuses we shall have.

Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted in New York on December 10, 1984 and ratified by Romania through Law no. 19/1990) **defines torture as** *“any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other*

person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

According to the Special Rapporteur of the UN on torture, Sir Nigel Rodley, ***the conceptions of the international society on deprivation of freedom must be subject to radical changes***. The basic paradigm, accepted for at least a century, is that prisons, police offices and similar institutions are closed and secret places, whose internal activities are hidden from the public view. (...) The opaqueness paradigm must be replaced by transparency. **The presumption must be of open access to all places where deprivation of freedom takes place.**

Inhuman and degrading treatment is not defined by international acts, but, generically, **it is included in the category of ill-treatment**, seriously affecting human dignity. **Such acts cause physical or moral injuries or suffering to the victim, and are likely to cause significant psychological pain.**

Torture is different from inhuman or degrading treatment by the intensity of the pain it causes, the suffering caused to the victim, in the first place; secondly, torture implies an intention of the person who holds public authority and causes significant suffering to the victim.

Based on its Constitution, Romania is a democratic and social state of rule of law, where human dignity, citizen rights and freedoms are supreme and guaranteed values. The Romanian Constitution regulates under “Title II. Fundamental Rights, Freedoms and Duties”, the right to life and physical and psychological integrity, while **art. 281 and 282 of the Criminal Code incriminate and punish torture and subjection to ill treatment.**

One of the most efficient means to prevent torture and ill treatment is to monitor the treatment and detention conditions of persons deprived from freedom in some form of custody, by means of unannounced and regular visits performed by independent National Prevention Mechanisms, **part of the system protecting persons deprived from freedom.** For persons who are deprived from freedom, coming into direct contact with the members of visiting teams, who are interested in their conditions, is a form of protection, as well as moral support. Visits facilitate direct dialogue with the authorities and the officials in charge with managing detention places, establishing constructive work relations, which could help obtain the authorities’ points of view on work conditions and identify the relevant issues.

In the last three decades, international and regional human rights bodies have drawn up many lists of measures that the states have to pass to prevent torture. Does any of these mechanisms work? Professor Richard Carver (University of Liverpool) undertook a study on this. The study is the first systematic analysis of the effectiveness of torture prevention, and the primary research was undertaken in 16 countries, examining their experience on torture and prevention mechanisms for a

time lapse of 30 years. Based on the conclusions of the study, the answer is **“Yes, preventing torture works!”**, though some prevention measures are much more efficient than others. **The most significant are the guarantees to be applied within the first hours and days after a person is taken in custody. Notifying the family and providing access to an independent lawyer and physician have a significant impact in reducing torture. The criminal investigation and prosecution of torture acts, as well as creating independent monitoring bodies, also play a significant part in reducing torture.**

A fundamental assumption of monitoring is that **it takes place in the context of a preventive approach, aimed at preventing infringement of human rights on an individual or systemic level, before it takes place . Monitoring also has a corrective approach, outlining the areas where improvements are needed.**

Based on the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Subcommittee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment was established within the Committee for the Prevention of Torture, and state parties agreed to establish, appoint or maintain more or several national visiting bodies for the prevention of torture and inhuman or degrading treatment or punishment (NPMs).

Within the visits, the Subcommittee for the Prevention of Torture and National Prevention Mechanisms have:

- access to all **information regarding the number of persons deprived from freedom** in detention places, as well as the number of these places and their location;
- access to all **information regarding the treatment applied to such persons, as well as detention conditions;**
- access to **all detention places and their facilities and arrangements;**
- **the possibility to meet with persons deprived from freedom, with no witnesses, either personally or with an interpreter, if required, as well as any other person that may provide relevant information;**
- **the freedom to choose the places they want to visit and the persons they**

want to have meetings with.

Pursuant to the undertaken visits, recommendations are issued by international and national experts regarding the improvement of internal prevention measures, that are presented to the authorities of signatory states, for enforcement purposes.

The relevant authorities of the state examine the recommendations and discuss with it so that the measures may be enforced. State parties agree to publish and disseminate the annual reports of National Prevention Mechanisms.

The follow-up of the implementation of recommendations included in the Visit Reports submitted to the visited institutions plays a major role in the activity of NPM, by:

- maintaining **dialogue both with governmental authorities and with the managers of institutions**, regarding the enforcement of recommendations, with **Parliament members, professional associations, including civil society**); **repeated follow-up visits**, especially in high risk places, are an efficient method to assess the implementation of recommendations;
- **proposals to amend laws** by visit reports, annual reports, thematic reports or specific opinions and recommendations;
- **interaction with the legal system**, through meetings, workgroups, consultative committees;
- **collaboration with civil society**, with professional organizations, NGOs, **research institutes and universities**, etc.;
- cooperation with other NPMs, with the CPT, SPT and the EU;
- cooperation with the press.

I. The Organization, Operations and Attributions of the Field Regarding Prevention of Torture in Detention Places

The idea of double - international and national - monitoring of detention places first appeared in OPCAT, which sets out that “every state party established, appoints or maintains at a national level one or several visiting bodies for the prevention of torture and inhuman or degrading treatment or punishment (hereinafter referred to as national prevention mechanisms)”.

The People’s Advocate institution, through the **Field regarding torture prevention in detention places, was appointed as the only national body exercising the specific attributions of National Torture Prevention Mechanism in detention places, as per the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** (according to the Government Emergency Ordinance no. 48/2014 on the amendment and supplementation of Law no. 35/1997 on the organization and operation of the People’s Advocate Institution, as well as the amendment and supplementation of legislative acts, approved by Law no. 181/2014).

The field regarding the prevention of torture in detention places monitors the treatment applied to people in detention places in a regular manner, so as to reinforce their protection against torture and inhuman or degrading punishment and treatment and against the exercise of their fundamental rights and freedoms, without discrimination, by:a) performing announced or spot visits to detention places with a view to checking detention conditions and the treatment applied to persons deprived from freedom;b) **suggesting actions to the management of the visited detention places** pursuant to such visits;c) making proposals to amend and supplement relevant legislation or remarks on relevant legislative initiatives;d) **drawing up a draft for the section regarding prevention of torture from the annual activity report of the People’s Advocate**;e) making proposals and remarks on the elaboration, change and supplementation of public strategies and policies in the field of prevention of torture and inhuman or degrading punishment or treatment, according to the law;f) **keeping in contact with**

the Subcommittee on prevention;g) analysing, implementing, monitoring and assessing, under the management of the People's Advocate, international programmes for technical and financial assistance for the achievement of the purpose of the Field regarding prevention of torture in detention places;**h) coordinating the organization of informative, educational and training campaigns** for the prevention of torture and cruel, inhuman or degrading punishment or treatment;**i)** fulfilling any other attributions established by the People's Advocate, to the extent of the law.

► The field regarding prevention of torture in detention places includes: **The Central Structure, which also includes the Bucharest Local Centre and the Territorial Centre, including 3 local centres:** • the Alba local centre; • the Bacau local centre; • the Craiova local centre. The counties assigned to each local centre result from the chart below.



Visits are performed *ex officio*, based on an annual visit plan or on the spot, aimed at preventing torture or cruel, inhuman or degrading treatment in detention places.

Visit teams include specialised staff with a law degree, permanent employees of the Field regarding prevention of torture in detention places, at least a physician, depending on the relevant specialization, a representative of non-governmental organizations, as well as psychologists, social workers, as the case may be. External

collaborators with other specializations than permanent employees (physicians, psychologists, social workers) may also take part in the visits, for both the central structure and the territorial structure, based on service agreements.

Within the visits, the management of visited detention places must provide support to the visit team and meet its members, provide the requested documents or information so as to meet legal attributions; the visit team may have meetings with any person who is deprived from freedom, with his/her approval or the approval of his/her legal representative, ensuring their confidentiality; **no one can be made liable for the information provided to members of the visit team.**

The findings of the visit are included in a **Report** which may be accompanied by Recommendations if irregularities are found. If infringements of human rights through torture or cruel, inhuman or regarding treatment are found, resulting in an imminent risk for the life or health of an individual, a **Preliminary Emergency Report** is drawn up. The People's Advocate has the obligation to **immediately notify judicial bodies** when establishing the existence of signs regarding the perpetration of facts provided by criminal law, when exercising his/her attributions.

► **The first approaches for the harmonization of the provisions of Law no. 35/1997 on the Field regarding prevention of torture (NPM) with the provisions of the Optional Protocol were initiated starting 2016, to fulfil the preventive mandate of NPM.**

Thus, the Legislative Proposal to amend and supplement Law no. 35/1997 on the organization and operation of the People's Advocate Institution, as well as to amend art. 16 (3) of Law no. 8/2016 on the establishment of mechanisms stipulated by the Convention on the rights of persons with disabilities (P1-x no. 1/2018) included changes regarding the organization and operation of the Field regarding the prevention of torture, mainly dealing with:

- replacing the name of Field regarding the prevention of torture in detention places with the one of National Torture Prevention Mechanism and its regulation as a distinct structure from other fields of activity of the People's Advocate Institution;
- 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 regarding acts of torture, cruel, inhuman or degrading treatment in detention places, depending on the type of the detention place, being solved by the fields of activity of the People's Advocate institution playing a reactive part. The National Prevention Mechanism will only undertake attributions in terms of preventing torture in detention places by performing regular visits to these places. Upon decision of the People's Advocate Institution, the National Prevention Mechanism will also solve petitions or notifications ex officio, within its scope of activity. Cooperation between the National Prevention Mechanism and the fields of activity of the People's Advocate's institution will be established in the institution's rules of organization and operation;

- the inclusion in the category of detention places subject to NPM monitoring of terrestrial, airborne and river-based means of transport used to carry persons deprived from freedom, including those that are removed under escort, police departments, centres of accommodation for minor and adult disabled individuals; emergency centres for the reception of children; maternal care centres; residences for elderly people or other residential centres for elderly people; the external departments of psychiatric hospitals and internal or external psychiatric departments of general hospitals;

- NPM using reports submitted by non-governmental organizations, drawn up as the conditions for acceptance of asylum applicants in regional centres for procedures and accommodation were monitored, as well as when activities of removal from escort were monitored;

- exemptions of external collaborators from the procurement procedure through the Public Procurement Electronic System (SEAP);

- including explicit provisions on the interdiction to apply sanctions, i.e. no authority and no officer will decide or enforce any sanction against persons or organizations, for having provided any information to members of the visit team. None of these persons or organizations can be otherwise affected; the National Prevention Mechanism shall guide the persons who have provided information to visit team members to inform the People's Advocate Institution if sanctions are enforced;

- accreditation and collaboration with non-governmental organizations in the field of human rights protection, also based on service agreements;

- regulating guarantees for NPM members, i.e.: for the exercise of their attributions, members of the National Prevention Mechanism shall receive unconditional support and guarantees from the authorities.

- proposal of the annual budget of the National Prevention Mechanism by the deputy of the People's Advocate for the National Prevention Mechanism and its approval by the People's Advocate Institution;

- awarding a bonus for the staff performing visits to areas where factors may affect physical and psychological health and integrity;

- ensuring the payment of transport, accommodation and meal expenses during the travels of the representatives of governmental organizations who are members of the visit team;

- exemptions from the incompatibilities stipulated by Law no. 7/2006, republished, as subsequently amended and supplemented, for the specialized staff within the National Prevention Mechanism - physicians, psychologists, social workers, with a view to ensuring the continuity in the exercise of their profession.

After the legislative procedure was resumed, **the legislative proposal was debated and adopted by the Chamber of Deputies on 13.06.2018** and was subsequently submitted to the Senate. **It was also adopted by the Senate on 15.10.2018, and was sent to the President of Romania on 24.10.2018, in order to be promulgated.** The notification of non-constitutionality of the law for the amendment and supplementation of Law no. 35/1997 on the organization and operation of the People's Advocate Institution, drawn up by the President of Romania, was registered on 12.11.2018, and the Plenum of the Constitutional Court debated on the objection for the non-constitutionality of the law on 12.12.2018, within the pre-promulgation control. **The Constitutional Court decide to postpone the decision for 23.01.2019, and then for 30.01.2019.**

► As for the attributions of the National Prevention Mechanism, we mention that Law no. 9 of January 5, 2018 on the amendment and supplementation of Law no. 35/1997 on the organization and operation of the People's Advocate, **a new field of**

activity was set up within the People's Advocate, exclusively for the defence and promotion of children's rights, coordinated by a deputy, the Children's Advocate, whose attributions for the specific mandate of the protection and promotion of children's rights include **the performance of spot control visits, *ex officio* or upon request, together with the representatives of the National Prevention Mechanism for torture in detention places**, to the educational or detention centres where minors execute the freedom-depriving measures stipulated by Law no. 286/2009, as subsequently amended and supplemented, on the criminal liability of minor individuals, to persons in charge with supervising and guiding minors who are executing non-freedom-depriving measures stipulated by Law no. 286/2009, as subsequently amended and supplemented, on the criminal liability of minors, to placement centres, family residences, mother care support centres where minors are placed as a special measure for protection stipulated by Law no. 272/2004, republished, as subsequently amended and supplemented, to their extended family, as well as paediatrics hospitals.

In this context, in 2018, the **Field regarding prevention of torture undertook visits in cooperation with representatives of the Child's Advocate**, i.e. in The Residential Centre for the Recovery and Rehabilitation of Children with Behavioural Disorders no. 5 of Beceni, Buzau county; the "Tandarica" Complex of Services for the Recovery of Children with Slight and Average Neuro-psychological Disabilities, Cluj county; the "Micul Rotterdam" Care Centre, Constanta county; the "Constantin Gorgos" Titan Psychiatric Hospital, Bucharest; the Specialized Care Centre for Children with Disabilities Less than Three Years Old, Slobozia, Ialomita County; the "Sf. Andrei" Care Centre of Craiova.

► As for the staff of the field regarding prevention of torture in detention places, currently, besides the People's Advocate deputy who coordinates the field regarding prevention of torture in detention places, the Central Structure of the field regarding prevention of torture in detention places includes **16 employees** and **6 employees** respectively (4 legal professionals and 2 specialists - psychologist and social worker), while local centres have **8 employees** (3 legal professionals, 2

physicians, 1 social worker and 2 psychologists), as well as **2 administrative staff** (drivers), **with 7 more vacancies**.

In order to fill the vacant positions, based on the **Memorandum for Unblocking 22 vacancies in the People's Advocate Institution, signed by the Prime Minister of Romania**, competitions for the positions of physicians, psychologists and administrative staff continued in 2018, with the following vacancies being occupied: physician with the Alba Local Centre, psychologist with the Bucharest Local Centre and driver with the Bucharest Local Centre. Competitions were in progress for the position of physician at the Bucharest Local Centre and the Bacau Local Centre in January 2019, as well as for a vacancy as a driver with the Bacau Local Centre.

We mention that, despite the legal provisions regarding the allocation of a number of 4 administrative positions (drivers) that automatically imply the equipment of the Field with cars, the activity of the field regarding the prevention of torture in detention places took place in 2018 as well without the 3 cars for the local centres. So, **visits were performed with the cars of the staff from the local centres of Alba, Bacau and Craiova. A vehicle was purchased at the end of 2018, which will be allocated to one of the local centres.**

► Based on Law no. 35/1997, republished, the activities of the field regarding prevention of torture in detention places may also be attended by **external collaborators working on services agreements**, besides specialists (physicians, psychologists, social workers) who are permanent employees. **External collaborators are selected by the People's Advocate, based on the proposals from the Romanian College of Physicians, the Romanian College of Psychologists, the National College of Social Workers or other relevant professional associations.**

In this context, the People's Advocate entered cooperation protocols with the Romanian College of Physicians, the Romanian College of Psychologists, the Romanian National College of Social Workers in 2015.

Addenda were entered to the Protocols concluded with the Romanian College of Physicians and the Romanian College of Social Workers in 2018, so

that external collaborators are selected provided that they are registered with SEAP. To this purpose, announces were posted on the website of the People's Advocate Institution and the mentioned Colleges, **external collaborators (physicians and social workers) were selected and the following documents were issued:**

- Order no. 51 of April 23, 2018, Order no. 96 of June 8, 2018 and Order no. 125 of August 9, 2018 on the list of **external collaborators (physicians)** selected by the People's Advocate Institution based on the provisions of art. 37 and 38 of Law no. 35/1997 on the organization and operation of the People's Advocate Institution, republished and

- Order no. 90 of May 29, 2018 on the list of **external collaborators (physicians)** selected by the People's Advocate Institution based on the provisions of art. 37 and 38 of Law no. 35/1997 on the organization and operation of the People's Advocate Institution, republished.

We also mention that, pursuant to changes in the management of the Romanian College of Psychologists, meetings were organized with its representatives during 2018, so as to sign the **Protocol no. 4 on collaboration for the performance of responsibilities stipulated by art. 37-38 of Law no. 35/1997 on the organization and operation of the People's Advocate Institution, republished.**

Furthermore, during October-November 2018, based on the provisions of the previously mentioned Protocol, the College of Psychologists provided support for the organization and operation of the competition for the employment of specialists hired at the Field regarding prevention of torture on a permanent basis. Thus, the representatives of the College, after drawing up the conditions for participation in the competition, upon mutual agreement with the People's Advocate Institution, published the Competition notices in its own network and appointed College representatives in the competition and appeal committees. The result of the competition was the occupation of the position of counsellor (psychologist) in the Field regarding prevention of torture, Local Centre of Bucharest.

At the same time, the College received applications from external collaborators - psychologists, and the proposals were sent to the People's Advocate Institution, so as to perform the selection procedure.

As for participation in the visits organized by the Field regarding prevention of torture for external collaborators, based on service agreements, we remind that, starting September 1, 2016, pursuant to the requests of the Financial, Wages and Human Resources Office and of the Administrative Office of the People's Advocate (regarding the compliance with the provisions of art. 43 (2) of Decision no. 395/June 2, 2016 on the approval of the Methodological Guidelines for the enforcement of provisions regarding the award of the public procurement contract/master agreement of Law no. 98/2006 on public procurement), this is conditioned by the compliance with the **mentioned legal provisions regarding their obligation to be registered in SEAP (the Electronic Public Procurement System)**. The fulfilment of the mentioned condition resulted in a reduction in the number of external collaborators, so that most 2018 visits were performed with the participation of physicians who were permanent employees of the Field regarding prevention of torture.

► Visit teams also include **representatives of non-governmental organizations working in the field of human rights protection**, selected by the People's Advocate Institution based on their activity.

Collaborations with non-governmental organizations were pursued in 2018 and new Protocols were entered with: the "Voceacopiilor abandonati" [The Voice of Abandoned Children] Association, the "Consiliul tinerilor institutionalizati" [The Council of Institutionalized Youth] Association, the Ascis Association for Community Support and Social Integration, the "Sf. Maria Ajutorul Crestinilor" [Saint Mary, the Help of Christians] Children Home Association, the "Aproape de Oameni" [Close to People] Association of Iasi, the Community Support Foundation of Bacau, the "Actiuni si Resurse pentru Comunitate" [Action and Resources for the Community - ARC] Association of Bacau, the ICAR Foundation.

Thus, the Field regarding prevention of torture in detention places collaborates with **32 non-governmental organizations**, as follows:

- **at the level of the Bucharest local centre** (12 non-governmental organizations): the European Human Rights Association (Asociația Europeană pentru Drepturile Omului - AEPADO); the Romanian Group for Human Rights (Grupul Român pentru Drepturile Omului - GRADO); the ANAIS Association; Transparency, the Romanian Association for Transparency; the National Council for Refugees (Consiliul Național pentru Refugiați - CNRR); the Association “Desenăm Viitorul Tău” [DVD - We Draw Your Future]; the Independent Association for Human Rights (Societatea Independentă pentru Drepturile Omului - SIRDO); the Foundation for the Defence of Citizen Rights against State Abuse (Fundația pentru Apărarea Drepturilor Cetățenilor împotriva Abuzurilor Statului - FACIAS); the Organization for the Defence of Human rights (Organizația pentru Apărarea Drepturilor Omului - OADO); the ICAR Foundation, the “Vocea Copiilor Abandonati” Association, the “Consiliul Tinerilor Institutionalizati” Association, the “Junii” [Youth] Association.

- **at the level of the Alba local centre** (8 non-governmental organizations): the LADO Association of Cluj; the Amuradia Association of Brasov; the Association for Safety and Anti-Drug (Asociația pentru Siguranță și Antidrog - ASCA), Harghita branch; the Association for Community Partnership of Brasov; the “Împreună pentru ei” Humanitarian Association” of Baia Mare; the “Un copil, o speranță” Foundation of Sibiu; the “Ruhama” Foundation of Oradea; the Orthodox Philanthropy of Aiud.

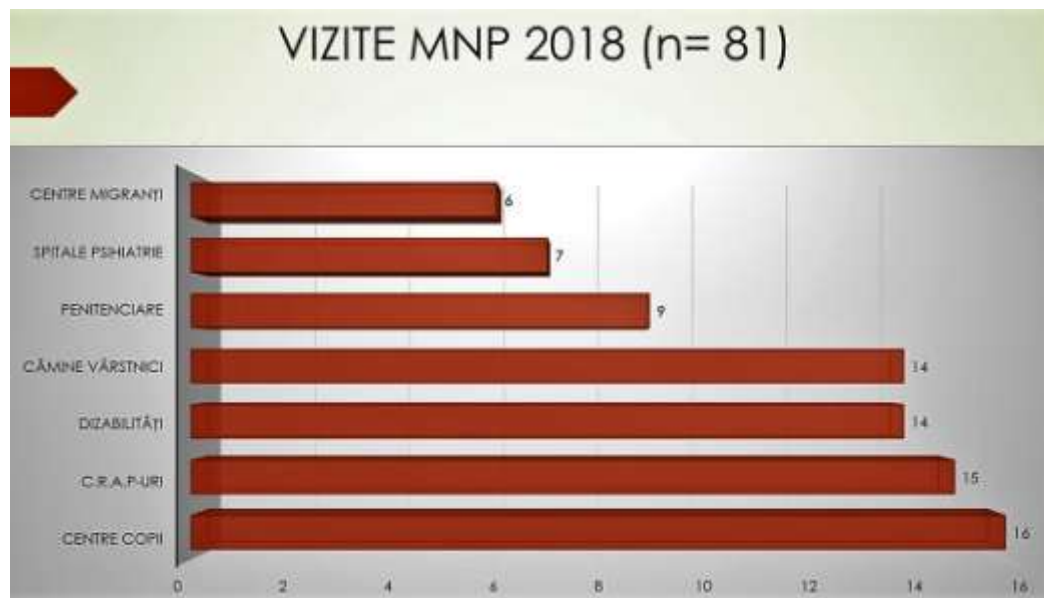
- **at the level of the Bacau local centre** (10 non-governmental organizations): the Pro Democratia Association of Piatra Neamț; the “Calea, Adevărul și Viata” [the Path, the Truth and Life] Association of Christian Roma of Bacau; the “Alternative Sociale” [Social Alternatives] Association of Iasi; the “Familia” [Family] Foundation of Galati; the “Institutul pentru Parteneriat Social” [Institute for Social Partnership] Association of Bucovina; the Community Support Foundation of Bacau; the “Aproape de Oameni” Association of Iasi; the Community Support and Social Integration Association - ASCIS; the “Sf. Maria Ajutorul Creștinilor” Children Home Association of Bacau; the “Acțiune și Resurse pentru Comunitate” Association of Bacau (ARC).

- **at the level of the Craiova local centre** (2 non-governmental organizations): the Organization for the Defence of Human Rights (Dolj branch) - OADO; the Human Rights Defence League (Timisoara Branch).

► **The NPM budget.** According to art. 51 of Law no. 35/1997 on the organization and operation of the People's Advocate institution, republished, the current and capital expenditure of the activity to prevent torture and cruel, inhuman or degrading treatment is ensured from the state budget, and the **dedicated funds** are included in the budget of the People's Advocate institution. In 2018, **the budget allocated to the National Prevention Mechanism was 3,352,823.48 lei.**

III. Statistical reports on monitoring detention places through the visits performed by the field regarding prevention of torture in detention places

Visit teams of the field regarding prevention of torture in detention places **performed 81 visits to detention places** in 2018.



Visits performed in 2018 according to detention places:

- **Penitentiaries - 9 visits:** the DrobetaTurnu Severin Penitentiary, the Vanjulet External Department, Mehedinti county; the Buzias Educational Centre, Timis county; the Slobozia Penitentiary, Slobozia county; the Margineni Penitentiary, Dambovita county; the Focsani Penitentiary; the Botosani Penitentiary; the Gherla Penitentiary, Cluj county; the Bucharest Rahova Penitentiary; the Craiova Penitentiary.

- **Preventive Detention and Arrest Centres -13 visits:** the Preventive Detention and Arrest Centre no. 5 of Bucharest; the Preventive Detention and Arrest Centre of Teleorman; the Preventive Detention and Arrest Centre no. 1 of Bucharest; the Preventive Detention and Arrest Centre of Olt; the Preventive Detention and Arrest Centre of Constanta; the Preventive Detention and Arrest Centre of Bacau; the Preventive Detention and Arrest Centre of Ialomita; the Preventive Detention and Arrest Centre of Covasna; the Preventive Detention and Arrest Centre of Calarasi; the Preventive Detention and Arrest Centre of Bihor; Police Department no. 26 of Bucharest and the Preventive Detention and Arrest Centre of Giurgiu.

- **Migrant centres - 8 visits:** the Centre for accommodation and procedures for asylum applicants of Bucharest; the Centre for accommodation of aliens in public custody of Otopeni; the Regional Centre for accommodation and procedures for asylum applicants of Galati; the Regional Centre for accommodation and procedures

for asylum applicants of Somcuta Mare; the Centre for accommodation and procedures for asylum applicants of Timisoara; the Centre for accommodation of aliens in public custody of Arad, the Retention and Triage Centre of the Border Police Bors, Oradea county, the Retention and Triage Centre of the Border Police, Sculeni, Iasi county.

● **Residential centres for children -16 visits:** the Ciresarii Emergency Care Centre, district 2, Bucharest; the Sf. Nicolae Care Centre of Trusesti, Botosani county; the “Casa Noastra” Care Centre of Zagujeni, Caras Severin county; the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Calarasi county; the “Casa Sperantei” Association of Campina, Prahova county; the Family Home for Residential Protection of Children “Novaci”, Pociovalistea, Gorj county; the “Micul Rotterdam” Care Centre of Constanta, Constanta county; the Care Centre no. 3 of Slobozia, Ialomita county; the Residential Centre for the recovery and rehabilitation of children with behavioural disorders no. 5 of Beceni, Buzau county; the Family Home of the “Sf. Gheorghe” Settlement of Sebes, Alba county; the Tandarica Complex of Services for the recovery of children with slight and average neuro-psychological disabilities, Cluj county; the “Sf. Apostol Andrei” Care Centre of Craiova, Dolj county; the Care Centre of Filipestii de Targ, Prahova county; the Specialized Care Centre for Children with Disabilities Less than Three Years Old, Slobozia, Ialomita county; the Domino Emergency Care Centre, the Complex for Services of MaguraCodlea, Brasov county; the Tarlungeni Complex for Services - Casa Anastasia, Brasov county.

● **Neuropsychiatric recovery centres -14 visits:** the Care and Support Centre for Adults with Disabilities of Urlati, Prahova county, the Centre for Integration through Occupational Therapy for Adults with Disabilities of Urlati, Prahova county, the Neuropsychiatric Recovery and Rehabilitation Centre of Razboieni, Neamt county, the Neuropsychiatric Recovery and Rehabilitation Centre of Plataresti, Calarasi county, the “Sf. Ana” Care and Support Centre of Bucharest, the Centre for Integration through Occupational Therapy of Odobesti, Brancea county, the Neuropsychiatric Recovery and Rehabilitation Centre of Babeni, Valcea county, Respite Care of Babeni, Valcea county, the Neuropsychiatric Recovery and

Rehabilitation Centre of Maciuca, Valcea county, the Care and Support Centre of Bistrita, Valcea county, the Care and Support Centre of Zatreni, Valcea county, the Care and Support Centre of Milcoiu, Valcea county, the Neuropsychiatric Recovery and Rehabilitation Centre of Stalpu, Buzau county and the Neuropsychiatric Recovery and Rehabilitation Centre for Adults with Disabilities of Fantanele, Prahova county.

● **Psychiatry hospitals - 7 visits:** the Psychiatry Hospital of Gataia, Timis county, the “Sf. Maria” Psychiatry Hospital of Vedea, Arges county, the Psychiatry Hospital of Nucet, Bihor county, the Psychiatry Hospital of Murgeni, Vaslui county, the Psychiatry Hospital of Dragoiesti, Valcea county, the Chronic Psychiatry Hospital of Dumbraveni, Vrancea county, the “Constantin Gorgos” Titan Psychiatry Hospital of Bucharest.

● **Residences for elderly persons – 14 visits:** the Centre for Elderly Persons of Mereni-Contesti, Dambovitza county; the Centre for Elderly Persons of Anina, Caras Severin county; the “Odai” Complex for Social Services, Bucharest; "Sf. Andrei" Centre for Elderly Persons of Malu Mare, Dolj county; the the Centre for Elderly Persons of Fierbinti, Ialomia county; the Centre for Elderly Persons of Furculesti, Teleorman county; the Centre for Elderly Persons of Fitionesti, Bacau county; the “SalvatiBatranii” Centre for Elderly Persons of Bacau, Bacau county; the “Speranta” Residential Centre for Elderly Persons of Bucharest; the “SchitulDarvari” Care and Support Centre for Dependent Persons of Bucharest; the Centre for Elderly Persons of Cervenia, Teleorman county; the Centre for Elderly Persons of Mangalia, Constanta county; the Medical and Social Support Centre of Bacesti, Vaslui county; the Centre for Elderly Persons of Roznov, Neamt county.

► **378 recommendations** were issued pursuant to the 81 visits, as follows: ● penitentiaries - 25; ● preventive detention and arrest centres - 61; ● centres for migrants - 22; ● children centres - 93; ● elderly homes - 58; ● psychiatry hospitals - 58; ● centres for persons with disabilities - 61.

Thus, pursuant to the visits performed in 2017, for which Visit Reports were drawn up in 2018, as well as pursuant to visits performed in 2018, for which visit reports were drawn up, **650 recommendations were issued.**

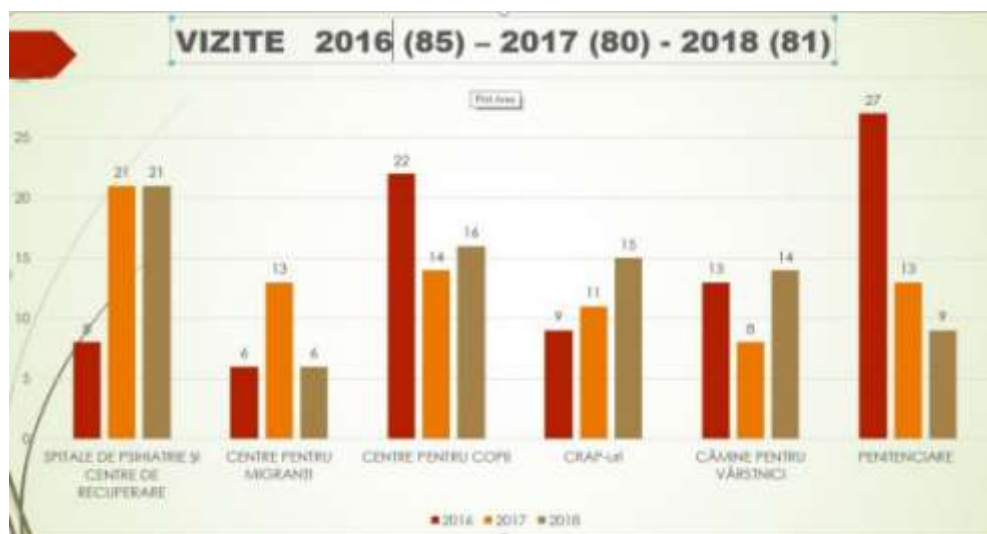
Situația Recomandărilor transmise în Rapoartele de vizită

Locuri de detenție vizitate	Recomandări Vizite efectuate în anul 2018	Recomandări Vizite efectuate în anul 2017 cu Rapoarte elaborate în 2018	Total Recomandări
Penitenciare	25	59	84
CRAP-uri	61	24	85
Centre pentru migranți	22	50	72
Centre pentru copii	93	34	127
Cămine pentru vârstnici	58	61	119
Spitale de psihiatrie	58	25	83
Centre pentru persoane cu dizabilități	61	19	80
Total	378	272	650

► A major aspect in the activity of NPM in 2018 was the **follow-up of the implementation of recommendations included in visit reports**, by establishing a dialogue with the representatives of the visited institutions and the managing public authorities. To this purpose, **22 of the 81 undertaken visits aimed at checking the enforcement of recommendations**.

Visits to check the enforcement of recommendations took place in: the Slobozia Penitentiary, the Centre for Elderly Persons of Furculesti, the Ciresarii Emergency Admission Centre of Bucharest, the Centre for Elderly Persons of Odai - Bucuresti, the Preventive Detention and Arrest Centre no. 5, the Speranta Centre for Elderly Persons of Bucharest, CRCHS Oltenita, the Margineni Penitentiary, the Preventive Detention and Arrest Centre of Teleorman, the Regional Centre of Procedures and Accommodation for Asylum Applicants of Somcuta Mare, Maramures county, the Preventive Detention and Arrest Centre of Salaj, the Centre of Care and Support for Elderly Persons of Fitionesti, Vrancea county, the Regional Centre of Procedures and Accommodation for Asylum Applicants of Galati, the Chronic Psychiatry Hospital of Dumbraveni, Vrancea county, the Focsani Penitentiary, Vrancea county, the Neuropsychiatric Recovery and Rehabilitation Centre no. 1 and no. 2 of Babeni; the Crisis and Respite Care Centre of Babeni; the Neuropsychiatric Recovery and Rehabilitation Centre of Maciuca, Valcea county; the Care and Assistance Centre of Zatreni; the Care and Assistance Centre of Bistrita; the Care and Assistance Centre of Milcoiu, Valcea county.

► Compared to 2016-2017, a significant increase was seen in 2018 in the number of visits to three detention places: preventive detention and arrest centres, centres for elderly persons and children centres.



Therefore, a total number of **13 visits** was undertaken in 2018 to preventive detention and arrest centres in the entire county, compared to 11 visits in year 2017 and 9 visits in 2016.

As for the persons in centres for elderly persons, the field regarding prevention of torture visited **14 centres** of the entire country in 2018, compared to 8 centres in 2017 or 13 centres in 2016.

Visit teams of the field regarding prevention of torture in detention places performed visits to **16 centres for children**, compared to 14 visits in 2016.

► Furthermore, **40 investigations** were performed for petitions prior to the issue of the Order of the People's Advocate Institution no. 8 of February 14, 2018 on the observance of the provisions of the Optional Protocol (OPCAT) regarding the preventive mandate of the Field regarding prevention of torture in detention places, and **4 investigations performed in cooperation with experts/counsellors of the Field Army, Justice, Police, Penitentiaries**), as follows:

the Bucharest local centre - 19 investigations: the Bucharest-Rahova Penitentiary (4); the Bucharest Rahova Hospital Penitentiary; the Slobozia Penitentiary (2); the Tulcea Penitentiary (2); the Targsor Penitentiary; the Bucharest-

Jilava Hospital Penitentiary (2); the Bucharest Jilava Penitentiary (2); the Gaesti Penitentiary; the Margineni Penitentiary; the Giurgiu Penitentiary;

the Bacau local centre – 6 investigations: the Targu-Ocna Hospital Penitentiary, Bacau county; the Marasesti Elderly Centre, Vrancea county; the Vaslui Penitentiary, Vaslui county; the Botosani Penitentiary, Botosani county; the Braila Penitentiary, Braila county; the Galati Penitentiary, Galati county.

the Alba local centre -10 investigations: the Recovery and Rehabilitation Centre for Adults with Disabilities of Sighetu Marmatiei, Maramures county and the General Directorate for Social Assistance and Child Protection of Maramures; the Oradea Penitentiary; the Satu-Mare Penitentiary; the Bercea Mare Penitentiary; the Codlea Penitentiary; the MiercureaCiuc Penitentiary; the Bistrita Penitentiary; the TarguMures Penitentiary; the Gherla Penitentiary; the Dej Hospital Penitentiary.

the Craiova local centre -9 investigations: the Drobeta-Turnu Severin Penitentiary; the Targu-Jiu Penitentiary; the Mioveni Penitentiary; the Craiova Pelendava Penitentiary; the Craiova Penitentiary; the Arad Penitentiary; the Arad Penitentiary - External Department; the Timisoara Penitentiary; the Lugoj Care Centre.

IV. Relevant information on the activity of the field regarding prevention of torture

► The **Subcommittee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (SPT)** of the UN Committee for the Prevention of Torture undertook a visit to Romania in 2016, and its report included a range of recommendations on the activity of the field regarding prevention of torture, such as:

- the absence of budget independence has a negative general impact on the operation of the independence of NPM, since budget resources are included in the general budget of the People's Advocate Institution, **the supply of specific funding for NPM is still a challenge that prevents its capacity to operate.** SPT reminds to the state party that the supply of suitable financial and human resources is a legal obligation, based on art. 18 (3). **SPT recommends that the Romanian Government**

should provide both the required human resources and suitable funding for the efficient operation of NPM by supplying a specific budget line and by ensuring NPM's institutional autonomy of using its own resources. Funds should also be predictable and allow NPM to plan its activity and visits beforehand, as well as the Plan of collaboration with other partners.

- SPT welcomes the cooperation between NPM and civil society organizations. The subcommittee recommends that the state party should encourage **NPM to have a more direct and independent involvement with civil society organizations**, including, at least, an enhanced involvement thereof with NPM visits, by drawing up reports and engaging in dialogues with authorities.

- **state authorities and NPM should engage in a productive and continuous process of dialogue, so as to implement NPM recommendations.** SPT recommends that the state party should publish and disseminate annual NPM reports on a wide basis. SPT recommends that the state party should introduce an institutional forum for the discussion and follow-up of annual NPM reports. It also recommends that NPM, in cooperation with places of deprivation from freedom, should initiate follow-up procedures.

- it is crucial that NPM should develop and establish a clear vision of its approach on prevention of torture and have comprehensive strategies for the fulfilment of its preventive mandate. In order to avoid possible confusions and overlaps of mandates, **the People's Advocate Institution should make a clear distinction between the mandate of NPM and its other functions as an ombudsman. Individual petitions should be solved by the People's Advocate Institution and should not be included in the NPM mandate.** SPT underlined that NPM should supplement, not replace the existing supervision systems in Romania. NPM and the People's Advocate Institution should clearly separate their mandates, so that each performs the activities of its mandate in an efficient manner.

- the National Prevention Mechanism should focus not only on visiting places where persons are deprived from freedom, but on other prevention activities as well; it recommended to **draw up an annual plan that includes all preventive activities,**

including drawing up comments on legislative projects, increasing the awareness and professional training of staff working in detention places.

- the state party should enhance the visibility of NPM, also by increasing awareness on OPCAT and the NPM mandate. NPM recommendations should be visibly discussed and approached. To this purpose, the subcommittee recommends that NPM should enhance advocacy activities with institutions where persons are deprived from freedom, with the relevant ministries and the lawmaker. Furthermore, **NPM should get involved in the legislative process, in advocacy, activities that it is encouraged to develop based on art. 19 of OPCAT, with a view to increasing the general visibility of NPM.**

- drawing up and distributing several materials on the NPM mandate and its activities, to the staff and detainees in places of deprivation from freedom, as well as the civil society in general;

- to enhance the capacities of the recently employed NPM staff and increase professional training for all participants in NPM activities. The Subcommittee recommends that NPM should continue developing its capacity by increasing cooperation with the Subcommittee, as well as by getting involved with other NPMs and NPM networks.

► The delegation of the **European Committee for the Prevention of Torture and Inhuman or Degrading Punishment or Treatment** performed a visit to Romania at the beginning of 2018; with this opportunity, it met with the People's Advocate Institution, the Deputy of the People's Advocate Institution who coordinates the activity of the Field regarding prevention of torture and the staff of the field. The CPT delegation was interested in the fulfilment of the preventive mandate by NPM.

In this context, so as to observe OPCAT provisions and considering the SPT directives regarding national prevention mechanisms - Basic principles, stipulating that:

“It is the responsibility of the State to ensure that it has in place an NPM which complies with the requirements of the Optional Protocol” (CAT/OP/12/5, paragraph 2) and

“The mandate and powers of the NPM should be in accordance with the provisions of the Optional Protocol” (CAT/OP/12/5, paragraph 6),

by Order no. 8 of February 14, 2018 on the observance of the provisions of the Optional Protocol (OPCAT) on the preventive mandate of the Field regarding prevention of torture in detention places, following the observance of the preventive mandate of the Field regarding prevention of torture in detention places in the exercise of the powers of the National Prevention Mechanism, the reactive role and its powers in terms of preventing torture in detention places, respectively performing systematic visits in the places where persons are deprived from freedom, so as to prevent torture and inhuman or degrading punishment or treatment, based on art. 1 of OPCAT, corroborated with art. 35 of Law no. 35/1997, republished,

The People’s Advocate Institution decided that the petitions regarding acts of torture, cruel, inhuman or degrading treatment in detention places submitted to the People’s Advocate Institution should no longer be solved by the Field regarding prevention of torture in detention places and shall be solved, depending on the notified issues, by the other fields of activity of the People’s Advocate Institution that fulfil a reactive role. On an exceptional basis, the People’s Advocate Institution may decide that some petitions regarding acts of torture, cruel, inhuman or degrading treatment in detention places shall be solved by the Field regarding prevention of torture in detention places.

► **As for maintaining contact with the Subcommittee for the prevention of torture**, we mention the correspondence with Ms Mari Amos - member of the Subcommittee for the prevention of torture and head of the Regional European Team, whereby the NPM Activity Report for 2016 was submitted, and she found that: ● NPM actively organized and took part in various events, both on an internal and international level; ● the proactive approach of NPM referred to NPM’s activity in claiming its own rights, proposing and negotiating changes to its law of operation and

its contribution on legislative proposals; ● the structure of visits was clear enough to create an understanding of deficiencies, recommendations and implementation thereof; ● the quick reaction pursuant to the rebellions in the Penitentiary of Iasi and the Penitentiary of Botosani, through visits undertaken in these institutions and involvement in solving situations; cooperation with NGOs

► The field regarding prevention of torture in detention places drew up **the viewpoint on the Country Report of the US State Department**, regarding the activity for the prevention of torture in penitentiaries, in preventive detention and arrest centres, in migrant centres, in psychiatry hospitals and neuropsychiatric recovery centres, in residential centres for children, referring to the findings resulting from the visits and investigations performed in 2017 and the recommendations and measures decided by the authorities thereon.

► pursuant to the correspondence with the Association for the Prevention of Torture (APT), the Field regarding prevention of torture expressed its interest in the professional training of staff, so that **APT obtained, for 2018, funding for the Project regarding the monitoring of psychiatric institutions in the Special Fund of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, with the Field regarding prevention of torture in detention places (NPM) of Romania as beneficiary.**

► the People's Advocate, Mr Victor Ciorbea, the deputies of the People's Advocate, Ms Magda Stefanescu, Mr Mircea Criste and Mr Zsolt Molnar met **Ms Dunja Mijatovic, Human Rights Commissioner of the Council of Europe, who visited Romania** during November 12-16, 2018, and the discussions also dealt with aspects regarding the activity of the Field regarding prevention of torture, respectively human rights for persons with disabilities, including inclusive education for children with disabilities.

► information was provided to **Mr Marc Bertrand, Chairman of the Association of Ombudsmen and Mediators of La Francophonie** regarding the actions taken with a view to enforcing the Tirana Declaration of September 8, 2016 especially regarding the activity of the Field regarding prevention of torture in terms of migrants;

► the **Questionnaire with concrete data on the number of children deprived from freedom in various situations**, as of June 26, 2018, as well as in the last 10 years (during 2008-2017) was filled in, as requested by Ms Leselle Panuncillo (assistant of the OHCHR team Department for National Institutions, Regional Mechanisms and Civil Society, Division for Field Operations and Technical Cooperation) and submitted to the Field regarding prevention of torture in detention places, pursuant to the letter of Mr Manfred Nowak, Leading independent expert of the “Global Study on Children Deprived from Freedom”, initiated upon invitation of the UN General Assembly.

The questionnaire was filled in based on the information provided by authorities, such as: the Ministry of Justice and the National Administration of Penitentiaries (regarding children admitted in an educational or detention centre); the Ministry of Internal Affairs (regarding children who are detained, preventively arrested); the General Inspectorate for Immigration (regarding children deprived from freedom for migration-related reasons); the Ministry of Labour and Social Justice (regarding children deprived from freedom in residential centres for minors - both public and private); the Ministry of Health, regarding children deprived from freedom in psychiatric institutions, including minors who are addicted to drugs, alcohol; the National Statistics Institute, regarding the estimated number of people residing in Romania for each of the last 10 years.

Furthermore, information was mentioned on the visits performed by the Field regarding prevention of torture in detention places (NPM) during 2017-2018, in units where children are deprived from freedom, as well as the issued recommendations. We present some aspects mentioned in the questionnaire:

- **children deprived from freedom as of June 26, 2018:**
- 39 children in police custody (detained or preventively arrested);
- 120 children preventively arrested, in units subordinated to the National Administration of Penitentiaries;
- 201 children in penitentiaries (minors subject to a final decision);
- 2 children deprived from freedom for migration-related reasons (children who accompanied at least one of the parents or legal guardians against whom the public custody measure was enforced);
- 1828 children who benefitted from residential services for children with

disabilities; • 4770 children who benefitted from residential services that are not dedicated to children with disabilities;

- **children who lived with their parents deprived from freedom in the criminal justice system as of June 26, 2016:** 8 children less than 12 months old; three specially dedicated sections operate in Romania, in the following units: the Women Penitentiary of Ploiesti - Targosorul no, the Detention Centre of Craiova and the Educational Centre of Buzias, providing the required conditions so that a mother deprived from freedom may take care of a child until s/he is 1 year old, upon request.

- **alternatives to depriving children from freedom:**

- during criminal prosecution - home arrest, judicial control and bail; after conviction - educational measures that do not deprive from freedom (civic traineeship; supervision; weekend prohibitions; daily assistance).

Based on the information provided by authorities, **as the New Criminal Code came into force on February 1, 2014, the number of minors deprived from freedom under custody of the National Administration of Penitentiaries decreased (292 children deprived from freedom pursuant to a conviction sentence in 2014 compared to 391 children in 2013) and under custody of the preventive detention and arrest centres (325 children in preventive arrest in 2014 compared to 496 in 2013).**

- **alternatives to the deprivation from freedom of children** in institutions: based on Law no. 272/2004 on the protection and promotion of children's rights, republished: custody, placement with the extended family, with a foster parent or another person or family;

With a view to aligning national legislation to international standards on children's rights protection, especially those regarding the institutionalisation/deinstitutionalisation of minor children, **legislative changes** were performed as follows:

- **the placement of children who are not 3 years old yet** can only take place with the extended family, the substitute one or a foster parent; their placement in a residential service is forbidden; by way of exception, placement with a residential service may be decided for children who are less than 3 years old, if they have severe

disabilities and are dependent from care in specialised residential services; when establishing the placement measure, the following will be envisaged: a) placing the child with the extended family or the substitute family, with priority; b) keeping siblings together; c) facilitating the parents' exercise of their right to visit the child and keeping in touch with it (Law no. 131/2014 on the amendment of art. 64 par. (1) and (2) of Law no. 272/2004 on the protection and promotion of children's rights);

- for children who are found in the family or in a public place, as well as children abandoned by parents in other medical facilities, whose birth has not been registered, a methodology must be drawn up and promoted on the achievement of the obligations of public local authorities, institutions and professionals involved in prevention and intervention in the case of children at risk or abandoned in medical facilities/sections/specialised obstetrics gynaecology and neonatal care departments/other medical facilities providing medical services to children.

Examples of good practices regarding the prevention of children detention, the reduction of the number of children who are deprived from freedom within the administration of justice or the reduction of the detention period:

- projects were undertaken in the **General Inspectorate of Romanian Police** to prevent juvenile delinquency on the following topics: prevention of academic failure and drop-out, prevention of antisocial actions perpetrated in the area of education institutions, prevention of drug and ethnobotanical consumption, prevention of criminality in minors with parents who are abroad, correcting antisocial behaviour, prevention of crimes perpetrated by children in placement centres; for instance, the project “Centres for information and educational counselling to reduce the number of crimes perpetrated by minors and their risk of becoming victims” (at the Police Inspectorate of the Timis county), which established preventive information centres in 10 high schools of the Timis county, in cooperation with the Timis School Inspectorate;

- at the level of the National Administration of Penitentiaries: the self-management sector was established in detention centres, dedicated to admitted persons who are preparing for liberation, which helps develop social coexistence

skills and ensure the transition to the assumption of an active and functional role in the society; a case officer is appointed in educational centres and detention centres for each admitted individual, who monitors the admitted persons during the execution of the educational measure, following the enforcement of a suitable treatment, based on individual specificities and with the responsible use of the resources of each minor person;

- as for preventing the separation of children from families and reducing the number of children who are deprived from freedom in institutions, **the Hope and Homes for Children Foundation (HHC)** was indicated as a good practice example by the National Authority for Child Protection and Adoption; the foundation, which has collaborated with central and local authorities for the reform of the child protection system (county councils, local councils, public child protection services) since its establishment, has focused on the closure of old style institutions, and on the replacement of the institutional child protection system with a system based on the family concept; in the last 17 years (the programme for preventing child separation from the family was initiated in 2001), HHC Romania managed to close 55 old style child protection institutions and support 28,436 children to stay with their families.

► the information requested by the General Secretariat of the Senate was sent, regarding visits performed in placement centres in 2017 by the Field regarding prevention of torture in detention places and by the representatives of the Field regarding the protection and promotion of children rights.

► The People's Advocate and the deputy of the People's Advocate who coordinates the activity of the Field regarding prevention of torture met with the chairman of the National Council of Elderly People, Mr Preda Nedelcu, and discussions were held on the **collaboration with the fields of activity of the People's Advocate Institution, especially the protection of the rights of elderly people in care centres for elderly people.**

► The field regarding prevention of torture in detention places drew up **the component of the answer sent by the People's Advocate Institution so as to draw up its accreditation file with the United Nations.**

► the **Questionnaire requested by FRA-APADOR-CH** was filled in – **Annex regarding interviews with representatives of the organizations/institutions involved in monitoring detention conditions.** In this context, the mandate and attributions of the Field regarding prevention of torture in detention places and the findings of NPM during monitoring visits were presented, regarding the aspects included in the questionnaire: the fundamental rights of suspects/defendants subject to preventive arrest (the right to contact a lawyer and a third party, the access to an interpreter); the suspect's/defendant's access to medical assistance during preventive arrest (medical examinations, protection of the suspects/defendants against violence, the existence of ways of appeal provided to suspects/defendants to answer detention conditions); a general evaluation of the reinforcement of the procedural rights of suspects/defendants in the last two to three years and the need that such rights are enforced in the following as well.

Furthermore, the preventive role of the Field regarding prevention of torture in detention places was outlined, as the Torture Prevention Mechanism (NPM).

► the **Questionnaire drawn up by the German Institute for Human Rights for the GANHRI migration workgroup** was filled in, which would help prepare a publication on the role of NHRIs in promoting and protecting migrants' rights, part of the activities circumscribed to the Global Agreement on Migration.

As for the various aspects resulting from the activity undertaken by the Field regarding prevention of torture in 2018, we conclude as follows:

► **visit teams faced the lack of cooperation upon the visit** (the Retirement Home of Mangalia, where it was claimed that the provisions of OPCAT did not apply to retirement homes). Thus, it was established that centres for elderly people/retirement homes were not subject to the monitoring of the Field regarding prevention of torture.

In this context, we establish that, according to the Optional Protocol, *freedom deprivation means any form of detention or imprisonment or placement of a person in a public or private detention place that s/he cannot leave at his/her own will, by order of any judicial, administrative or other authority.*

the definition of “detention places” in OPCAT by presenting a closed exhaustive list of categories of institutions was deemed to be improper. Such an approach would have inevitably resulted in the creation of a visit system with a too restricted and too restrictive scope of application. However, certain categories fall under the definition of “detention places” provided by OPCAT and could be expressed **through a non-exhaustive definition in national legislation, for clarity reasons**, such as: • police departments; • preventive arrest; • prisons; • juvenile detention centres; • border police and transit areas at border crossing points, harbours and international airports; • detention centres for immigrants and asylum applicants; • psychiatric institutions; • detention centres under military jurisdiction; • means of transport for the transfer of prisoners.

Additionally to these quite obvious categories, **according to article 4, NPM should have access to any other place where someone can be kept against his/her own will, even indirectly connected to public authority.**

Two key phrases in the definition of “detention place” in the meaning of article 4 describe the nature of this connection: • “under its jurisdiction and control”; • “by virtue of an order issued by a public authority or upon its request or with its consent or approval” (regarding the means by which a person is or can be kept in a detention place).

SPT considers that, regarding the implementation of this definition in operational practice, **it would be desirable “to provide a more extended interpretation to this definition, so as to increase the impact of the preventive activities of NPMs”.** “Any place where a person is deprived from freedom (i.e. s/he is not free to leave it at his/her own will) or where (...) a person *could be deprived* from freedom, s/he should fall under the jurisdiction of the OPCAT mandate if it is a situation where the state exercises or *could exercise* a regulatory function”.

Based on art. 34 of Law no. 35/1997 on the organization and operation of the People’s Advocate Institution, republished: a detention place is any place where persons are deprived from freedom based on a decision of an authority, upon its request or with its explicit or tacit approval.

Freedom deprivation means any form of detention or imprisonment or placement of a person **in a public or private detention place** that s/he cannot leave at his/her own will, by decision of any judicial, administrative or other authority. The following are detention places or, as the case may be, places where the People's Advocate Institution exercises its powers on torture prevention: • penitentiaries, including hospital penitentiaries; • educational centres, detention centres, preventive detention and arrest centres; • residential services for minor people who have committed crimes and are not criminally responsible; • psychiatric hospitals and for safety measures and psychiatric hospitals; • transit centres; • centres for the accommodation of aliens in public custody subordinated to the General Inspectorate for Immigration; • special centres for the reception and accommodation of asylum applicants subordinated to the General Inspectorate for Immigration; • centres where support services are provided to drug users in a closed system; • any other place meeting the requirements for a detention place or included in the health system or the social care system.

Moreover, **monitoring also refers to private detention places**, and, “if the visited institution does not comply, the People's Advocate or the deputy of the People's Advocate for the field regarding prevention of torture in detention places, as the case may be, shall notify this to the hierarchically superior authority or the local or central public administration authority that issued the operating permit, **for private detention places** and may take action based on the provisions of the Law and the Rules of Organization and Operation of the People's Advocate Institution (art. 44 par. (3) of Law no. 35/1997, republished).

Therefore, the centres in the social assistance system, i.e. the centres for elderly persons in the presented case, are subject to the monitoring of the field regarding prevention of torture (NPM), considering:

1. the compliance with art. 4 of OPCAT and art. 34 par. (1) of Law no. 35/1997, republished, i.e.: the existence of a decision of a legal, administrative or other kind of authority, respectively the request or with the explicit or implicit approval of the individual

2. the inclusion in the social assistance system, as listed by art. 34 (j) of Law

no. 35/1997, republished.

Considering the appeals found in practice, as centres in the social assistance system claim that they do not have to be included among the places subject to monitoring of the Field regarding prevention of torture (NPM), in the following we mention the reasons for their monitoring by the NPM, by making reference to some monitoring visits undertaken in such centres by NPMs in other countries:

♦ **the NPM of Montenegro (2015)** monitored the observance of the rights of elderly people, inspecting accommodation and other conditions in the Bijelo Polje Home and sent its report to the Ministry of Labour and Social Protection, with two recommendations to improve the existing conditions, i.e.: • assemble a rooftop in the yard to protect against sunlight and precipitations; • provide conditions for the accommodation of persons with dementia that are able to move.

A visit to check the implementation of recommendations was performed in November 2016, and it was found that they had not been met. Thus, the beneficiaries complained about the faulty heating. The NPM team informed the management that these people are highly sensitive to improper room temperatures. Furthermore, the pavement of the corridors was damaged and had to be replaced urgently, since beneficiaries could fall and be hurt.

♦ **the NPM of Bulgaria (2016):** during its 2016 visits, NPM established that retirement homes hosted many beneficiaries. This led to the conclusion that an alternative to institutional care was not available. Such social services were located away from large cities, which, combined with the absence of transportation, prevented the access of qualified specialists. The negative findings included the absence of an access ramp for persons with walking disabilities in some retirement homes, insufficient sleeping areas and bathrooms, the absence of panic buttons. An insufficient number of positions (speech therapist, psychologist, physical therapist, occupational therapist) was found in almost all homes, which raised doubts regarding the high quality of care for the accommodated persons.

The visits performed in 2016 showed that medical services were provided in improper conditions. Thus:

- a lack of coordination was found between the various specialists of retirement homes. Some individual medical assistance plans included diagnostics that were not properly reflected in the patient's personal reports. No tests or medical assessments were performed by specialists with a view to prescribing suitable treatment; no suitable measures for diagnostic and therapy were provided, according to good medical practice rules. NPM did not discover cases limiting the patients' rights regarding medication.

- NPM found that, in case of death of a beneficiary, the death was established by the general practitioner and no anatomic-pathological examination (autopsy) of the deceased was performed. In this context, the importance of performing an autopsy in all cases of death of a beneficiary of the concerned social service was underlined once again. At the same time, this would ensure that any doubts regarding the neglect of the beneficiaries' rights can be discarded and may help identify any medical errors.

- In Podgumer, NPM established that the beneficiaries' medical disorders did not meet the social service profile. Medical care was supplied by a general practitioner, who provided examinations together with a cardiologist once a week, in the retirement home. Four of the beneficiaries preferred their former general practitioner, and visits thereto were organized by their family. There were 0.5 vacancies - for a psychiatrist, a psychologist and a speech therapist. The manager of the home was a physician, who could be involved in the treatment if required. Dental care was supplied by a dentist with a part-time contract. All beneficiaries had performed dental examinations on an annual basis.

- A special room was allocated to occupational therapy, which was not properly equipped for the performance of rehabilitation activities. No physical therapist positions were available.

- NPM found damages in the sanitary facilities - strong odour, unbreathable air, improper number of sleeping areas compared to the number of beneficiaries. The alarm system was not working, as the buttons in the bedrooms had been removed.

In the home for elderly persons with dementia of Sofia, NPM established that the sheltered persons met the profile of the social institution. The guardians of all

beneficiaries were their relatives. Medical supervision was available for 24 hours. A head medical nurse and 7 medical nurses were available on site. People in wheelchairs could go to the yard.

The institution performed rehabilitation activities - mostly at a group and individual level. The procedures were prescribed by the physician in the home depending on the beneficiaries' status and rehabilitation potential. Occupational therapy was focused on daily activities. The food was varied and met the requirements of article 41 of the Procedure Rules - Implementation of the Law on social assistance. A signalling system with panic buttons was installed and functional.

NPM considered that **social services for elderly people had to be decentralized**, with the following priorities in the field of social services for elderly people:

- the accommodation conditions, that had to meet the requirements of article 40 f) of the Rules for the enforcement of social assistance, also regarding the creation of an accessible environment;
- the relevant institutions should exercise efficient regular control on the residential care service for elderly people, with a view to meeting medical standards, the Law on social assistance and the guidelines for its enforcement;
- actions have to be taken to update the Methodology approved by the Ministry of Health, Labour and Social Policy to establish positions in specialized institutions and social community services;
- detailed information must be provided to NPM regarding the Updated Action Plan, the National Long-term care strategy.

◆**Based on the reports of the NPM in the Czech Republic**, the visit team always included a medical specialist and a medical nurse. The objectives of the visit included: **ensuring safety, privacy and dignity, meeting the specific needs of persons with dementia, using sedatives and means of retention, preventing and managing pain, malnutrition and wounds.**

The NPM in the Czech Republic drew up a 44-page Special Report dedicated to *Residential Centres providing care without a permit*. Based on the Report, the centres frequently introduced themselves on their webpages, in the media and in their

customer relations creating the false idea that the services they provide are similar to social services registered as “retirement homes”.

In all the 9 visited centres, NPM discovered the following drawbacks: staff with no qualifications and no employment contract; some beneficiaries suffered from malnutrition, were locked in their rooms at night.

NPM recommended that municipal authorities should: • in case of an alleged absence of the authorization to provide residential social services, notify this to the relevant regional authority; • not refer the customers, their families and the guardian to non-registered facilities for residential social services.

♦ **the Austrian NPM recommended that retirement homes:** • to maintain and improve the staff’s working capacity, **professional psychological supervision** is needed during working hours, as well as external supervisors, who can select care teams. This would improve psychological hygiene and would help prevent exhaustion, harassment and violence; • homes are not a suitable environment for disabled young people; • unusual meal hours (improper hours) and waking up too early are an expression of structural violence and should be avoided. Evening activities were recommended for residents with dementia who suffered from insomnia and were restless; • the residents’ wishes had to be considered, nutritional recommendations had to be observed. Three main meals and two snacks are ideal. The time between meals should not exceed **five hours**, and the time between dinner and breakfast should not exceed **twelve hours**; • access to open air must be ensured **once a day**, especially for persons with mobility-related disabilities; • the right to privacy must be maintained, both when medical assistance is provided, and when rooms with several occupants are configured (visual barriers by means of panels, etc.); • freedom-restraining measures are frequently useless after psycho-social interventions, personal care and consideration of individual needs are a priority; • freedom restraints for medicines are subject to control by **courts** and must be reported by the management of the centres of the residents’ representatives as part of the exercise of individuals’ rights; • persons in institutions for elderly people must be able to freely elect their physicians; • care by other specialized physicians must be ensured with no restrictions.

When healthy and human care cannot be provided, beneficiaries must be transferred to other centres. Supervision authorities are called to act quickly.

♦ **the Croatian NPM issued recommendations pursuant to the visits:** ● for the Ministry of Social Policy and Youth, to increase the number of counselling and assistance and home assistance services for elderly people; ● for the Croatian Government to introduce financial support from the state for old persons with no pension or other income.

► **in the context of the difficulties met in the performance of visits by NPM teams, we mention that, in 2017,** the People's Advocate Institution took note of the situation presented in the media regarding the migrant inflow and decided to perform a spot visit to the Regional Centre of Procedures and Accommodation for Asylum Applicants of Timisoara. Pursuant to this visit, a Visit Report was drawn up stipulating that the centre did not employ a psychologist, so that psychological assistance was provided by a psychologist registered with the College of Psychologists, employee of a non-governmental organization, who was not present on the date of the visit.

Since only statistical data regarding psychological activity was obtained within the visit, the People's Advocate Institution recommended to regulate the situation and provide the requested information on psychological assistance (psychological assessments, identification of psychological needs, identification of vulnerable persons, psychological intervention plans, performed psychological counselling).

Regarding this recommendation, the General Inspectorate for Immigration informed that:

“considering the confidentiality of the requested documents, the representative of the non-governmental organization informed that they are willing to provide the above-mentioned documents based on a direct request from the psychologist of the People's Advocate Institution”.

Regarding this answer, the People's Advocate Institution - the Field regarding prevention of torture again asked the General Inspectorate for Immigration to review the situation and to take legal action for regulation, i.e. **during the visits, the**

subordinated units should provide the visit teams of the Field regarding prevention of torture with all requested documents regarding psychological assistance to persons deprived from freedom, which are held by non-governmental organizations who have partnerships with the General Inspectorate for Immigration. In this context, it was mentioned that the visit teams of the Field regarding prevention of torture, in turn, have the legal obligation to keep the confidentiality of personal data, which they become aware of during the exercise of their attributions to monitor detention places. Likewise, the following mentions were made:

1. The People's Advocate Institution, through the Field regarding prevention of torture in detention places, fulfils the specific powers of National Torture Prevention Mechanism in detention places, in the meaning of the Optional Protocol adopted in New York on December 18, 2002, to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on December 10, 1984 in New York, ratified by Law no. 109/2009 (based on art. 2 par. (2) of Law no. 35/1997 on the organization and operation of the People's Advocate Institution, republished).

2. Based on art. 20 letters a)-e) of the Optional Protocol adopted in New York on December 18, 2002, in order to allow national prevention mechanisms to fulfil their attributions, the state parties to this protocol agree to provide them with:

a) access to all information regarding the number of persons deprived from freedom in detention places in the meaning of art. 4, as well as the number of these places and their location;

b) access to all information regarding the treatment applied to such persons, as well as detention conditions;

c) access to all detention places and their facilities and arrangements;

d) the possibility to meet with persons deprived from freedom, with no witnesses, either personally or with an interpreter, if required, as well as any other person that may provide relevant information, according to the national prevention mechanism;

e) the freedom to choose the places they want to visit and the persons they want to have meetings with.

3. According to Law no. 35/1997, republished:

- art. 40 par. (1) and art. 41 par. (1) and (5): the visited institutions must provide the representatives of the visit team, according to the law, before, during or after performing the visit, with any documents or information available to them or which they can obtain, requested by them with a view to fulfilling their legal attributions; for the fulfilment of such attributions, the members of the visit team may have confidential meetings with any person deprived from freedom within the visited institution, and the names and other personal data of the interviewed person can only be made public with the prior written approval of the latter or of its legal representative.

- art. 23: The People's Advocate and his deputies have access, according to the law, to the classified information held by public authorities, provided that they think it is required to solve the petitions that have been addressed, as well as the notices *ex officio* and the announced or spot visits they perform to fulfil the specific attributions of the National Mechanism for the Prevention of Torture in Detention Places. The People's Advocate has the obligation not to disclose or make public the information or secret documents he has had access to. This obligation is maintained after the end of his activity as the People's Advocate and is extended to his deputies, as well as the staff under his services, under the sanction stipulated by criminal law.

4. The Protocol of Istanbul makes reference to the central role of psychological assessment in the identification of torture and other cruel, inhuman or degrading treatment and sets out that psychological assessments may provide critical evidence of abuse among victims of torture, for several reasons: torture frequently causes devastating psychological symptoms; torture methods are frequently designed not to leave physical marks; physical methods of torture may result in physical findings that may resolve or be non-specific.

Based on the answer of the General Inspectorate for Immigration, the requested documents may be provided by the representatives of the non-governmental organization, in compliance with the relevant legal provisions,

respectively Decision no. 788 of July 14, 2005 on the approval of the Methodological guidelines for the enforcement of Law no. 213/2004 on the exercise of the office of freelance psychologist, the establishment, organization and operation of the College of Romanian Psychologist and Regulation (EU) no. 679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

The situation presented above was also subject to debate within the **meeting between the representatives of the People's Advocate Institution - Field regarding prevention of torture in detention places (NPM) and the representatives of the General Inspectorate for Immigration (IGI)**, organized on November 22, 2018, when discussions were held regarding the identification of solutions for the cooperation of the representatives of non-governmental organizations who perform activities in centres for asylum applicants, with the members of NPM visit teams.



Other aspects debated in the workgroups, within the meeting of the representatives of the People's Advocate Institution - Field regarding prevention of torture in detention places (NPM) and the representatives of the General Inspectorate for Immigration (IGI) on the topic "Reinforcing the protection of persons accommodated in centres for asylum applicants and persons in public custody, against torture and inhuman or degrading punishment and treatment":

- *the insufficient number of staff of the centres*, both in some asylum centres and some public custody centres.

- *inefficient cooperation with General Directorates for Social Assistance and Child Protection on the topic of non-accompanied minors*. In order to solve this situation, according to IGI representatives, a Protocol is in progress to establish various aspects on the cooperation of centres with the General Directorates for Social Assistance and Child Protection. The means available to the People's Advocate Institution were proposed as solutions, i.e. drawing up recommendations to DGASPC units regarding the observance of the rights of unaccompanied minors or the performance of procedures at the Ministry of Labour and Social Justice/National Authority for the Protection of Child Rights and Adoption, to draw up specific procedures for the assistance of minors;

- *publishing vacant positions and recruiting medical staff*(physicians and nurses) for the vacant positions, also considering the additional number of medical nurses to provide permanent medical services in all accommodation centres.

- *entering protocols with medical units belonging to the Ministry of Health*. In the same context, the required approaches were mentioned with a view to: supplying dental medicine services for asylum applicants or aliens in public custody; equipping all centres subordinated to the General Inspectorate for Immigration with quick tests for detecting syphilis, HIV, B and C viral hepatitis; performing procedures at the Ministry of Health and Public Health Departments with a view to providing the required inventories of vaccines to immunise foreign children based on the National Immunisation Programme; arranging isolation rooms for infectious diseases in all centres subordinated to the General Inspectorate for Immigration.

- *the need to fill in all medical registers* (examinations and treatment register, pregnant women register, chronic diseases register, psychotropic treatment register, register of hospital admissions, immunisations register, register of refusal of food, register of traumatic marks, etc.), as well as the unitary performance of medical services supplied to asylum applicants, in a single register of examinations and treatment and in the medical report.

- *the reluctance in accepting psychological assistance* (fear, ignorance, desire for privacy); the absence of procedures on psychological assistance in the case of asylum applicants and the need to harmonize them with other procedures already existing at the level of the Psycho-Sociology Centre of the Ministry of Internal Affairs; establishing the route of documents between specialists (psychologists - physicians) and the management of the centre, other external services; the use by IGI centres of psychological interview reports with components regarding the identification of torture victims, of aliens who were victims of traumas, torture in countries of origin or during their migration to Romania.

- *the supply of social assistance*, where the representatives of the General Inspectorate for Immigration have made mentions regarding the **elaboration of a Normative Draft on the amendment of Government Ordinance no. 44/2004 on the social integration of aliens who have achieved a form of international protection or a right of stay in Romania, as well as the citizens of European Union and European Economic Area member states**, with major clarifications to be provided regarding the social integration of aliens.

- *the opportunity of employing social workers in centres, where* the representatives of the General Inspectorate for Immigration have supported social assistance services covered by integration officers.

► *regarding the defence of the rights of migrants, we take note of the situations found in the Retention and Triage Centres of Sculeni and Bors*, where the required metal rods were mounted in walls in triage rooms, based on the information provided by staff, in order to immobilize with handcuffs violent persons or persons known as dangerous.

For instance, at the Sculeni Retention and Triage Centre, the visit team found that this **safety measure is excessive and disproportional**, where immobilization was made with handcuffs on the one hand, and the triage room had video surveillance on the other hand. Moreover, the use of the metal rod for the immobilization with handcuffs applied in the presence of other persons and in improper accommodation conditions, where natural lighting and ventilation were not enough, represents an infringement of human dignity. *The People's Advocate*

recommended that the management of the Territorial Border Police Inspectorate of Iasi should remove metal bars from triage rooms, as well as amend the System Procedure on the organization and operation of the Triage Room of the Border Police to this purpose. *The management of the Territorial Border Police Inspectorate of Iasi answered the recommendation* that, as of 10.08.2018, **the System Procedure on the organization and operation of the Triage Room was amended according to the recommendations of the People's Advocate Institution by removing metal rods.**

In the same context, pursuant to the visit at the *Retention and Triage Centre of Bors, Bihor county*, the People's Advocate recommended to amend the Decision of the General Inspector of the General Inspectorate of the Border Police no. 11.206/2016 and the System Procedure on the organization and operation of the triage room of the Border Police no. 44/3600/2016, **i.e. to remove provisions regarding metal rods in triage rooms, considering that this safety measure is excessive and disproportional, since violent persons or persons known as dangerous were immobilized with handcuffs.** Thus, it was considered that **video surveillance would represent a sufficient method of supervision that would no longer require immobilization with handcuffs against a metal rod.**

The General Inspectorate of the Border Police informed that the **recommendation on the removal of the handcuff rod from triage rooms was implemented through the amendment of the system procedure regarding the organization and operation of the triage room and the provision of the General Inspectorate on the location and equipment of this area.**

► as of the proposal to amend legislation, we note that the People's Advocate Institution took act *ex officio* and decided to perform a visit in 2017 to the Preventive Detention and Arrest Centre of the County Police Inspectorate of Cluj, pursuant to the publication in the press and on TV (EvenimentulZilei, Libertatea, observatortv.ro, clujjust.ro and stirilekanald.ro) of information regarding **the arrest of a woman, mother of two children, of which a 3-month old baby, for theft.**

Pursuant to the visit, the Ministry of Justice was asked to analyse and **supplement art. 247 of Government Decision no. 157/2016** on the approval of the

Rules of enforcement of Law no. 254/2013 on the execution of punishments and freedom depriving measures decided by judicial bodies during the criminal trial, i.e. **to increase the number of visits for women who have and breastfeed minor children and who execute a freedom depriving measure in the preventive detention and arrest centres subordinated to the Ministry of Internal Affairs.**

Regarding the filed request, the **Ministry of Justice** informed the People's Advocate Institution that it has become aware of the mentioned aspect and **has provided the Ministry of Internal Affairs with the request, in order to be solved; it has taken note of the fact that the proposal filed by the People's Advocate Institution is founded.**

The **Ministry of Internal Affairs** expressed its approval regarding the legislative change proposed by the People's Advocate Institution, and the actions needed to initiate a normative draft that would regulate the concerned topic would be taken in the upcoming period.

► the **Special Report on detention conditions in penitentiaries and preventive detention and arrest centres, determining factors in the observance of human dignity and the rights of persons deprived from freedom, drawn up in 2015 by the People's Advocate Institution - Field regarding prevention of torture, mentioned that Order no. 988/2005 of the Ministry of Administration and Internal Affairs on the approval of the Regulation on the organization and operation of the preventive detention and arrest places of the police units of the Ministry of Administration and Internal Affairs has become obsolete.**

In this context, the **Ministry of Internal Affairs** was recommended to issue, based on art. 107 of Law no. 254/2013 on the execution of punishments and freedom-depriving measures decided by judicial bodies within the criminal trial., the **Order of the Ministry of Internal Affairs on the organization and operation of preventive detention and arrest centres.**

In February 2018, **Order no. 14/2018 on the approval of the Regulation on the organization and operation of preventive detention and arrest centres, as well as the required measures for their safety, were issued.**

► in 2018, the People's Advocate Institution directly notified the Constitutional Court, upon initiative of the deputy of the People's Advocate who coordinates the Field regarding prevention of torture in detention places on the non-constitutionality of *art. 101 par. (1) e) of Law no. 254/2013 on the execution of punishments and freedom-depriving measures decided by judicial bodies within the criminal trial, regulating the enforcement of the disciplinary sanction to suspend the right to visits, pursuant to the visit performed to the Bucharest-Jilava Penitentiary in 2017.*

Thus, the notice of the Constitutional Court held that scientific literature constantly emphasized that the suspension of the right to receive visits for no more than 3 months is a sanction to be applied to those who usually perpetrate infringements during the visits or have perpetrated serious infringements during their punishment. This sanction has been classified as severe, since the connection with the outside is extremely important for the convicted.

The suspension of the right to receive visits, as a disciplinary sanction, reduces the likelihood of providing parole, as the condition regarding good conduct is not fulfilled. Keeping in contact with the family and engaging in work are factors determining the social reintegration of detainees.

By way of consequence, based on **art. 101 par. (1) e) of Law no. 254/2013**, the detainees may be sanctioned with the suspension of their right to receive visits, for the perpetrated infringement, which implies suspending their contact with the family for some time. However, **based on Rule no. 43(3) of the Minimum Rules of the United Nations on the treatment of detainees, disciplinary sanctions or restrictive measures do not imply forbidding contact with the family.**

Means of contact with the family can only be restricted for a limited time and as strictly provided to maintain order and safety. **Including the right to receive visits in the category of rights that may be restricted and, implicitly, enforcing the disciplinary sanction consisting in the suspension of the visit right affect the detainees' relations with their families and reduces the role of the post-release social inclusion of persons deprived from freedom.**

The People's Advocate Institution considers **that the suspension of the right to visit, as a disciplinary sanction, is not proportional with the legitimate purpose seen from the perspective of the relation between the general claimed interest and the individual interest.**

Therefore, considering its general competence in terms of protecting human rights and freedoms, the People's Advocate institution holds that **the provisions of art. 101 par. (1) e) of Law no. 254/2013 on the execution of punishments and freedom-depriving measures decided by judicial bodies within the criminal trial go against the provisions of art. 26 of the Constitution regarding private and family life and art. 53 on the restrained exercise of some rights and freedoms, compared to art. 8 of the Convention for the protection of human rights and fundamental freedoms, since a fair balance is not maintained between concurrent interests, i.e. the state's interest for public order, and the individual's interest in guarantees for his/her private and family life.**

► in the context of *the provisions of art. 98 of the Government Emergency Ordinance no. 194/2002 on the status of aliens in Romania, republished, stipulating that removal under escort is monitored by national, international and non-governmental organizations and bodies with attributions in the field of migration*, and the assessment reports drawn up pursuant to such activities are sent to the People's Advocate, we take note of the **reports sent by the Romanian National Council for Refugees Foundation (CNRR) regarding the monitoring of forced return under escort on the Romanian territory of migrants staying illegally, performed by the General Inspectorate for Immigration.** Regarding these, the People's Advocate Institution asked the General Inspectorate for Immigration to inform on the decided actions.

Thus, we take note of the CNRR Monitoring Report stipulating that the General Inspectorate for Immigration forcibly removed five migrants (two from the Socialist Republic of Vietnam and three from Sri Lanka, of which a woman) from the Romanian territory, by escorting them to the border point on the Henri Coanda Otopeni International Airport.

The operations for the registration of migrants as passengers took about 44 minutes. Migrants were initially left to perform check-in operations themselves. The two citizens from the Socialist Republic of Vietnam quickly completed operations for registration as passengers of the QR 222 flight. Instead, *the registration of citizens from Sri Lanka took more than half an hour, apparently due to some issues related to their travel tickets to their country of origin.* After completing check-in operations, the group went to the bulky baggage control area to meet the border police representative who would provide support for passing through the security filters and passport control. After about one hour from the arrival at the airport, the group, with the support of border police representatives, passed through the security filters and passport control.

As conclusions, CNRR has established that **the registration of citizens from Sri Lanka as passengers of the QR 222 flight to Doha lasted a lot**, probably due to issues related to their travel tickets (as mentioned, the migrants were left to perform check-in by themselves, which meant they had tickets bought from funds not belonging to the General Inspectorate for Immigration, considering the policy of Qatar Airways regarding persons subject to forced return.

Pursuant to monitoring activities, CNRR recommended to the General Inspectorate for Immigration that, **in case migrants travel alone to their country of origin or destination, with plane tickets bought by them or by the companies they worked for, which are responsible for incurring costs for their repatriation, a physical copy of the travel ticket must be ensured, allowing a better communication of migrants with airline representatives, especially when some migrants subject to forced return do not speak English or another language spoken by operators properly.**

Regarding this case, based on the answer of IGI, for the five migrants, the tickets were bought by the former employer, as the aliens also explicitly declared that they wanted to go back to their country of origin voluntarily. Moreover, if an alien travels alone to the country of origin and s/he purchases the ticket by himself/herself (personally, with the help of the family, a friend, etc.) or the ticket is purchased by

the employer, s/he will always be handed a copy of the plane ticket, to perform airport check-in by himself/herself.

The delay in the boarding procedures for the three citizens from Sri Lanka was due to the fact that *the airline operator could not find in the system the ticket of one of the three citizens from Sri Lanka for the connecting flight that would be taken at the transit airport.* This was due to the fact that the alien left the Otopeni Accommodation Centre without taking the plane ticket for the second flight segment with him, even though his two other co-nationals had them. Finally, the airline operator informed that he could not see his ticket in the system, but it would surely be found by his colleagues on the transit airport; then, the three citizens from Sri Lanka followed the security control, passport control and boarding procedures.

All airline operators reserve the right to perform all the required checks in a person both for the pursuit of the travel and to be able to refuse boarding if not all conditions for travel are met.

Pursuant to the request of the People's Advocate Institution to specify the concerned measures, the General Inspectorate for Immigration informed that the **Accommodation Centre for aliens in public custody of Otopeni operatively performs return missions to PTF Otopeni and complies with all the steps required for the removal of an alien from the Romanian territory.**

► **as for monitoring the rights of children in residential centres** we take note of the visit to the "Casa Sperantei" Association Placement Centre of Campina, where 16 children under a protection measures were studying in Italy (15 children) and France (1 child); none of them had a disability or a chronic disease.

The visit team requested information on their study stay in Italy and France, on holidays, their state of health, their school progress, the coverage of their personal, social, cultural needs, but the representatives of the centre could not provide full information on every case. Considering these aspects, the visit team asked the management of the Centre to provide contact details of the beneficiaries or of the families where they lived in Italy and France, so as to contact them by phone during the visit; some beneficiaries and guardians thereof were selected and contacted. All beneficiaries contacted by phone stated they were happy with their stay abroad, with

the relation with the host family, that they were going to school and felt integrated. At the same time, *both their statements, the statements of guardians and the consultation of files showed that their purpose was to stay abroad forever.* Some of the contacted people did not answer their phones: neither the beneficiary, nor the host family. The statement of a family taking care of a beneficiary for study purposes: “If they want to, they can stay here all their lives. They only go to Romania to prepare their documents.” *It was found that some of the beneficiaries began their visits to Italy more than 10 years before, and they understood and spoke Romanian with some difficulty.* **Therefore, the visit team concluded that this was not a strict school/study programme, where they would go back to the centre during their holidays. Some of the beneficiaries came back for a few days, only in order to renew their identity documents issued by the Romanian state. Other folders included statements of families stipulating that the beneficiaries did not go back to the Centre during their holidays.**

Some of the folders included the approval for spending the holiday abroad from the General Directorate for Social Assistance and Child Protection of Prahova. Thus, *the statements of the representatives of the centre, that they are involved in strict study programmes, are unsupported.* Moreover, though the beneficiaries had a protection measure at the “Casa Sperantei” Association, their representatives were unable to provide information on the regular monitoring of *beneficiaries during their stay abroad, such as their health, the activities and programme during summer, the existence of any personal issues, with no precise monitoring and knowledge of their date of return at the centre.* **Divergences were found between the consulted documents, the statements of the beneficiaries, of the representatives of the centre and the actual situation.** Thus, several beneficiaries had their latest Detailed Assessment Reports drawn up in March 2018; according to the documents provided based on their phone statements, the beneficiary had been abroad since 2017 and had not come back to Romania, so the assessment report was drawn up in the beneficiary’s absence.

Since the received information was unclear, after the visit, **the General Directorate for Social Assistance and Child Protection (DGASPC) of Prahova**

was asked to provide additional documents, showing the following: some plans of intervention, drawn up after the visit of the representatives of the Field regarding prevention of torture in detention places, involved the head teacher from the Italian school and the host family, but they had not signed the individual intervention plan, so they were not aware of it.

Also pursuant to the visit and the requests to DGASPC Prahova, affidavits of the families where some children lived were sent, stipulating that the minors lived with them, that they had completed their primary school cycles and that they would cover all living expenditure (education, transportation, health, etc.). Brief descriptions from Italian psychologists (of August 2018) were added, generally stipulating that the “minors were integrated at a family, school and social level”. Since: the beneficiaries were under a placement measure at the “Casa Sperantei” Association of Campina and benefitted from social services within DGASPC Prahova, but some of them did not go back to the country for at least 12 months; individual protection plans, affidavits of the host families, psychological descriptions were drawn up pursuant to the visit and upon request of the visit team.

The People’s Advocate provided recommendations both to the representatives of the visited unit and to DGASPC Prahova, regarding the check of the situation of minors leaving to study abroad. Furthermore, the National Child Protection Authority was notified on the found aspects and the required actions.

DGASPC Prahova informed, in its answer to the People’s Advocate Institution, that the **recommendations were pending implementation, and ANPDCA informed the People’s Advocate Institution that checks of the shown issues were decided, so that information could be sent regarding the obtained results and, as the case may be, measures could be decided according to the attributions of the institution, established through the normative acts in force. Until the elaboration of this report, the representatives of the “Casa Sperantei” Association of Campina, Prahova county did not answer the recommendations included in the visit report.**

► **as for psychiatry hospitals**, we take note of the actions taken by the Field regarding prevention of torture, pursuant to the notice *ex officio* regarding the information published in the media in 2017, regarding the **death of a patient at the Hospital for Psychiatry and Safety Measures of Jebel, Timis county**. In this context, the People's Advocate Institution decided to perform a spot visit on 01.11.2017, to the Hospital for Psychiatry and Safety Measures of Jebel, Timis county.

The visit resulted in a Report stipulating that, given her psychological disorder, the patient had left the pavilion where she was admitted, taking advantage of the lack of attention of care staff. The nurse on duty found that the patient was missing. When the disappearance was found, actions were not taken in full compliance with the provisions of the procedure for the unannounced abandon of the Hospital; the physician on duty only informed the authorities and the patient's daughter by phone. Based on the operational procedure, "for the cases of ill persons who cannot be recovered immediately after the hospital is left, the police will be informed both by phone and in writing".

The physician of the deceased patient mentioned that, on 29.06.2017, around 5.30 p.m., he had been informed by the physician on duty, by phone, that she had left the hospital. The patient was released *ex officio* on 29.06.2017, 5 p.m. (The time when she was not found).

Based on the submitted documents and the discussions with the temporary management of the Hospital for Psychiatry and Safety Measures of Jebel, it was found that the physician on duty organized the systematic search of the patient with the staff of the department based on the internal procedure, both within the hospital (accessible areas) and on its outskirts (the Station of Jebel, the commune of Obad, the Ciacova highway and the Padureni commune). The search for the patient did not yield any results.

On 31.07.2017, after more than 30 days, the dead body of the disappeared patient was found in an advanced state of putrefaction within the Hospital for Psychiatry and Safety Measures of Jebel, in a hardly accessible place, covered in vegetation. Based on the internal procedures of the hospital, the police bodies were

notified by phone (Police of Deta, Department 9 of the Rural Police of Jebel), who started the actions for identifying the dead person and for investigating the circumstances of the death.

The medical certificate for the death issued by the Institute of Legal Medicine of Timisoara on 03.08.2017 set out “Myocardic Fibrosis” as the cause of death.

The team visit found in the Visit Report that **there were some faults in the supervision of the dead patient, which allowed her to leave the pavilion of the medical department and facilitated the occurrence of the event..** The People’s Advocate Institution recommended that the Hospital for Psychiatry and Safety Measures of Jebel, Timis county should urgently arrange the inside yard by completely deforesting the area with abundant spontaneous vegetation, to improve supervision and avoid unpredictable events, considering the patients’ psychiatric pathology.

Regarding this Recommendation, the management of the centre stated that an assessment of the field of the inside yard would be performed within two weeks by the Administrative Office of the unit and the required works would be estimated, so as to purchase the services of a relevant company for deforestation-arrangement works, when the 2018 budget of the unit was approved.

The People’s Advocate Institution asked that the Ministry of Health should take the required actions to solve the situation and inform the People’s Advocate Institution, which notified us that it had asked the Public Health Department of the Timis county to check the found aspects and the recommendations set out with a view to improving the patients’ treatment and preventing torture and inhuman or degrading treatment or punishment. Based on the answer of the Ministry of Health, the Administrative Office of the hospital assessed the field of the inside yard of the hospital and entered a services contract with a specialized company for the arrangement and maintenance of green areas during June-October 2018. On the date of the control, it was found that the green area between the pavilions was properly maintained. In the north area of the hospital, next to the railway, the vegetation was properly maintained next to the alley, but there were two rows of trees and shrubs with varying height. In the budget approved for 2018, under “Other expenditure for

revenues and services”, the amount of 30,000 lei was provided, of which 26,837 lei were spent for the maintenance of green areas in 2018.

► **The Field regarding prevention of torture in detention places enforced the provisions of art. 47 of Law no. 35/1997, republished, as subsequently amended and supplemented, notifying criminal prosecution bodies when, in the exercise of its attributions, it had established the existence of clues on the perpetration of crimes.** For instance:

- The field regarding prevention of torture in detention places informed the Prosecutor’s Office attached to the Court of Bucharest pursuant to the spot visit to the Preventive Detention and Arrest Centre no. 1 of Bucharest, where the failure to observe the legal provisions regarding the immediate submission of notes finding traumatic marks to the relevant prosecutors’ offices was mentioned, as stipulated in art. 32 par. (2) of O.M.A.I. No. 14/2018 on the approval of the Rules of organization and operation of preventive detention and arrest centres, as well as the required measures for their safety. It was found that the submission interval ranged from 5 hours to about 3 months. **Based on the answer received from the Prosecutor’s Office attached to the Court of Bucharest, its records included no causes corresponding to the submitted data. Measures will be taken in order to identify the submission of notes finding traumatic marks by the preventive detention and arrest centre, as well as the solution decided on this by criminal prosecution bodies.**

- The field regarding prevention of torture in detention places performed a visit to the Preventive Detention and Arrest Centre of I.P.J. Constanta, when it was found that ten persons deprived from freedom showed traumatic injuries (excoriations, ecchymoses, haematoma, tumefactions, plagues), occurring prior to the imprisonment process, with the finding notes drawn up by the medical staff being sent to criminal prosecution bodies, i.e. the Prosecutor’s Office attached to the Court of Constanta and the Prosecutor’s Office attached to the Judge’s Office of Constanta.

Pursuant to the visit, the People’s Advocate Institution asked the Prosecutor’s Office attached to the Court of Constanta and the Prosecutor’s Office attached to the Judge’s Office of Constanta to provide information on the solutions decided in these

cases. In one case, the Prosecutor's Office attached to the Court of Constanta informed that, based on their checks, no notes regarding traumatic marks were submitted to the prosecutor units. The person deprived from freedom was prosecuted for the crime of murder stipulated under art. 188 par. (1) of the Criminal Code, and the injury was considered in order to solve the case, since the person deprived from freedom declared, during the criminal prosecution, that it had been stabbed by the victim of the murder; the same prosecution notice decided to dismiss the cause for the crime of hitting or other violent acts stipulated by art. 193 par. (2) of the Criminal Code. In another case, the Prosecutor's Office attached to the Court of Constanta informed that the note regarding the finding of traumatic marks was communicated on 07.05.2018 to the prosecutor unit regarding the criminal case where investigations were performed concerning the person deprived from freedom for the perpetration of murder as stipulated by art. 32 par. (1) of the Criminal Code corroborated with art. 188 of the Criminal Code. During the investigations, the person deprived from freedom constantly claimed that the injuries were caused by the injured person, who had physically assaulted him; the evidence showed that his claims were not supported. An indictment was drawn up in the case, mentioning that the person deprived from freedom did not file a criminal complaint for the crime of hitting or other violent acts stipulated by art. 193 of the Criminal Code.

Regarding the other cases, the Prosecutor's Office attached to the Judge's Office of Constanta asked for additional information with a view to identifying criminal files.

- pursuant to the visit performed at *C.R.A.P. Teleorman*, the visit team of the Field regarding prevention of torture took note of the fact that, during 2017, the presence of signs of body violence was seen in **8 cases**, and in 2018, until the performance of the visit, **in 5 cases**. They were included in the medical records and in the protocols drawn up upon imprisonment, under the signature of the person deprived from freedom. In 5 cases, the persons stated that they had been assaulted by police bodies during their arrest. In two cases, the persons did not show traces of violence, according to the provided protocols. **For the other 3 cases, based on bodily search protocols upon introduction to the preventive detention and arrest**

centres, the persons stated that they had been assaulted by police bodies. According to the mentions of these protocols, signs of violence were found (ecchymoses - eyes, nose, shoulder, lower back area, knee; excoriations - elbow, foot; petechiae - arms, the thorax area; contusion). According to the information provided by persons subject to preventive arrest, the signs of violence came: in one case, from hits with fists, palms and rubber bats by policemen; in another case, from police workers when placing handcuffs; in another situation, from police workers. After finding signs of violence, the Prosecutor's Office attached to the Court of Bucharest was notified. The discussions with the medical staff of the visited unit and the submitted documents showed that the signs of violence were included in medical records and in the protocols drawn up upon imprisonment, under signature of the person deprived from freedom, "with the legal action being taken, and a copy of the protocol drawn up upon incarceration being submitted to the Prosecutor's Office".

The People's Advocate Institution approached the Prosecutor's Office attached to the Court of Teleorman, requesting information regarding the solutions decided on persons deprived from freedom who claimed they had been physically assaulted by police bodies. **The Prosecutor's Office attached to the Court of Teleorman answered** the request, stating that criminal files on crimes of abusive behaviour, abusive investigation, subjection to ill treatment and torture have not been registered against police agents by persons deprived from freedom, based on arrest mandates issued by the judge according to the law. **Measures will be taken in order to identify the submission of notes finding traumatic marks by the preventive detention and arrest centre, as well as the solution decided on this by criminal prosecution bodies.**

- The field regarding prevention of torture in detention places performed checks regarding the situation invoked by a petitioner who claimed he had been physically assaulted by an employee of the penitentiary. Pursuant to the check of the documents provided by the management of the Bucharest Jilava Hospital Penitentiary, the following were found: the person deprived from freedom stated he had been physically assaulted by the penitentiary agent, which is why he was taken to the medical office where it was found that he showed, at the time of the examination, a

tumefaction at the level of the left arcade and a tumefaction at the level of the right paravertebrae.

The management of the Bucharest Jilava Hospital Penitentiary took the following actions: • the petitioner was referred to the Legal Medicine Service; • the National Administration of Penitentiaries was informed; • the supervisory judge for the deprivation of freedom was informed; • the Prosecutor's Office attached to the Judge's Office of Cornetu was notified of the behaviour shown in the fulfilment of professional attributions by the penitentiary agent; • the Discipline Committee of the Bucharest Jilava Hospital Penitentiary was informed against the supervising agent; • an incident report was drawn up regarding the person deprived from freedom; • the operative staff was trained on the observance of legal provisions regarding the management of operational incidents and the provisions of OMJ 27494/2004 on the Deontologica Code.

Based on the Observation Report of the Bucharest Jilava Hospital Penitentiary, the person deprived from freedom claimed he had been hit on the head and the back thorax. The medical examination showed that he had a tumefaction in the left arcade and a tumefaction in the right paravertebrae. Based on the medico-legal certificates, the person deprived from freedom showed traumatic injuries that could have been caused by hitting with a hard item, for which 1-2 days of medical care were needed, as traumatic injuries were not life-threatening.

Regarding the incident, the person deprived from freedom filed a criminal complaint with the prosecutor's office against the supervising agent; the prosecutor adopted an Ordinance to dismiss the case, stating that, based on ECHR practice, a person could not be sanctioned for the same deed twice. Therefore, as soon as the Disciplinary Investigation performed by the Bucharest Jilava Hospital Penitentiary showed that the agent infringed the legal provisions, which resulted in a disciplinary sanction, his criminal liability cannot be claimed.

A check of the court portal showed that the court found that the Ordinance of the First Prosecutor was legal and founded, confirming the **reopening of the criminal prosecution for the crime of abusive behaviour**, stipulated by art. 296

par. 1 and 2 of the Criminal Code (i.e. the previously mentioned file on the dismissal ordinance).

V. Actions for the dissemination of the attributions of the field regarding prevention of torture in detention places (NPM), taking part in conferences, national and international symposia, staff training

It is remarkable that the idea of *external and independent monitoring of detention places* has developed in the last years, and, currently, there is a wide acceptance of the conception that one of the best protections against torture and ill treatment is the highest transparency of detention places, with the possibility of regular access of the respectable members of the society. As stated by professor Theo Van BOVEN, Special Rapporteur of the United Nations (UN) on torture, ***“monitoring detention places by independent bodies with relevant qualification is one of the most efficient ways to fight the practice of enforcing torture and ill treatment”*** (*Monitoring detention places – Practical Guide, APT, Geneva, 2004, printed by Vicandis-Lux SRL, p. 14 and p. 7*).

The implementation of this idea resulted in the adoption, on December 18, 2002, in New York, of the *Optional protocol* to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on December 10, 1984 in New York (hereinafter referred as the Optional Protocol), aimed at **establishing a system of systematic visits performed by international and national independent bodies** where persons are deprived from freedom, **with a view to preventing torture and ill treatment**, based on art. 1 of the Protocol.

“Torture refers to different type images, becoming a deforming mirror of our society, combining violence, sadism, brutality, desire of power.” (RuxandraCesereanu, *Panopticum. Eseudespretorturăînsecolul XX*, 2nd edition revisited, Polirom, 2014, p. 21). In the attempt of providing a definition of the concept of torture, the analysts of this phenomenon used various terms such as: aggression, violence, wound, intense punishment, the quantitative art of suffering, etc. (RuxandraCesereanu, *op. cit.*, p. 13).

Seen from the perspective of human rights, the concept of torture implies four aspects: 1. infringement of human rights; 2. dishumanisation, cruelty and degradation of people; 3. prevention of torture; psychological recovery of persons subject to torture.

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment **defines torture** as “*any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, (...) or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.*” (art. 1).

The interpretation of this article shows **four defining features** of the concept of “torture”, i.e.: 1. **severe pain or suffering** (physical or moral); 2. **intention**; 3. **purpose**; 4. **public authority**.

At the same time, one has to distinguish *between the accidental and systematic character of torture*, as **systematic torture is supported by any kind of Power, as a system of domination** (RuxandraCesereanu, *op. cit.*)

In its practice, the European Court of Human Rights specifies the concepts of torture, inhuman treatment, degrading treatment, based on two criteria:

1. *the intensity of the suffering borne by the victims*: **inhuman treatment** – treatment intentionally causing mental or physical suffering of severe intensity; **degrading treatment** – treatment seriously humiliating an individual in front of his/her peers, making him/her act against his/her will or conscience or bringing him/her down in his/her own eyes; **torture** – inhuman, intentional treatment, that causes extremely serious and cruel suffering.
2. *the relative assessment of the seriousness of ill treatment*: to be assessed depending on the duration of the treatment, the physical or mental effects; sometimes depending on sex, age, state of health of the victim.

The European Court of Human Rights has established the “assumption of seriousness” – a use of physical force is *per se* a “minimum seriousness” required so that art. 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms is deemed to be infringed: Any use of physical force against a person in a state of inferiority, as deprived from freedom, affects human dignity and is forbidden based on art. 3 of the Convention and “the integrity of a person benefits from absolute guarantee even in the most difficult circumstances, such as fight against terrorism and organized crime”.

Based on art. 35 h) of Law no. 35/1997 on the organization and operation of the People’s Advocate Institution, republished, one of the attributions of the Field regarding prevention of torture in detention places (NPM) is to coordinate the organization of information, education and training campaigns with a view to preventing torture and cruel, inhuman or degrading punishment or treatment.

In order to enhance the awareness of authorities coordinating units subject to NPM monitoring, regarding the prevention of torture and ill treatment, NPM members have performed extensive dissemination in 2018. The following were presented within events: The NPM activity report for 2017; concepts such as human dignity, torture, inhuman treatment, degrading treatment and prevention of torture; legislation on torture prohibition and prevention; suicide; compliance with minimum quality standards; aspects found by NPM during the performed visits; recommendations to the visited units.

Thus, the organized events also provided training to staff members working in places where persons are deprived from freedom, as per art. 4 of the Optional Protocol to the Convention against torture and other cruel, inhuman or degrading treatment or punishment.

Furthermore, with a view to identifying support possibilities from NPM, the meetings included discussions on the issues faced by the concerned units, such as:

- at the level of *General Directorates for Social Assistance and Child Protection*: • insufficient specialized staff, mainly due to the absence of specialists on the labour market, unattractive salaries and improper work conditions (this was seen

mostly in elderly homes and centres for adults with disabilities); • the deadline for drawing up plans to restructure residential centres with a capacity of more than 50 places, i.e. December 31, 2018 (stipulated in Government Emergency Ordinance no. 69 of July 17, 2018 on the amendment and supplementation of Law no. 448/2006 on the protection and promotion of the rights of persons with disabilities), which is considered to be insufficient, since, in some cases (especially for neuro-psychiatric recovery and rehabilitation centres), there are no alternatives to institutionalization in traditional residential centres (family-type or residential alternatives, newly established), and the Ordinance stipulates that, as of January 1, 2019, the public funding of residential centres with a capacity of more than 50 places shall be reduced annually by 25% (which will affect the activity of such centres that already faced the scarcity of the required funds); • improper cooperation with school inspectorates, education institutions and hospital units (D.G.A.S.P.C. representatives took note of the differentiated treatment applied to children institutionalized in schools, their labelling, and, in the case of hospitals, the requests of medical staff, i.e. to admit older children with a companion, which was difficult to do, since the staff was insufficient);

- at the level of the *General Border Police Inspectorate*: • problems with locations that could not be rehabilitated/sanitized/arranged as they were not directly managed by the Inspectorate;

- at the level of *psychiatric hospitals*: • the admission of patients classified as social cases (persons who lived in the street or were abandoned by their families) where immediate solutions were not identified and who needed the allocation of resources, which affected the budgets of hospitals and their capacity to provide specific services to more patients. A problem raised by all authorities was the acute lack of staff.

► In the following, we present **the dissemination activities organized during 2018:**

On November 22, 2018, a debate took place between the representatives of the People's Advocate Institution, Field regarding prevention of torture in detention places and the General Inspectorate for Immigration. The meeting included

discussions in workgroups organized according to the fields of assistance supplied by the General Inspectorate for Immigration to persons accommodated in centres for asylum applicants and persons in public custody (legal, medical, psychological, social).



- the debate on the topic “*Human rights - Standards, experiences and Romanian institutional practices*”, organized at the TituMaiorescu University on April 23, 2018, with the participation of: the People’s Advocate Institution - deputy of the People’s Advocate - Field regarding prevention of torture; Ms MarietaSafta - secretary of state - Ministry of Justice; Ms IoanaMorar, head commissioner of penitentiaries, deputy gneral director of the National Administration of Penitentiaries, Professor Nicolae Voiculescu from the TituMaiorescu University, director of the IOSUD. The topics were: monitoring in detention places performed by the field regarding prevention of torture; measures to solve overcrowding in prisons and to improve detention conditions; characteristics of the ECHR caselaw on art. 3 of the European Convention on Human Rights and Fundamental Freedoms; coordinates on the social reintegration of persons deprived from freedom.



- an activity of information organized on March 9, 2018 at the *Bacau Penitentiary* on the topic “Observance of the rights of women in penitentiaries in the context of national and international legislation”, with the opportunity of the International Women’s Day - March 8. The activity was attended by approx. 25 women prisoners of the Bacau Penitentiary, who were informed on provisions of national legislation, as well as of the Universal Declaration of Human Rights, the European Convention of Human Rights, the Convention on the Political Rights of Women. The women prisoners presented practical aspects regarding the enforcement of the mentioned legislation and classified the activity as beneficial.

- round tables organized during March 15-16, 2018 at the head offices of the *General Directorate for Social Assistance and Child Protection of district 3*, and the *General Directorate for Social Assistance and Child Protection of district 2* respectively, where topics were debated such as: presentation of the concept of torture, ill treatment, relevant legislation on torture prevention, aspects found during visits to residential centres for children, homes for elderly persons, neuro-psychiatric recovery and rehabilitation centres.

- a thematic workshop organized on April 17, 2018, at the *General Directorate for Social Assistance and Child Protection of Olt, Slatina*, in order to disseminate the 2017 Annual Report of the field regarding prevention of torture in

detention places, with the participation of representatives of the General Directorate for Social Assistance and Child Protection of Olt (general director, deputy general directors), heads of centres and employees of the directorate (physicians, psychologists, case managers, etc.). The event also included a debate on other topics, such as: the observance of standards on ensuring the life quality of institutionalized persons; the attributions of the Field regarding prevention of torture in detention places; the support of the People's Advocate Institution for solving the issues faced by D.G.A.S.P.C. Olt in the protection of children's rights and the social assistance of adults and elderly persons.



Întâlnire de lucru cu Avocatul Poporului, pe tema respectării drepturilor persoanelor instituționalizate

Personalul de specialitate din cadrul DGASPC Olt a participat, marți, la un workshop, alături de reprezentanți ai Instituției Avocatului Poporului, Centrul regional Craiova, tema dezbaterii fiind „Respectarea standardelor privind asigurarea calității vieții persoanelor instituționalizate”.

de Diana Berbecaru

Directorul DGASPC Olt, Rădău Piroșca, șefii centrelor din subordinea Direcției au avut o întâlnire de lucru cu reprezentanții Centrului regional Craiova, din cadrul Instituției Avocatului Poporului, pentru a dezbate problemele celor care beneficiază de asistență socială, în special persoanele cu dizabilități.

„Personalul de specialitate de îngrijire și asistență socială este prezent pentru un workshop de lucru al Instituției Avocatului Poporului, având ca temă respectarea drepturilor persoanelor instituționalizate în centrele rezidențiale pentru copii și adulți, prevenirea torturii. Sunt binevenite astfel de grupuri de lucru pentru că este o problemă specială în ceea ce privește, mai ales, persoanele cu dizabilități mentale, psihice, cu agresivitate. Împreună cu aceste organisme trebuie să găsim soluții astfel încât să se fie respectate drepturile în orice centru, fie că este vorba de sănătate, încât aceste persoane să aibă drepturi egale și să aibă servicii acordate pe măsura nevoilor lor”, a declarat Rădău Piroșca, șefa DGASPC Olt.

Avocatul Poporului a avut, în județul Olt, două vizite de lucru, în 2015 și 2016, tocmai într-o problemă legată de nevoile persoanelor cu dizabilități.

„Nu supraveghem toate locurile de detenție cu privire la modul cum sunt respectate drepturile și libertățile persoanelor private de libertate, atât în centre de detenție, cât și în direcțiile generale de asistență socială, spitale de psihiatrie și altele. Avem această întâlnire pentru a discuta și a încerca să transmitem întregului personal al DGASPC modul cum trebuie respectate aceste drepturi și libertăți ale persoanelor instituționalizate. În județul Olt am avut câteva vizite făcute de către Instituția Avocatului Poporului și în urma acestora am avut anumite constatări, dar astăzi vom discuta cu personalul implicat”, a precizat Lucian Moșoiu, consilier în cadrul Centrului regional Craiova al Instituției Avocatului Poporului.

of 2

4/18/2018, 10:03 AM

- round tables organized on May 3, 4 and 10 at the head offices of the General Directorate for Social Assistance and Child Protection of Buzau, Ialomita and Prahova, where topics were debated such as: presentation of the concept of torture, ill treatment, relevant legislation on torture prevention, aspects found during

visits to residential centres for children, homes for elderly persons, neuro-psychiatric recovery and rehabilitation centres.

- dissemination action organized on May 17, 2018 at the head office of the *Border Police of Bucharest*, where the 2017 Activity Report of the Field regarding prevention of torture in detention places was disseminated. Furthermore, discussions were held on the issues encountered by the General Border Police Inspectorate in ensuring the protection of the rights of the persons under the custody of its subordinated units.

- awareness-raising action organized on May 18, 2018 at the head office of the *General Directorate for Social Assistance and Child Protection of Neamt*, on the topic “Monitoring detention places” and presentation of the Activity Report of the Field regarding prevention of torture in detention places for 2017. During the meeting, both parties emphasized the utility of organizing dissemination activities on the NPM mandate in the centres subordinated to the General Directorate for Social Assistance and Child Protection of Neamt.

- thematic workshop organized on May 29, 2018 at the “Alexandru Ștefulescu” Museum of *Târgu Jiu*, on the topic: “National and international legislation on prevention of torture and dissemination of the 2017 NPM activity report”, with the participation of representatives of the Targu Jiu Penitentiary (management and members of the Medical Sector, Social Reintegration Sector and Service for Detention Safety and Penitentiary Regime).

- event devoted to the prevention of torture and inhuman or degrading treatment, on the topic: “The International Day for supporting torture victims - June 26”, organized on June 2, 2018 at the *Craiova Pelendava Penitentiary*. Topics were approached such as: human dignity; the concept of torture, inhuman or degrading treatment; guarantees against torture and national and international torture prevention mechanisms, etc. The event was attended by representatives of the Craiova Pelendava Penitentiary (physician, agents, psychologist, social worker, etc.). The purpose of the event was to outline the activity of the field regarding prevention of torture, i.e. to ensure the respect for the fundamental rights and freedoms of persons in the custody of Romanian penitentiaries.



- in order to mark the International United Nations' Day for supporting torture victims, a dissemination action was organized within the *Penitentiary of Giurgiu*, on June 26, 2018, on topics such as torture, prevention of torture, human dignity, ill treatment, inhuman or degrading treatment, guarantees against torture and national and international for the prevention of torture, the Mandela Rules (especially Rule 34 on torture). *Human qualities and human dignity must not be affected by the fact that a person lives for some time in other places than home* – was the conclusion of the meeting

- awareness-raising action organized on June 28, 2018 at the head office of the *General Directorate for Social Assistance and Child Protection of Bacau*, on the topic “Monitoring detention places” and presentation of the Activity Report of the Field regarding prevention of torture in detention places for 2017.

- thematic workshop organized on June 28, 2018 in Sibiu, with the participation of staff members of the “*Guliver*” *Placement Centre*, on the topic “Promoting children’s rights”, in the context of the International Day of Innocent Children, Victims of Aggression.

- awareness-raising action organized on July 6, 2018 at the head office of the *General Directorate for Social Assistance and Child Protection of Vaslui*, on the topic “Monitoring detention places” and presentation of the Activity Report of the Field regarding prevention of torture in detention places for 2017.

- workshop organized on August 23, 2018 on the topic “*Prevention of torture and inhuman degrading treatment in detention places*” at the head office of the Valcea County Police Inspectorate. Topics were approached such as: human dignity; the concept of torture, inhuman or degrading treatment; guarantees against torture and national and international torture prevention mechanisms, etc. The event was attended by representatives of the Valcea County Police inspectorate (physician, psychologist, social worker, some staff of the Preventive Detention and Arrest Centre, etc.).

- workshop organized on September 10, 2018 on the topic “*International Suicide Prevention Day - September 10*” at the head office of the Craiova Penitentiary. Topics were approached such as: suicide, human dignity; the concept of torture, inhuman or degrading treatment; guarantees against torture and national and international torture prevention mechanisms, etc. The event was attended by representatives of the Craiova Penitentiary (detention safety and penitentiary regime officers, physician, psychologist, social worker, educators, etc.).

- actions organized during September 12-13, 2018 at the *Gherla and Codlea Penitentiaries* on the topic of suicide with the occasion of the International Suicide Prevention Day;

- workshop organized on September 27, 2018 on the topic “Compliance with Standards on the Assurance of Life Quality of Institutionalized Persons - attributions of the NPM” at the head office of the *General Directorate for Social Assistance and Child Protection of Timis*. The workshop also included discussions on the role and attributions of NPM, visits performed to detention places and cooperation with the “Human Rights Defence League of Timisoara” non-governmental organization. The event was attended by representatives of the General Directorate for Social Assistance and Child Protection of Timis.

- workshop organized on October 1, 2018 on the topic “The International Day of Elderly Persons - Compliance with Standards on the Assurance of Life Quality of Institutionalized Persons - attributions of the NPM” at the head office of the “*Sf. MariaCare and Assistance Centre of the General Directorate for Social Assistance and Child Protection of Dolj*”. Topics were approached such as: the compliance with

standards on the assurance of life quality of institutionalized persons, promoting the rights of elderly people, human dignity, the concept of torture, inhuman or degrading treatment, conclusions of the visits performed by the representatives of the People's Advocate Institution, etc. The event was attended by representatives of D.G.A.S.P.C. Dolj and the staff of the "Sf. Maria" Complex.

- workshop organized on October 10, 2018 on the topic "The International Day of Mental Health" at the head office of the *Psychiatry Hospital of Poiana Mare*, Dolj county. Topics were approached such as: the importance of the event, promoting the rights of persons with psychological disorders, conclusions of the visits performed by NPM representatives in psychiatric hospitals in the country, etc. The event was attended by representatives of the Poiana Mare Psychiatry Hospital.

- workshop organized on October 24, 2018 on the topic "Compliance with Standards on the Assurance of Life Quality of Institutionalized Persons - *attributions of the NPM*" at the head office of the General Directorate for Social Assistance and Child Protection of Gorj. Topics were approached such as: conclusions of the visits performed by NPM representatives and dissemination of the 2017 Annual Report of the People's Advocate Institution, the field regarding prevention of torture in detention places. The event was attended by representatives of D.G.A.S.P.C. Gorj (heads of centres, physicians, psychologists, social workers, case officers, etc.).

- workshop organized on November 9, 2018 at the head office of the *Detention Centre of Craiova*, on the topic "The Concept of Torture Prevention". The event was attended by representatives of the Craiova Detention Centre.

- workshop organized on November 16, 2018 at the *head office of the Dolj County Police Inspectorate*, on the topic "Prevention of torture and degrading inhuman treatment in detention places". The event was attended by representatives of the Dolj County Police Inspectorate.



- meetings organized during December 4-5, 2018 with *representatives of the General Directorate for Social Assistance and Child Protection of Constanta and the General Directorate for Social Assistance and Child Protection of Tulcea*, on topics such as: the concept of torture and prevention of torture; the attributions and the activity of the field regarding prevention of torture in detention places for 2018; the compliance with standards on the assurance of life quality for institutionalized persons, etc. Moreover, the purpose of the meetings also included identifying the issues faced by D.G.A.S.P.C. Constanta and Tulcea in ensuring social assistance for children, adults and elderly persons and the support of the National Prevention Mechanism for solving them.

- meeting of the representatives of *the field regarding prevention of torture in detention places and the representatives of the General Inspectorate of Romanian Police (I.G.P.R.)*, on December 6, 2018 on the topic “Attributions of the field regarding prevention of torture in detention places and the aspects found upon the visits”. Aspects found in the reports drawn up by NPM members pursuant to visits performed at visited centres, legal, medical and psychological issues were presented.



- workshop organized on December 10, 2018 at the head office of the *Craiova Penitentiary - External Department of Isalnita*, on the topic: “Day of Human Rights”. Topics were approached such as: the Universal Declaration of Human Rights, guaranteed rights, etc. The event was attended by representatives of the Craiova Penitentiary - External Department of Isalnita.

- event organized on December 11, 2018 at the head office of *D.G.A.S.P.C. Mehedintion* the topic: “Dissemination of the 2017 Annual Report of the People’s Advocate Institution, the field regarding prevention of torture in detention places, NPM visits, implementation of recommendations, compliance with minimum quality standards in the provided services”. The event was attended by representatives of D.G.A.S.P.C. Mehedinti (heads of centres, physicians, psychologists, social workers, case officers, etc.).

- workshop organized on December 18, 2018 at the head office of *the Centre for accommodation and procedures for asylum applicants of Timisoara* on the topic: “The International Migrants Day”. Topics were approached such as: managing the issues of migrant persons, conclusions of the visits performed by representatives of the People’s Advocate Institution, dissemination of the 2017 Annual Report of the People’s Advocate Institution, the field regarding prevention of torture in detention places and the implementation of recommendations. The event was attended by representatives of the Centre for Procedures and Accommodation for Asylum

Applicants of Timisoara (physician, psychologist, social worker, officers, agents, etc.).

- workshop organized on December 20, 2018 at the head office of *D.G.A.S.P.C. Valcea* on the topics: dissemination of the 2017 activity report of the Field regarding prevention of torture in detention places, NPM visits, implementation of recommendations, prohibition of retaliation. The event was attended by representatives of D.G.A.S.P.C.Valcea (heads of centres, physicians, psychologists, social workers, case officers, etc.).

- round table organized at the head office of *O.A.D.O. Regional Branch of Craiova*, on February 15, 2018 on the topic “Cooperation between O.A.D.O. Regional Branch of Craiova and the Local Centre of Craiova”.

- meeting organized on March 12, 2018 at the head office of the *Community Support Foundation of Bacau* non-governmental organization, where aspects were presented regarding the mandate of the field regarding prevention of torture, the organization and performance of visits, the national and international legislation on torture prevention, recommendations of the Subcommittee and Committee for the prevention of torture.

- meeting organized on March 14, 2018 by the *National Council for Refugees (CNRR)* Foundation, within its project “Monitoring forced return missions”, aimed at monitoring the observance of the rights of illegal migrants during the performance of forced return with escort on the Romanian territory.

- meeting organized on March 16, 2018 by the *Human Rights Defence League of Timisoara* non-govenrmental organization, with a view to analysing the following issues: the collaboration with the People’s Advocate Institution, the role and attributions of NPM, the visits performed by NPM (Local Centre of Craiova) to detention places.

- round table organized on March 30, 2018 at the head office of the Local Centre of Craiova with the *Organization for the Defence of Human Rights, Regional Branch of Craiova* on the topic “Dissemination of the 2017 Annual Report of the People’s Advocate Institution”.

- meeting on April 4, 2018 with the *Pro Democratia Club Association of Craiova* non-governmental organization. The following aspects were analysed: the role and attributions of the NPM; the activities undertaken by the Pro Democratia Club Association of Craiova in the field of human rights protection; the possibility to enter a collaboration protocol between the People's Advocate Institution and the Pro Democratia Craiova NGO, with a view to taking part in visits to detention places.

- meeting with the *Pro Democratia Club Association of Craiova* on April 19, 2018 - analysing the possibility to enter a collaboration protocol with a view to performing visits organized as per the provisions of Law no. 35/1997 on the organization and operation of the People's Advocate Institution, republished.

- round table organized on April 27, 2018 with the non-governmental organizations in the Neamt county, on monitoring detention places and presentation of the Activity Report of the Field regarding prevention of torture in detention places for 2017. The activity took place at the head office of the Pro Democratia Piatra Neamt and was attended by representatives of non-governmental organizations in the Neamt county (Pro Democratia Association of Piatra Neamt, the Parents' League of Neamt, A.D.I.S.E. Neamt, etc.).

- dissemination of the role and mandate of the NPM, organized on June 8, 2018 at the head office of the "*Sf. Maria Children's Home Association*", Barati, Bacau county. The activity was organized in the context of the International Day of Children Victims of Aggression – June 4 and included a presentation on the promotion of the observance of children's rights in placement centres, emergency centres or maternal care centres. The activity was attended by the care and educational staff of the centre, the social worker and the management of the centre (about 20 employees).

- the symposium organized on June 28, 2018 by *O.A.D.O. Regional Branch of Craiova* on the topic: "Prevention of torture, discrimination and ill treatment – An essential objective in human rights defence". Within the symposium, NPM representatives presented a report on the topic "The role of the People's Advocate Institution in the prevention of human rights infringements". Representatives of the Faculty of Legal, Economic and Administrative Sciences of the Spiru Haret

University of Craiova, of the National Administration of Penitentiaries, of the Court of Appeal of Craiova, of the General Directorate for Social Assistance and Child Protection of Dolj, of the Detention Centre of Craiova, of the Dolj Probation Service, etc. were invited to the event.

- on July 12, 2018, debate on the topic “Dissemination of how the field regarding prevention of torture in detention places (NPM) performs visits to detention places, a significant opportunity to acknowledge and develop partnership with NGOs having entered collaboration protocols with the People’s Advocate Institution for the Local Centre of Bucharest”, organized at the head office of the People’s Advocate Institution, with the participation of the representatives of several NGOs with which the People’s Advocate Institution has entered collaboration protocols, such as: GRADO, FACIAS, SIRDO, OADO, ANAIS, CTI (the Council of Institutionalized Youth).

- Celebration activities organized on December 7, 2018 at the head office of the non-governmental organization *O.A.D.O. Regional Branch of Craiova*, on the topic “The 70th anniversary of the signature of the Universal Declaration of Human Rights”.

- workshop organized on September 12, 2018 on the topic “International Suicide Prevention Day - September 10, psychological disorders, depression, self-mutilation, human dignity, the concept of torture, inhuman or degrading treatment” at the head office of the *Organization for Human Rights Defence - Regional Branch of Craiova*. The event was attended by representatives of the Organization for Human Rights Defence - Regional Branch of Craiova.

- workshop organized on September 27, 2018 on the topic “International Suicide Prevention Day - September 10” at the head office of the *Human Rights Defence League of Timisoara*. Topics were approached such as: suicide, human dignity, the concept of torture, inhuman or degrading treatment, conclusions of the visits performed by the representatives of the People’s Advocate Institution to the centres of D.G.A.S.P.C. Timis, etc. The event was attended by representatives of the Human Rights Defence League of Timisoara.

- round table organized in cooperation with the *Ruhama Foundation* on October 10, 2018 in Oradea, on the topic “The National Prevention Mechanism and Social Services”.



► *The professional training of NPM members. Participation in courses/symposia/conferences on a national and international level. Other actions of the NPM.*

On a national level

- round table organized on March 26, 2018 with the staff of the Local Centre of Craiova on the topic “Investigation, analysis, reporting of traumatic marks, CPT practice, the Istanbul Protocol”.

- workshop organized on March 30, 2018 by the National College of Romanian Social Workers - Bacau branch, on the topic “Social assistance, a pillar of sustainable community development”, an event organized with the opportunity of the 2018 Days of Social Assistance. Presentations of the various institutions and non-governmental organizations were provided, as well as discussions on the importance of the preventive function of social assistance in the community.

- event organized on April 12, 2018 by the management of the General Inspectorate of Immigration in Bucharest, for the 137th anniversary of the first Law on aliens.

- the debate on “Human rights - Standards, experiences and Romanian institutional practices” organized by the TituMaiorescu University on April 23, 2018.

- round table on the topic “Regulating the performance of medical safety measures - a necessity for Romania”, organized on May 22, 2018 by the Commission for equal opportunities of the Romanian Senate, the Commission for health and family of the Chamber of Deputies, IRDO, the Romanian National Council of Disability and the Romanian Association for Medico-Legal Psychiatry, at the Palace of the Parliament.

The draft legislation on the performance of medical safety measures was presented and debated with the opportunity of the meeting. The concerned project emphasized the importance of observing the provisions of the following international legal instruments: The European Convention for the Protection of Human Rights and Fundamental Freedoms, the Convention on the Rights of Persons with disabilities, as well as the provisions of the New Council of Europe Strategy on the Rights of Persons with Disabilities 2017–2023.

- work meeting organized at the head office of the People’s Advocate Institution, during June 12-13, 2018, with the entire staff of the Field regarding prevention of torture in detention places on the topic - documentation of torture cases, analysis of CPT, SPT practices, the Istanbul Protocol.

- debate “The Role of Psychologists in Romanian Society”, organized on July 3, 2018 by the College of Romanian Psychologists and the Committee for Labour and Work Protection, the Chamber of Deputies, at the Palace of Parliament.

- the semestrial meeting of July 13, 2018 within the Penitentiary of Bacau regarding the exchange of experience within the Social Reintegration Strategy, based on G.D. 389/2015 on the National Plan for the Implementation of the Social Reintegration Strategy.

- a participatory assessment exercise organized on August 30, 2018 by UNHCR Bucharest, at the Centre for Accommodation and Procedures for Asylum Applicants of Bucharest.

- the National Conference of Penitentiary Chaplans “Confession in the Centenary Year”, during September 10-14, at the Aiud Penitentiary.

- workshop on the topic: “Inter-institutional cooperation with a view to facilitating the social reintegration of persons deprived from freedom”, organized on

October 19, 2018 by the Margineni Penitentiary in partnership with the Prahova Territorial Branch - National College of Romanian Social Workers.

The debates dealt with the mediation of the relation between the community and former prisoners, as well as the removal of barriers separating members of the same community, as the participants represented a wide range of institutions involved in the reintegration process, from penitentiaries, DGASPC units, probation services, local public authorities, as well as representatives of the People's Advocate Institution.

The conclusions of the activities developed within the meeting showed that efficient interinstitutional cooperation implies double intervention: both on the prisoners, and their community of origin. The benefits of cooperation with state institutions and representatives of the civil society actually are a connecting bridge between the actions of the penitentiary system to support the convicted persons in their efforts of regaining normality on the one hand and the community's willingness to reintegrate and value the contributions of those who were excluded due to their antisocial behaviour, on the other hand.

- The 5th edition of the "InterFest" Inter-penitentiary National Festival organized by the Bucharest-Jilava Penitentiary on September 11, 2018, within the penitentiary.

- the seminar organized during November 1-2, 2018 in Bucharest, by the Association of the Jesuit Refugee Service in Romania (JRS Romania) in partnership with the UNHCR Representation in Romania.

The meeting was attended by representatives of the People's Advocate Institution, the General Inspectorate for Immigration, non-governmental organizations: "Save the Children" Romania, the Association of the Jesuit Refugee Service in Romania, the Romanian National Council for Refugees, the United Nations High Commission for Refugees in Romania, as well as legal representatives of migrant children of the General Directorates for Social Assistance and Child Protection, district 1, of Bucharest, Galati, Maramures, Giurgiu and Suceava.

The meeting included an approach of novelties related to European and national legislation regarding child protection in the context of asylum and migration

and presentations of examples of adapted tools, to support specialists who assess the child's superior interest, considering the specific situation of minors who are asylum applicants and refugees.

Proposals to reform the Common European Asylum System presented by the European Commission were discussed, such as:

- a proposal of Regulation of the European Parliament and the Council to establish a joint procedure on international protection in the Union and to repeal Directive 2013/32/EU, stipulating, **regarding minors who are not accompanied, that they should be assigned a guardian as soon as possible and no later than five business days from the moment when an under age person who is not accompanied submits a request.** This proposal, considering a study on children custody, performed by the Fundamental Rights Agency, aims at benchmarking custody-related practices to make sure that custody is performed promptly and is efficient on the entire territory of the Union.

- as for the medical examination of unaccompanied minors, the proposal stipulates that, **within the analysis of a request, medical examinations may be used to establish the age of minors who are not accompanied, in case of doubts regarding the minor status of the asylum applicant, pursuant to the statements of the applicant or other relevant signs.** If the result of the medical examination is not conclusive, the member states presume that the applicant is minor. The medical examination to establish the age of unaccompanied minors is not performed without their consent or the consent of their guardians. All medical examinations are performed with the full observance of individual dignity, proceeding to the least invasive examinations by qualified professionals in the medical field, allowing to obtain the most reliable results.

- another proposal refers to setting standards for the admission of applicants for international protection. The proposal mentions that these conditions for admission are adapted to the specific situation of minors, irrespective of whether they are unaccompanied or with their families, properly considering their security and the physical and emotional assistance they need and are provided in a manner that encourages their general development. The proposal introduces stricter deadlines for

the appointment by the member states of a guardian representing and assisting an unaccompanied member.

- a symposium organized during November 1-2, 2018, with international participation, on the topic “**School – the main method of keeping the freedom of soul in an oppressing environment**”. The symposium took place at the head office of the “VasileAlecsandri” University of Bacau and was organized by the Bacau Penitentiary, the TART Association in cooperation with the Bacau Municipality, the “VasileAlecsandri” University, the Bacau County School Inspectorate, the National College of Romanian Social Workers - Bacau Territorial Unit, the College of Romanian Psychologists - Bacau Branch.

The symposium included exchanges of experiences and good practices with a view to improving the psycho-pedagogical approach in educational units, penitentiaries and other educational centres, with a view to increasing the opportunities for rehabilitation and social integration of persons in detention, as well as reducing aggressiveness and aggressive behaviours in the prison and school environment.

- the “**Living Library**” activity organized on November 2, 2018 by the Slobozia Penitentiary in cooperation with the “Stefan Banulescu” County Library of Slobozia, an activity receiving 2 professional credits from the National College of Romanian Social Workers. The event took place at the Slobozia County Library and consisted of an experience exchange between the employees of the Slobozia Penitentiary and the public in the hall. The general purpose of the event was to inform the wide audience on issues specific to the penitentiary environment.

- the event organized during November 21-22, 2018, within the Multiart Festival for prisoners “Dana Cenusă - **Release through culture**”, a project developed by the National Administration of Penitentiaries in cooperation with the “Nottara” Theatre of Bucharest within the International Theatre Festival “Fest(in) pe Bulevard”. The event brought together artists and groups of actors - prisoners from the entire penitentiary system, in the attempt of allowing the wide audience to making direct contact with a more hardly accessible reality.

- a round table organized during October 18-19, 2018 on the topic **“The importance of courts of law in the asylum procedure, placement of aliens in public custody and the enforcement of other restrictive measures for asylum applicants”**, organized by UNHCR and the National Institute of Magistrates. The round table was attended by Mr Eduardo Yrezabal, UNHCR representative in Romania, who briefly described the activity of the United Nations High Commission for Refugees in Romania; representatives of the National Institute of Magistrates, of the General Inspectorate for Immigration (Department for Asylum and Integration and Department for Migration) and JRS Romania.

The works of the round table were devoted to the analysis of the features of asylum procedure at a court level, with a range of data on the evolution of migration and relevant regulations on a European level, followed by a discussion on topics regarding the asylum procedure. Discussions were also held regarding the procedure to set out the member state in charge with analysing an application for international protection, based on the Dublin Regulation. The representatives of the Department for Asylum and Integration explained the enforcement of the principle based on which a single state analyses the application for international protection, with a view to guaranteeing the quick analysis of applications. The expected legislative changes were also presented, along with their impact on the asylum procedure, as well as discussions on the proposals of Regulations regarding Asylum and Qualification Procedures.

- Conference on the topic: **“The integration of migrants and refugees in Romania: progresses and current issues”**, organized by the Centre for Public Innovation - Bucharest on November 26, 2018.

The debates included a description of the results of the assessment of European and national policies on the integration of international protection beneficiaries - the National Integration Evaluation Mechanism (NIEM). NIEM is an international project funded through the Asylum, Migration and Integration Fund within a consortium including 17 non-governmental organizations and universities in 15 EU member states. The project started in July 2016 and has a time frame of 5 years. It aims at achieving and enforcing a methodology to assess the quality of

policies for the integration of refugees and asylum applicants. NIEM contributes to the growth of highly efficient integration systems in all member states involved, to the increase of the understanding and involvement at the level of national institutions in charge with the integration of refugees and international protection beneficiaries, as well as the improvement of institutional cooperation between the states involved in the project. The project includes two categories of activities. Under the first category, research, the project develops and implements a tool for the comparative analysis of integration policies in the 15 EU member states. Under the second category, consulting, the project includes regular meetings with the governmental and non-governmental actors involved in the integration process of refugees and international protection beneficiaries.

In the following, NIEM aims at analysing integration policies and practices in several fields and several states with different integration system, allowing for a comparative analysis of the policies and solutions implemented by each state. Besides a framework to analyse and measure how each state manages integration, NIEM also represents a source of exchange of good practices and integration solutions between the participant states.

- workshop on the topic: **“Inter-institutional cooperation - facilitating the social reintegration of persons having executed a freedom deprivation-based punishment”**, organized on December 7, 2018 by the Penitentiary of Slobozia in partnership with the Tulcea county Territorial Branch - National College of Romanian Social Workers.

The meeting aimed at developing the community support framework to facilitate the social integration of prisoners, thus establishing the role of each involved actor and the specific activities s/he may perform, so as to contribute to the social reintegration of beneficiaries by using minimum resources.

Within the interinstitutional activities developed in the context of Government Decision no. 389/2015 on the approval of the National Strategy for the social reintegration of persons deprived from freedom, 3 procedures were drawn up, to be implemented for a 1-year period, currently subject to testing.

- The interinstitutional procedure on the performance of professional training with persons deprived from freedom and the takeover of cases after release – to be enforced in the activity of County Employment Agencies, of the institutions cooperating with them, as well as the activity of detention units subordinated to the National Administration of Penitentiaries;

- The interinstitutional procedure on the registration of persons deprived from freedom in school courses and the pursuit of studies after release – to be enforced in the activity of the social reintegration sector at the level of penitentiary units subordinated to the National Administration of Penitentiaries, as well as school inspectorates and educational units of the national school network.

- The interinstitutional procedure on the access of persons executing a punishment or a freedom-depriving measure and of released persons, to social assistance services, shall be enforced in the activity of the relevant staff of the social reintegration sector of the penitentiary units subordinated to the National Administration of Penitentiaries, of the probation counsellors of the probation services belonging to the National Probation Directorate and the specialized staff of public social assistance services subordinated to local councils.

The conclusions of the activities developed within the meeting showed that efficient interinstitutional cooperation implies double intervention: both on the prisoners, and their community of origin.



- the meeting with all members of the People's Advocate Institution, during December 12-13, 2018, at the head office of the People's Advocate Institution, where the NPM activities performed during 2018 were analysed as well.

On an international level

- **The European conference “Monitoring retirement homes”,** during March 11-13, 2018, organized by the German and Austrian NPMs under the patronage of the Council of Europe, in Trier, Germany.

The conference focused on two major topics: the use of the various forms of means of containment and the performance of interviews in the context of NPM visits to homes/centres for elderly people.

The importance of using certified means of containment, manufactured and used by accredited providers was emphasized. Some cases of persons were described where means of containment had been used improperly (the ropes for securing/immobilizing some parts or segments of the body had not been adjusted properly, so that, pursuant to repeated movements, the concerned persons had died, either due to strangulation, or to spine injuries).

The following were organized: a practical training session with professional actors - interviews in the context of NPM visits to elderly homes; a practical training session with professional actors - interviews in the context of NPM visits to centres for persons with mental disabilities, organized by the Austrian Ombudsman.

- **the meeting of the NPM Network for South-East Europe, during May 29-30, 2018, in Podgorica, Montenegro,** focused on the prevention of suicide and overdose in detention centres and the status of NPM in member states.

As for cases of suicide and overdose in detention centre, the following conclusion was proposed pursuant to the discussions:

- based on the case law of the European Court of Human Rights, art. 2 of the Convention on the Defence of Human Rights and Fundamental Freedoms, authorities have the obligation to take the required action to protect the lives of persons in their custody (however, this should be interpreted so as not to impose an impossible or unreasonable burden upon the authorities);
- in order to fulfil their mandate, NPMs must be informed by the relevant state authorities on all cases of suicide or attempted suicide on a regular basis, as well as serious self-injuries appearing in detention places;
- all relevant authorities should set out concepts and strategies to prevent suicides; such strategies should include an assessment of each new employee, special staff training and other measures preventing suicide and overdose in detention places;
- NPMs will monitor

the implementation of this strategy by the authorities and will then recommend additional steps.

As for the status of NPMs in member states, the following aspects were discussed: • independence is a prerequisite for the NPM and for the performance of efficient missions as per OPCAT; the importance of the independence of NPM is emphasized in OPCAT; SPT guidelines provide clarifications regarding SPT expectations on the independence of NPMs • SPT guidelines emphasize the cases when institutions with a comprehensive mandate are appointed as NPMs – when its NPM functions should be assigned to a unit or a department with its own staff and budget.



- IOI workshop for NPMs on the topic **“Reinforcing the monitoring of NPM recommendations”**, organized by the Office of the Danish Parliament Ombudsman in Copenhagen, with the partners of the Association for the Prevention of Torture (APT), during November 6-10, 2018. Since NPMs work under different conditions and contexts and face a wide range of challenges requiring a diverse range of solutions, the workshop aimed at focusing on NPM recommendations and providing a platform for mutual exchange between practitioners, to discuss activities regarding the following aspects: how can efficient recommendations be drawn up; the follow-up and assessment of the enforcement of recommendations; how should the progress of activities be followed (i.e. a systematic organization of recommendations and answers). The workshop also included a presentation of the

Convention adopted by the General Assembly of the United Nations on December 10, 1984 (UN CAT), stipulating that, as of the entry into force of the convention, the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment has become accepted as a principle of international law. Furthermore, Professor Richard Carver presented his book that provided an answer to whether torture prevention worked. After analysing the situation in 16 states along about 20 years, the answer is “Yes, torture prevention works!”.



● **meeting organized by the Association for the Prevention of Torture (APT) and the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE)**, during December 3-4, 2018, in Milan, Italy, on the topic “Prevention of torture and ill treatment in the context of immigrant detention”. The participants discussed on methods to reinforce regional cohesion and joint efforts to promote the rights of persons in detention in the field of immigration, as well as to raise awareness of the public opinion on related issues and follow the recommendations of various stakeholders. At the same time, they exchanged opinions on the legal bases regarding the detention of migrants, children included, they explored means to efficiently monitor forced returns and material conditions in detention places, with a focus on the prevention of torture and ill treatment. The approached topics also aimed at ensuring the migrants’ access to rights and procedures, to medical assistance and social services.



- round table on the topic “Efficient alternatives to detention in the context of immigration”, organized by the Ombudsman’s Institution of Montenegro with the partners of the Council of Europe in Podgorica, during December 11-12, 2018.

Considering article 5 of the European Convention on the Defence of Human Rights and Fundamental Freedoms, protecting persons against the arbitrary interference of a member state in their right to freedom, so that any deprivation of freedom is only legal when included in the exhaustive list of admissible reasons, as listed by the Convention, it was concluded that detention, as deprivation from freedom, must represent an exceptional, last resort measure, stipulated in national laws and only enforced when absolutely required, proportional to a legitimate purpose, assessed in the particular circumstances of the case and in compliance with fundamental rights.

Taking this reality into account, the round table discussions focused on alternatives to detention in the context of migration, as they represent a challenge for the authorities, especially since special attention must be paid to vulnerable asylum applicants, such as women, children, victims of trauma or torture, persons with disabilities, older people, etc.



- The conference “National Prevention Mechanism faced with overcrowding in places of deprivation from freedom. Approaches and strategies”, December 18-19, 2018, Tunisia.

The goals of the conference were as follows: identifying the causes and factors contributing to overcrowding; developing efficient means to monitor overcrowding in detention places and methods to control the quality of conditions; learning about the various approaches and success solutions of the invited NPMs; cooperation with judicial authorities; reinforcing the relation between NPM and state institutions.



- The international conference dedicated to the 10th anniversary of the establishment of the Armenian NPM, organized during November 28-29, 2018 in Yerevan, Armenia. The main topics were:

- good practices in the prevention of torture and the enforcement of ECHR decisions; implementation of NPM recommendations. Ms Mari Amost, SPT member, argued that some things and mentalities are hard to change. She reminded of the following efficient post-visit strategies, with a view to enforcing recommendations: maintaining permanent dialogue with authorities, organizing courses to raise awareness. She also mentioned article 11 of OPCAT regarding the

NPM's obligation to maintain a dialogue with SPT and emphasized the importance of the impact NPM must have on the society.

- **women and minors in detention places;**

The following issues were underlined: the importance of having as many female employees as possible, as well as proper ratio between the number of employees and the number of persons deprived from freedom; the importance of psychological assistance for minors, as the basis for their re-socialisation, so that there is no doubt that the young people will be fully reintegrated upon release; the assessment of the suicide risk must be emphasized, as well as the compatibility between persons deprived from freedom.

- detention in police departments; respect for rights and monitoring police arrests

Dr. Borys Wods, head of the Department of the European Committee for the Prevention of Torture (CPT) argued that degrading treatment while in police custody should always be paid attention, as well as interrogation procedures: lawyers are not always present, there is a pressure to accept certain lawyers, who are friends of police officers; procedures do exist, but, when assessing results, they are close to zero. A change of attitude, a change of mentality is needed. Our leaders should send the message that NPMs and CPT approach torture prevention very seriously, in the entire world.

- **monitoring psychiatry hospitals; de-institutionalisation, rehabilitation and social inclusion, measures of constraint and compulsory treatment;**

The situation of Slovenian hospitals monitored by NPM was presented. The first issue pointed out was related to the system: there was no multi-institutional approach, the presence of the hospital in the community was not promoted, there were not many events for the integration of patients, there were no rehabilitation programmes, spare time activities, etc. Other aspects: medicines were cut so that one could not see when they expired; sometimes a single psychologist was employed for a lot of patients, so it was unrealistic to expect quality results; the patients' beds were placed side by side, so that guidelines on personal space were not observed, there were no personal areas, bedside tables, wardrobes; some psychiatry hospitals were

located in old buildings, with a single stove in the middle, so that all patients had to come close to get warm a bit; doors were closed, so that patients could not go out for a walk.

• **medical services in penitentiaries.**

Several aspects were discussed here: ▪ whether medical services in penitentiaries should be subordinated to the Ministry of Justice or the Ministry of Health, presenting the cases of Armenia and Finland, where medical services are provided by a penitentiary-independent institution; ▪ the fact that persons deprived from freedom showed more psychological troubles during the execution of their punishment than when they had entered the system, and having well-prepared professionals, with intervention and behavioural change programmes, was very difficult; these issues were held as the main problems in the Albanian penitentiary system; the Albanian representative underlined the necessity of providing very good conditions for people working in penitentiaries, not only for persons deprived from freedom; for the latter, psychological assessment and then intervention itself were highly important; ▪ about 2500 complaints from prisoners were received in Morocco on an annual basis, mostly related to food, the procedure for refusing food, the conditions in the penitentiary and bureaucracy; at least one refusal of food was seen every day and 1 of 5 deaths in the penitentiary was due to refusal of food; thus, one of the purposes of NPM members was to identify the reason of refusal of food; ▪ in Armenia, about 60% of the complaints in penitentiaries were related to medical services, but attempts were made to solve the issues (a reform was initiated in penitentiaries); the first issue identified by NPM was the physicians' independence, i.e. physicians did not have access to certain prisoners, could not examine them, as the decision was not theirs, but of the penitentiary workers; another issue was that physicians were not prepared enough and did not take part in continuous professional training; furthermore, it was emphasized that physicians should have a physician-patient approach, not a physician-person deprived from freedom one; physicians had to be trained to work in penitentiaries exclusively, and this solution was thought to be the best for the supply of high quality medical services in a penitentiary.

VI. Monitoring detention places by means of visits

A. Psychiatric Hospitals, Units for Psychiatric Treatment and Safety Measures

Psychiatric institutions are detention places falling under the scope of torture prevention bodies created within OPCAT.

The situation of persons deprived from freedom in psychiatric institutions and the fact that they face a high risk of abuse, which may represent torture or other forms of ill-treatment, has been highly emphasized on an international level in the last decade; the adoption of the UN Convention on the rights of persons with disabilities was an incentive to better understand and get acquainted with the risk factors faced by persons in psychiatric institutions.

Monitoring bodies play a key role since, based on international treaties (OPCAT or the European Convention for the Prevention of Torture), public authorities have the obligation to ensure free access to detention places.

Mental health issues currently have a high frequency in Romania; thus, it is estimated that, in 2020, psychological disorders will occupy the first place in terms of morbidity, before cancer and cardiovascular diseases. The insufficient number of psychiatric centres and the low training of professionals on rehabilitation and social inclusion entail direct or indirect consequences in terms of professionals, persons with disabilities, families and communities, as well as society as a whole.

As a member of the European Union, Romania has the obligation to improve the situation of persons with psychological disorders and promote social inclusion, which is shown by the ratification of international instruments regulating human rights and by drawing up strategies such as: **The Joint Memorandum on social inclusion, the National Strategy for the development of social services, the National Strategy for the protection, integration and social inclusion of persons with disabilities, the National Strategy for the mental health of children and teenagers 2016-2020.**

Persons admitted to psychiatric units or to neuropsychiatric recovery and rehabilitation centres are taken care of in the spirit of respect for their human dignity

and they cannot be subject to inhuman or degrading treatment. Relevant national legislation complies with international provisions, prohibiting the subjection of persons with disabilities to ill treatment, on equitable terms with others (UN Convention on the rights of persons with disabilities, ratified on November 11, 2010).

The structures supporting the performance of mental health services, based on Law no. 487/2002 on mental health and the protection of persons with psychological disorders, republished, as psychiatric hospitals, hospitals for psychiatry and safety measures, psychiatric departments of general hospitals, neuropsychiatric recovery and rehabilitation centres.

A psychiatric hospital is a medical unit with beds, of public utility, with legal status, that provides medical services (curative, of psychiatric recovery), operating in compliance with the provisions of Law no. 95/2006 on health reform, republished.

A neuropsychiatric recovery and rehabilitation centre is a residential centre for disabled adults that supplies, for a definite or indefinite period, depending on the identified individual needs and the personal situation of each beneficiary, social services such as: hosting, recovery and rehabilitation services (**kinetic therapy, physical therapy, medical gymnastics, occupational therapy, etc.**), medical and social assistance, psychological assistance, cultural activities, recreation and socialisation, etc.

By ratifying the UN Convention on the rights of persons with disabilities, the Romanian state recognized the equal right of all persons with disabilities of living in the community, with equal opportunities to others. Furthermore, it agreed to take efficient and suitable measures to make sure that persons with disabilities enjoyed this right and their full integration with the community and participation to its life.

However, psychiatry in Romania is still undergoing reform in order to reach the standards requested by the European Union, regarding issues such as: the social rehabilitation and inclusion of persons with psychological disabilities, their occupational rehabilitation, case management and integrated development of social

and mental health services, the right to defence, ensuring the celerity of procedures and the foundation of medical admission decisions.

The inefficiency of social inclusion programmes is seen in the increased ratio of institutionalisation, the low quality of life and living conditions, the beneficiaries are still supported by the state, passive consumers of medical services, the low employment rate of persons with disabilities, as well as the low involvement of beneficiaries in the supply of services.

The major goal of all those involved in the field of the mental health and protection of persons with psychological disorders should be to contribute to changing the society's view on the concept of mental illness, as well as stimulate reintegration in the society and family by all means, and to help persons with mental health issues.

Based on art. 34 of Law no. 35/1997 on the organization and operation of the People's Advocate Institution, republished, psychiatric hospitals, psychiatric and safety hospitals and neuropsychiatric recovery and rehabilitation centres are places where persons are deprived from freedom, as per art. 4 of the Optional Protocol to the Convention against torture and other cruel, inhuman or degrading treatment or punishment.

Therefore, based on art. 19 of the Optional Protocol and the provisions of art. 34 par. (3) e) and j) of Law no. 35/1997 on the organization and operation of the People's Advocate institution, republished, **the field regarding prevention of torture in detention places (NPM) monitors psychiatric units and residential centres for disabled individuals.**

During 2018, the representatives of the National Torture Prevention Mechanism for detention places undertook **7 visits to psychiatric hospitals** (the Gataia Psychiatry Hospital, Timis county, the "Sf. Maria" Psychiatry Hospital of Vedea, Arges county, the Psychiatry Hospital of Nucet, Bihor county, the Psychiatry Hospital of Murgeni, Vaslui county, the Psychiatry Hospital of Drăgoiești, Vâlcea county, the Chronic Psychiatry Hospital of Dumbrăveni, Vrancea county, the "Constantin Gorgos" Titan Psychiatry Hospital of Bucharest), **14 visits to psychiatric recovery and rehabilitation centres and centres for the care and**

support of adults with disabilities (the Care and Support Centre for Adults with Disabilities of Urlati, Prahova county, the Centre for Integration through Occupational Therapy for Adults with Disabilities of Urlati, Prahova county, the Neuropsychiatric Recovery and Rehabilitation Centre of Razboieni, Neamt county, the Neuropsychiatric Recovery and Rehabilitation Centre of Plataresti, Calarasi county, the “Sf. Ana” Care and Support Centre of Bucharest, the Centre for Integration through Occupational Therapy of Odobesti, Brancea county, the Neuropsychiatric Recovery and Rehabilitation Centre of Babeni, Valcea county, Respite Care of Babeni, Valcea county, the Neuropsychiatric Recovery and Rehabilitation Centre of Maciuca, Valcea county, the Care and Support Centre of Bistrita, Valcea county, the Care and Support Centre of Zatreni, Valcea county, the Care and Support Centre of Milcoiu, Valcea county, the Neuropsychiatric Recovery and Rehabilitation Centre of Stalpu, Buzau county and the Neuropsychiatric Recovery and Rehabilitation Centre for Adults with Disabilities of Fantanele, Prahova county).

We mention the main aspects notified within the monitoring activity undertaken in psychiatric hospitals and in neuropsychiatric recovery and rehabilitation centres, included in the visit reports drawn up during 2018.

* The reports drawn up during 2018 pursuant to visits performed during 2017 at the following units were also considered: the Hospital for Psychiatry and Safety Measures of Jebel, Timis county and the Chronic Psychiatry Hospital of Dumbraveni, Vrancea county; the Neuropsychiatric Recovery and Rehabilitation Centre for Adults with Disabilities of Nedelea, Prahova county; the Neuropsychiatric Recovery and Rehabilitation Centre for Persons with Disabilities of Pastraveni, Neamt county; the Neuropsychiatric Recovery and Rehabilitation Centre of Balaceanca, Ilfov county.

A. Psychiatric Hospitals, Units for Psychiatric Treatment and Safety Measures

Positive aspects were found during the visits, such as: • admissions were made with the patients' written approval, documented through the signature of the informed consent; • access ramps were provided for persons with disabilities; • natural and artificial lighting, as well as ventilation, were properly provided; smoke sensors were mounted; • the pavilions were equipped with enough furniture and the beds were in a good state; • the pavement was covered in sanitized linoleum and the walls of rooms were properly clean and hygienic; • the patients had bed linen, blankets and other items which were clean and in a good state; • arrangements were made for persons with disabilities in sanitary facilities or on halls (support bars, showers and toilet seats adapted to patients with physical disabilities); • the inmates had their meals either in the dining room located in the food unit, or in the dining rooms properly located and equipped within medical departments; • patients with associated chronic disorders (diabetes mellitus, cardiac, digestive, liver disorders, etc.) had a special diet, based on recommendations from a specialized physician; • the clinical evolution of patients under treatment was monitored by psychiatrists on a daily basis, and the therapeutic scheme was reviewed if this was required by clinical symptoms (somatic, psychological, behavioural), according to the protocols and therapeutic guidelines in force; • the Dragoesti Psychiatry Hospital was due to be extended by another pavilion, which would include the administrative area, a sector for visits to patients and other relevant areas; • properly arranged inside yards were available (a gazebo, an alley with flowers, trees, benches); • food samples were taken on a daily basis, kept in a specially dedicated refrigerator for 48 hours, based on the provisions of the Order of the Minister of Health no. 976/1998 on the approval of the Hygiene Guidelines regarding the manufacture, processing, storage, transport and sale of food; • medical treatment was administered, the health status was supervised and care was performed based on medical recommendations, by qualified staff (nurses and medical workers); • an on-call physician specialized in psychiatry was available; • disinfection was performed on a regular basis; water potability fell

within the provisions of Law no. 458/2002 on the quality of potable water; ● the food unit was properly arranged and equipped.

Visit teams of the Field regarding prevention of torture found a range of **failures** during the performance of their monitoring activities. In order to solve them, the People's Advocate made recommendations to the management of the visited units, by means of a visit report. **83 recommendations** were issued in the visit reports drawn up in 2018, of which **58 for the reports drawn up pursuant to visits performed in 2018** in the Psychiatry Hospital of Gataia, Timis county, the "Sf. Maria" Psychiatry Hospital of Vedea, Arges county, the Psychiatry Hospital of Murgeni, Vaslui county and the Psychiatry Hospital of Dragoiesti, Valcea county, as well as **25 recommendations for the reports drawn up pursuant to visits performed in 2017**, in the Psychiatry Hospital of Dumbraveni, Vrancea county and the Psychiatry Hospital of Jebel, Timis county.

* We mention, from the very beginning, the actions taken by the Field regarding prevention of torture, pursuant to the notice *ex officio* regarding the information published in the media in 2017, regarding the **death of a patient at the Hospital for Psychiatry and Safety Measures of Jebel, Timis county**. In this context, the People's Advocate Institution decided to perform a spot visit on 01.11.2017, to the Hospital for Psychiatry and Safety Measures of Jebel, Timis county.

The visit resulted in a Report stipulating that, given her psychological disorder, the patient had left the pavilion where she was admitted, taking advantage of the lack of attention of care staff. The nurse on duty found that the patient was missing. When the disappearance was found, actions were not taken in full compliance with the provisions of the procedure for the unannounced abandon of the Hospital; the physician on duty only informed the authorities and the patient's daughter by phone. Based on the operational procedure, "for the cases of ill persons who cannot be recovered immediately after the hospital is left, the police will be informed both by phone and in writing".

The physician of the deceased patient mentioned that, on 29.06.2017, around 5.30 p.m., he had been informed by the physician on duty, by phone, that she had left

the hospital. The patient was released *ex officio* on 29.06.2017, 5 p.m. (The time when she was not found).

Based on the submitted documents and the discussions with the temporary management of the Hospital for Psychiatry and Safety Measures of Jebel, it was found that the physician on duty organized the systematic search of the patient with the staff of the department based on the internal procedure, both within the hospital (accessible areas) and on its outskirts (the Station of Jebel, the commune of Obad, the Ciacova highway and the Padureni commune). The search for the patient did not yield any results.

On 31.07.2017, after more than 30 days, the dead body of the disappeared patient was found in an advanced state of putrefaction within the Hospital for Psychiatry and Safety Measures of Jebel, in a hardly accessible place, covered in vegetation. Based on the internal procedures of the hospital, the police bodies were notified by phone (Police of Deta, Department 9 of the Rural Police of Jebel), who started the actions for identifying the dead person and for investigating the circumstances of the death.

The medical certificate for the death issued by the Institute of Legal Medicine of Timisoara on 03.08.2017 set out “Myocardic Fibrosis” as the cause of death.

The team visit found in the Visit Report that **there were some faults in the supervision of the dead patient, which allowed her to leave the pavilion of the medical department and facilitated the occurrence of the event.** The People’s Advocate Institution recommended that the Hospital for Psychiatry and Safety Measures of Jebel, Timis county should urgently arrange the inside yard by completely deforesting the area with abundant spontaneous vegetation, to improve supervision and avoid unpredictable events, considering the patients’ psychiatric pathology.

Regarding this Recommendation, the management of the centre stated that an assessment of the field of the inside yard would be performed within two weeks by the Administrative Office of the unit and the required works would be estimated, so as to purchase the services of a relevant company for deforestation-arrangement works, when the 2018 budget of the unit was approved.

The People's Advocate Institution asked that the Ministry of Health should take the required actions to solve the situation and inform the People's Advocate Institution, which notified us that it had asked the Public Health Department of the Timis county to check the found aspects and the recommendations set out with a view to improving the patients' treatment and preventing torture and inhuman or degrading treatment or punishment. Based on the answer of the Ministry of Health, the Administrative Office of the hospital assessed the field of the inside yard of the hospital and entered a services contract with a specialized company for the arrangement and maintenance of green areas during June-October 2018. On the date of the control, it was found that the green area between the pavilions was properly maintained. In the north area of the hospital, next to the railway, the vegetation was properly maintained next to the alley, but there were two rows of trees and shrubs with varying height. In the budget approved for 2018, under Other expenditure for revenues and services, the amount of 30,000 lei was provided which 26,837 lei were spent for the maintenance of green areas in 2018.

In the following we present some of the **failures, recommendations and answers:**

* The following visited units had submitted answers by the date of this report: The Psychiatry Hospital of Gataia, Timis county, the Psychiatry Hospital of Dragoiesti, Valcea county, the Psychiatry Hospital of Dumbraveni, Vrancea county and the Psychiatry Hospital of Jebel, Timis county.

Regarding accommodation conditions:● in the "*Sfanta Maria*" *Psychiatry Hospital of Vedea*, Arges county, most rooms were overcrowded. There was limited room for movement between beds and there was no room for bedside tables or wardrobes to store personal items. The representatives of the Field regarding prevention of torture in detention places reiterated the following CPT rules: creating a positive therapeutic environment primarily involves providing enough space for each patient (...). Bedside tables and wardrobes are recommended (...) the importance of having a place where patients can leave their personal items and lock them up

should be emphasized; the absence of such a possibility may affect the patients' safety and autonomy system. **Recommendation:** ● regarding overcrowding in the rooms of the hospital, the management of the hospital was recommended to follow up with the Arges County Council, to incentivize the initiation of hospital extension works; furthermore, for rooms where beds were placed very close to one another, with limited room for movement between beds and no room for bedside tables or wardrobes to store personal items, the possibility to reduce the number of beds had to be considered.

● *at least 7 sqm/bed in current rooms, and at least 8 sqm/bed in wards were not provided*, as per the provisions of Annex 3, art. 5 a) and b) of Order no. 914/2006 on the approval of guidelines for the conditions that should be met by a hospital in order to obtain the sanitary operating permit, as subsequently amended and supplemented (*the Psychiatry Hospital of Gataia, Timis county*); **Recommendation:** analysing the possibility to provide the minimum useful area of 7 sqm/bed in current rooms and 8 sqm/bed in wards respectively, as per legal provisions. **Answer:** the works for the rehabilitation of the ground floor of pavilions 26, 28 and 33 have started, which will allow to redistribute beds in the sections and, therefore, reducing crowding.

● the capacity of *the Psychiatry Hospital of Murgeni* was exceeded when the visit was performed, so that the hospital's administration could not provide an individual bed for each patient; the area of the dining room was insufficient for all patients being able to have dinner there, bathrooms were not adapted for the use of persons with locomotor disabilities, and some indoor thresholds could obstruct the access of persons in wheelchairs. **Recommendations:** providing suitable accommodation conditions, by: ● providing an individual bed to each patient; ● arranging a dining room with a sufficient area for the patients to have dinner in no more than two rounds; ● arranging some bathrooms for the use of persons with locomotor disabilities; ● removing indoor thresholds obstructing the access of persons immobilized in wheelchairs.

● the visited isolation areas were not arranged and were not provided with the minimum equipment according to the provisions of art. 8 par. (4), (5) and (6) of

Order no. 488/2016 on the approval of the Guidelines for the enforcement of the Law on the mental health and protection of persons with psychological disorders no. 487/2002 (*the Psychiatry Hospital of Gătaia, Timiș county, the Psychiatry Hospital of Drăgoiești, Vâlcea county, the Psychiatry Hospital of Murgeni, Vaslui county*). Upon **recommendation of the People's Advocate Institution**, to properly arrange and equip isolation areas based on legal provisions, the management of the Psychiatry Hospital of Dragoiesti informed that a room was identified in Pavilion II which would be arranged as an isolation area. Moreover, a notice was sent to the main credit awarding entity in order to secure funding for the arrangement of an isolation area.

- *some rooms were not equipped with any furniture* (table, chairs, bedside tables) except beds. These rooms did not comply with the provisions of the Order of the Minister of Health no. 914 of July 26, 2006 on the approval of the guidelines on the conditions to be met by a hospital in order to obtain the sanitary operating permit, Annex 3, Guidelines on the functional structure of departments and services in the hospital, Chapter 1 Organization of medical departments, article 7 “The following minimum equipment is compulsory in the room: c) bed and bedside table and a wardrobe for each bed; d) a table with chairs in every room”. Based on the answer from *the Psychiatry Hospital of Gataia, Timis county*, the works for the rehabilitation of the ground floor of pavilions 26, 28 and 33 have started, which will allow to redistribute beds in the sections and, therefore, reducing crowding.

Regarding the patients' legal protection: ● a procedure was not available regarding the prevention of abuse, including provisions on the identification, signalling and solving of cases of abuse and negligence upon patients, which are the duties of the employed staff in the relation with patients, what are the methods to notify special events and how can patients be protected against abuse, neglect, discrimination, degrading or inhuman treatment (*the Psychiatry Hospital of Murgeni*); ● some registers were not drawn up, and the claimed reason was that the concerned information was included in the patients' records: the Register of cases of abuse, neglect and discrimination, the Register of special events, the Medico-legal Register, the Register of notices and complaints, the Register of psychological

records (*the Psychiatry Hospital of Murgeni*); • some documents (the patient's informed consent, the therapeutic contract) were not signed by the patient or by his/her legal representative (*the Psychiatry Hospital of Murgeni*).

Recommendations: • to urgently draw up a procedure on the identification, signalling and solving of cases of abuse and negligence upon patients, including all provisions regarding possible cases of abuse on them, which are the duties of the employed staff in the relation with patients, what are the methods to notify special events and how can patients be protected against abuse, neglect, discrimination, degrading or inhuman treatment, as well as to notify this procedure to the employed staff and the patients of *the Psychiatry Hospital of Murgeni*; • to draw up medical registers (the containment Register for traumatic marks) and documents regarding the patient's informed consent or the therapeutic contract, based on legal provisions.

• the Register of containment and isolation measures was not drawn up, based on the legal provisions of Order no. 488/2016 art. 8 par. (4, 5, 6) on the approval of the Guidelines for the enforcement of the Law on the mental health and protection of persons with psychological disorders no. 487/2002 (*the Psychiatry Hospital of Gătaia, Timiș county, the Psychiatry Hospital of Drăgoiești, Vâlcea county*).

Recommendation: to draw up the Register of containment and isolation measures according to the legal provisions in force. **Answer:** the management of the Psychiatry Hospital of Gataia mentioned that the register was implemented as of May 1, 2018 and drawn up based on the recommendations received during the visit. Moreover, the management of the Psychiatry Hospital of Dragoiesti sent an answer stipulating that the isolation and containment register had been drawn up, according to the legal provisions in force.

• the Operational procedure on the voluntary admission of patients of the "Sfanta Maria" Psychiatry Hospital of Vedea stipulated that, upon admission, once in the room, the patients were informed by the nurse on duty on the rules of the hospital, their rights and obligations. The nurse informed the patients and asked them to sign the FOCG, the informed consent, which was against art. 29 par. (1) of Law no. 487/2002, republished, stipulating the psychiatrist's obligation of obtaining the patient's consent and of observing his/her right to be assisted when providing

consent, when drawing up and enforcing the therapeutic schedule. All files checked by the members of the visit team on a random basis had the Informed Consent attached. This was signed by the patient in most cases. *However, in some situations, the Informed consent was not signed (it only bore the psychiatrist's signature and seal) or was signed by an indicted patient (when the consent is only valid if signed by the patient's legal representative).* The visit team reminded the management of the hospital that, in the following cases, based on legal provisions, the psychiatrist may establish treatment without obtaining the patient's consent: • the patient's consent is an imminent danger of damage to himself/herself or to others; • the patient does not have the psychological capacity of understanding the state of disease and the need to establish medical treatment and does not have a legal representative or is not accompanied by a conventional representative; • the patient is minor or indicted, when the psychiatrist must request and obtain the legal representative's consent. The visit team found that, in the hospital, indicted patients were involved in the decision making process on medical intervention (which was also mentioned in the Hospital's Rules of Organisation and Operation and was in compliance with the guidelines of the European Committee for the Prevention of Torture), but mentioned that *obtaining the patient's consent (when possible) may supplement, but in no way replace the legal representative's consent.*

Upon reviewing the files, the visit team found that some patients had multiple admissions to the hospital during 2016-2018 under the diagnostic of paranoid schizophrenia and bipolar affective disorder. All admissions were voluntary. For one of the patients, it was found that the last form of informed consent was not signed and, for another patient, the consent forms showed different signatures under the patient's signature. *The patients had no conventional representatives appointed and there was no proof of notices to the Custody Authority in the administrative-territorial unit where the patients had their residence or address.*

All this raised suspicions regarding the actual supply of information to patients (or to the legal representative, for indicted persons) on the treatment and therapeutic procedures and, implicitly, regarding their capacity of knowingly accepting or refusing the proposed therapeutic conduct. In this context, the

representatives of the Field regarding prevention of torture in detention places mentioned **the position of the European Committee for the Prevention of Torture regarding the patient's free and informed consent: "all capable patients, admitted on a voluntary or involuntary basis, should have the possibility to refuse treatment or any other medical intervention; any derogation from this fundamental principle should be stipulated in the law and only refer to clearly and strictly defined exceptional circumstances"**.

Recommendations: • the psychiatrist should obtain the informed consent – since the nurse on duty was the one who informed the patients and gave them the informed consent to sign it; • the informed consent should be signed by the patient in all cases of voluntary admission, and, for indicted patients, the informed consent should be signed by the legal representative – since the informed consent was not signed in some cases (only with the signature and seal of the psychiatrist) or was signed by the indicted patient.

Regarding healthcare: • *a deficit of medical and care staff* was found (which could affect the quality of the medical act, as psychiatrists are strongly affected by overburdening and would like to be able to allocate more time to patients).

Recommendation: to take the required actions to occupy vacancies, to recruit staff for vacancies, in order to ensure the quality of the medical act. **Answer:** regarding the performance of the required actions to recruit staff for the vacancies considering the need to supply medical and psychological services at suitable standards for this category of patients, considering the severe psychological disorders of patients admitted to this unit (specialist psychiatrist, radiologist, ergotherapist, psychologist/psychotherapist, nurse, workers), the management of the *Chronic Psychiatry Hospital of Dumbraveni* mentioned that the aspect is on the agenda of the Steering Committee, on a permanent basis.

Regarding the answer submitted for each separate recommendation, the deadline by which actions will be taken to comply with the corresponding content and the fact that the purpose of the visit was partially fulfilled, a new visit was proposed, to follow up on the implementation of the recommendations sent to the Chronic Psychiatry Hospital of Dumbraveni, Vrancea county.

● in the “*SfantaMaria*” *Psychiatry Hospital* of Vedea, Arges county, it was found that some of the checked observation reports included the date of release in advance; the claimed reason was that patients were proposed for release in the following month when the settlement threshold has been reached during the current month, as negotiated through the contract with the Health Insurance House of Arges; therefore, the patient’s date of release was postponed for financial reasons, related to the settlement of medical services, not for medical reasons. **Recommendation:** to release patients depending on their state of health; to specify the diagnostic upon release and the date of release strictly on the date of release of the patients - since the patients’ release was postponed for financial reasons, related to the settlement of medical services, and some FOCGs included the release date in advance/a changed date of release or no diagnostic upon release.

Regarding psychological assistance:

● psychologists used a standard medical register used in the hospital, with improper headings for the provided psychological assistance; ● no psychological reports were drawn up and no protocols were elaborated pursuant to psychotherapy sessions; ● a register of special events was not drawn up; ● psychological practices did not have a computer with a printer; a computer had to be purchased for psychological practices, to facilitate the administration of tests and electronic records of psychological acts (assessments, counselling), keeping two copies of assessments included in the observation report, etc. (*the Psychiatry Hospital of Gătaia, Timis county*); **Recommendations:** ● to provide the required technical and methodological equipment for the psychologists’ professional activity; ● each psychologist should use the Register of professional acts, issued by the College of Romanian Psychologists, to be numbered, sealed and registered at the unit’s secretariat; ● psychologists should draw up individual intervention plans for each patient included in the counselling or psychotherapy programme, stipulating the objectives and recommended activities in order to reach the objectives; ● to intensify complementary mental health care services playing a part in the patients’ recovery, such as psychological counselling and psychotherapy and to fill in psychological counselling reports and psychotherapy protocols; ● to draw up a special events

register, detailing the corresponding situation and recommendations to solve it.

Answer: new furniture will be purchased with priority for psychologists' practices (especially cabinets for the patients' reports), as well as licensed psychological tests. These purchases will be made by December 1, 2018. The register of professional acts will be implemented starting November 1, 2018. Psychologists will begin to draw up individual intervention plans starting November 1, 2018. A plan was drawn up by a psychologist, allowing to extend and multiply ergotherapy activities. Restoration works started in the sports hall, which will allow the performance of physical activities therein. Once the restoration of pavilion 28 is completed, game rooms for the patients will be arranged. All these actions will help improve complementary mental health care. The special events register was implemented starting May 1, 2018, pursuant to the recommendation provided during the visit.

- no procedure on psychological assistance was drawn up;
- professional acts were recorded in a standard medical register used in the hospital (Register of examinations), not registered with the secretariat of the unit, with improper headings for the supplied psychological assistance;
- a much too low number of psychological interventions, not enough to provide for the patients' needs of assessment, counselling and psychotherapy, and the register did not include the type of supplied psychological assistance (counselling, assessment, etc.); counselling/psychotherapy was also provided based on the psychologist's statements, but the relevant notes referred to non-specific assessment, with repeated wording and no required recommendations;
- no recommendations for the follow-up of the psychological assessment were provided, no psychological intervention plans for the patients were established (*the Psychiatry Hospital of Drăgoești, Vâlcea county*).

Recommendations:

- to use the Register of professional acts, issued by the College of Romanian Psychologists, to be numbered, sealed and registered at the unit's secretariat and the psychologist should draw up psychological assistance procedures;
- to increase the efficiency of the psychological assessment process, by purchasing and using the suitable instruments (scientifically validated psychological tests, to cover psychological assessment needs);
- to increase the number of psychological counselling sessions and the psychologist should thereafter fill in the counselling

reports, to provide psychological education for the patients and their families; • to draw up a daily psychological intervention programme, so that everyone benefits from psychological activities on a regular basis and to specify the type of provided psychological activities (counselling, assessment, psychotherapy) under a corresponding heading of the patient's observation report; • to perform psychological assessments and draw up therapeutic recommendations for recovery, to establish a range of specific measures and psychological interventions, focused on the identified issues (specific psychological intervention programmes, on an individual or a group level, with clear purposes, structured according to meetings, based on the identified psychological needs). **Answer:** the management of the Psychiatry Hospital of Dragoiesti informed as follows: the register of professional acts issued by the College of Romanian Psychologists was drawn up; suitable instruments for the psychological assessment process will be purchased in 2019; a form was attached to FOCG including the psychological counselling report, the psychological assessment, therapeutic recommendations and a therapeutic action plan.

• psychological activity was not properly ensured in the *Psychiatry Hospital of Murgeni, Vaslui county*, due to the absence of an employed psychologist, of a psychology practice and relevant procedures; psychological counselling activities were written down in a notebook that did not meet the standards imposed by the College of Romanian Psychologists. **Recommendations:** actions had to be taken to improve the patients' psychological assistance by: • urgently employing a psychologist and an ergotherapist to reduce the overcrowding of psychological activities; • arranging a psychological practice according to the specific standards of Law no. 213/2004 on the exercise of the office of psychologist with a right to practice, on the set up, organization and operation of the College of Romanian Psychologists, that would ensure the privacy of psychological acts; • drawing up the single register of professional acts and reports of psychological counselling and crisis intervention; • drawing up a specific procedure for psychological activities and a work programme, in compliance with the guidelines in force for each type of activity (group therapy, etc.); • developing specific therapeutic programmes for each

disorder, based on therapeutic protocols: the therapy of memory (memories), psychomotor exercises, multi-sensorial stimulation, other forms of social, occupational, music, dance therapy, etc.

● in the **Hospital of Psychiatry and Safety Measures of Jebel**, Timis county, the patients were involved in active occupations, adapted to their social and cultural environment of origin only on a limited basis, due to insufficient human resources. The hospital only employed 2 ergotherapists, with a daily 8-hour schedule, during the first part of the day; thus, the number of patients who benefitted from ergotherapeutic activities, based on the psychologists' statements, was limited due to insufficient staff and other activities taking place during these hours as well (medication, meals, etc.). **Recommendation:** ● to ensure the involvement of as many patients as possible in recovery and rehabilitation activities, group activities, occupational therapy activities, entertainment, specific activities for professional readjustment, by increasing the number of ergotherapy trainer positions. **Answer:** ● the management decided to reassess the number of needed ergotherapy trainer positions, by also consulting physicians who were heads of departments, as well as by asking the Ministry of Health to increase the number of positions stipulated for this category by the rules, since the staff rules did not specify other positions of therapists, additional to the two that were already occupied in the unit, as of the time of the visit. ● being aware of each patient's need to be involved in occupational therapy, entertainment and rehabilitation activities, the management of the unit sent out a new notice to all departments with beds, asking them to reorganize the time of the patients and of the staff in the departments, so that each patient would be involved in activities, filling in the daily timetable of performed activities in a standard report to be attached to the patient's clinical observation report.

Regarding social assistance: ● the social worker's activity did not follow a schedule for a specific time frame – week, month, quarter, etc. ● the mediation and counselling activities performed with the members of the patients' families was not quantifiable, since no records or registers of the counselling sessions performed with the relatives on a direct basis or by phone were not available; ● the patients' recovery plans did not include a heading containing data on the patient's recovery/social

reintegration, filled in by the social worker in the hospital; • no other documents/reports on the patients were available, including a heading regarding social issues, to be filled in by the social worker; • the patients' documents were hard to find and identify in their files; all documents in a file were kept in a single plastic folder; • no multidisciplinary approaches of the patient's recovery and reintegration were implemented in the hospital (*the Psychiatry Hospital of Murgeni*). **Recommendations:** to take the required actions to improve social assistance by: • planning activities proposed to be performed, informing the patients on the timetable of activities to be undertaken and posting the planning in transited places, visible for patients; this would help create a safe and predictable environment for them; • a better management of the patients' individual files by facilitating access to documents, organizing them by sections (medical records, social records, civil status and identity documents, etc.) and in compliance with the chronological criterion; • setting up a register that would mention counselling sessions (by phone or direct) held by the social workers and the relatives, which would be relevant to quantify the social worker's activity, as well as to manage the hospital's social cases.

• *the Hospital for Psychiatry and Safety Measures of Jebel*, Timis county did not have adjustments for persons with disabilities in the sanitary facilities or in the halls (supporting rods, showers and toilet seats adapted to patients with physical disabilities). **Recommendation:** to arrange facilities so that sanitary facilities could also be used by persons with disabilities in all departments. **Answer:** the purchase and supply of furniture and office equipment is suspended, based on Emergency Ordinance no. 90/2017 on some tax-budget measures, the amendment and supplementation of normative acts and the extension of some deadlines. The arrangement of the indicated areas and the installation of the video surveillance system are included in the hospital's list of priorities, to be covered according to the budget allocated to the unit for the year 2018.

Other aspects that may represent risk factors for torture or cruel, inhuman or degrading treatment applied to admitted persons:

• the Procedure for involuntary admission and a Protocol presenting the work method for involuntary admission were drawn up in the "*Sfanta Maria*" Psychiatry

Hospital of Vedea, Arges county. According to the procedure, a person could only be admitted involuntarily if a certified physician of the hospital found: • the presence of violent acute behaviour due to a psychological disorder; • the presence of an obvious and imminent risk of self-injury or injuries to others due to psychological disorders; • well-founded medical reasons to show that the failure to immediately establish adequate treatment would increase the risk of behaviour injuring oneself or other persons or serious damage to mental health (the cases stipulated in the Guideline on the Enforcement of Law no. 487/2002 on mental health and the protection of persons with psychological disorders, republished) and if the patient refused to sign the informed consent (that was provided to him/her for signature purposes as s/he was admitted) within 24-72 hours from the admission. This latter provision goes against art. 58 of Law no. 487/2002, republished, based on which, after assessing the mental health of the referred individual and after appreciating the opportunity of involuntary admission, the psychiatrist must immediately inform the concerned person and his/her legal representative on the decision to subject him/her to psychiatric treatment, as well as the proposal to subject him/her to involuntary admission.

Furthermore, both the procedure and the protocol fully reproduce the text of the law regarding involuntary admission, but this is not operational, i.e. they do not detail the activities required in case of involuntary admission; no harmonization was provided with Order of the Minister of Health no. 488/2016 on the approval of the Guideline for the Enforcement of Law no. 487/2002, republished.

In the hospital, the Commission for involuntary admission included two psychiatrists and a social worker, which goes against art. 61 par. (2) of Law no. 487/2002, republished, stipulating the following structure of this commission: 2 psychiatrists and a physician with a different specialization or a representative of civil society, chosen by the hospital manager. The appointment, selection procedure and the conditions to be met by the representatives of the civil society are stipulated under art. 19 of the Guideline on the enforcement of Law no. 487/2002, republished, i.e. the person proposed as a representative of the civil society (by non-governmental organizations working in the field of mental health or human rights protection) should meet the following conditions: perform activities in the field of mental health

or human rights protection; have full capacity of exercise; no criminal record; at least 5 years seniority as an employee of the organization.

Based on the information provided by the staff of the “*Sfanta Maria*” *Psychiatry Hospital of Vedea, Arges county*, the management of the Association for the Patients’ Rights submitted requests to be included in the commission, *but these did not receive a favourable answer.*

Upon request of the visit team, the hospital’s management failed to present the Single register of records of involuntary admissions, which should have existed, drawn up based on art. 16 of the Guideline for the enforcement of Law no. 487/2002, republished.

In the hospital, the involuntary admission procedure was not enforced during 2017-2018 (until the date of the visit); the last involuntary admission was performed in June 2016. NPM representatives checked the enforcement of the involuntary admission procedure and found that:

- the FOCG document (Foaia de Observație Clinică Generală - General Clinical Observation Report) *was not accompanied by the proof that the patient was informed on the involuntary admission measure* (as provided by art. 58 par. (1) of Law no. 487/2002, republished: after assessing the mental health of the referred individual and after appreciating the opportunity of his/her involuntary admission, must immediately notify the concerned person and his/her legal representative (...) on the proposal to subject him/her to involuntary admission);
- the relatives’ notification was informed (no legal/conventional representative was appointed for the patient), but this does not replace the obligation to inform the patient;
- *the proof of having provided the patient with the Involuntary Admission Decision of the Commission* (as provided by art. 61 par. (5) of Law no. 487/2002, republished and art. 7 par. (20) of the Enforcement Guideline: the involuntary admission decision of the commission shall be mentioned in the patient’s medical records and shall be immediately notified in writing to him).

- *the patient’s records did not include:* the proof of having provided the patient with the decision to maintain involuntary admission and the civil sentence by which the Judge’s Office of Pitesti confirmed medical admission; in the absence of

such notice, the patient is deprived from the possibility of appealing the decided measure/established decision, considering, for the court, the provisions of art. 62 par. (8) of Law no. 487/2002, republished: The decision of the court may be challenged with an appeal, within 3 days from being given, for those attending, or from its notice, for those who were absent.

- a patient was admitted who, even though the Commission for the review of the involuntary admission procedure established that the requirements for maintaining involuntary admission were no longer met (on August 8, 2016) and the management of the hospital notified the Judge's Office of Pitesti in due time (on August 9, 2016) *remained involuntarily admitted for an extremely long time (3.5 months), pursuant to the decision of the court of November 7, 2016* (the first session was set for October 20, 2016 – recommended date), and the decision was notified to the hospital on November 15, 2016.

The management of the hospital repeatedly asked to change the term, i.e. to schedule for a later date than the one set by the court, including a petition to the Bureau of Information and Public Relations of the Judge's Office of Pitesti, asking that the request should be judged with emergency, based on legal provisions. However, the documents enclosed to the patient's records showed that the court did not classify the termination of involuntary admission as an urgent case.

In this situation, since the involuntary admission procedure stipulated that the patient will only be released once the court confirms the termination of involuntary admission by means of a judgment, the concerned patient was deprived from freedom for more than 90 days. The commission met on a monthly basis during this time and maintained its previous decision, i.e. terminated the conditions that imposed involuntary admission.

Regarding the mentioned aspects and considering the provisions of art. 65 par. (4) corroborated with the provisions of art. 62 par. (1) of Law no. 487/2002, republished: the application regarding the confirmation of the termination of involuntary admission shall be judged with an emergency status, in the council room, based on art. 4 of Law no. 35/1997, republished, the NPM team notified the Superior Council of Magistrates.

Recommendation: • *to harmonize the Operational Procedure of involuntary admission and the Protocol with the provisions of Law no. 487/2002, republished and the Enforcement Guideline, so as to observe the provisions of art. 58 of Law no. 487/2002, republished, based on which the physician, after assessing the opportunity of involuntary admission, must immediately inform the concerned person and his/her legal representative regarding the decision of subjecting him/her to psychiatric treatment, as well as the proposal to subject him/her to involuntary admission;* • *to detail the required activities in case of involuntary admission - since the procedure is initiated if the patient refuses to sign the informed consent (which was presented for signature purposes upon admission) within the first 24-72 hours from admission and the procedure was not actually operational;*

• *During the examination of the files of patients at the Psychiatry Hospital of Murgeni, Vaslui county, some sponsorship contracts were identified by which the patients of the hospital sponsored the Murgeni TERAPSI Association with various sums of money (mostly varying from 2000 to 6000 RON). The money that the patients provided the association as sponsorship proceeded from the collection of the legal rights they had (invalidity pension, indemnity for degree of disability, etc.). It was found that 66 patients sponsored the association in 2017. The situation raised suspicions to the members of the visit team regarding the determination of patients in order to sponsor the TERAPSI Murgeni Association, since the Chairman of the TERAPSI Association was the hospital's social worker. Based on art. 25 par. (1) of the Deontological Code no. 1 of December 14, 2007 of the profession of social worker, published in the Official Gazette issue 173/2008, social workers "avoid conflicts of interest in the exercise of their profession and promote an impartial approach of professional situations". In this context, it was found that the staff of the Murgeni Psychiatry Hospital must not get involved in fundraising activities from hospital patients for the TERAPSI Association; **Recommendation:** *to discard any suspicion regarding the freely expressed consent of the hospital patients when entering sponsorship contracts, since the chairman of the TERAPSI Association is the social worker of the hospital and, based on art. 25 par. (1) of the Deontological Code no. 1 of December 14, 2007 on the profession of social worker, published in the**

Official Monitor no. 173/2008, social workers avoid conflicts of interest in the exercise of their professional situations.

- At the “Sfanta Maria” Psychiatry Hospital of Vedea, Arges county, a *Work procedure on the measures to restrict freedom of movement* (containment and isolation) *was not presented*; however, the hospital staff was aware of legal provisions. Physical containment, mechanical containment and chemical containment were applied in the hospital, based on the documents shown to the visit team: Containment Protocol, Mechanical Containment Protocol, Personal reports, containment registers, observation reports.

Mechanical containment was decided by the attending physician or the physician on duty (if the measure was not initiated at the physician’s initiative, s/he was informed within no more than 30 minutes) and was enforced by the nurse/medical assistant/non-qualified worker for the surveillance of hazardous mentally ill patients, and monitored by the medical director. Through the involvement of the surveillance worker who, based on the Order of the Minister of Health no. 122/2010 on the approval of the guidelines on staff for hospital medical assistance, is not a member of the medical staff, *the legal provisions were not observed (Enforcement Guideline of Law no. 487/2002, republished), stipulating the participation of medical staff in the enforcement of containment* (the names of medical staff members who took part in the enforcement of the restrictive measure, based on art. 9 par. 11 e are mentioned in the observation report and the register of isolation and containment measures). Non-qualified workers (surveillance of hazardous mentally ill patients) enforced physical (manual) containment, having the attribution of trying to immobilize very agitated patients who became violent, until the nurse on duty arrived.

Regarding the place where the mechanical containment measure was enforced, the statements of the medical staff were contradictory: either there was a special room where patients who would be contained were taken, or the measure was enforced in the room where they were accommodated, next to the other patients. The enforcement of containment in the room, also stipulated in the Protocol on mechanical containment in force in the hospital, *goes against the Guidelines of the*

European Committee for the Prevention of Torture based on which patients must never be contained when seen by other patients (except when patients want to stay in the company of a certain patient), even though screens were used (whose presence was not established by the visit team in the rooms of the hospital).

Furthermore, the Protocol on mechanical containment mentioned the following means of containment: the straitjacket or the set of ropes available in each department. Certified means of containment were used in practice (textile Segufix belts) to immobilize limbs, in compliance with the provisions of the Enforcement Guideline of Law no. 487/2002, republished, stipulating the containment devices (wide leather belts or equivalent, equipped with a strapping system for the bed and cuffs for the carpal, tarsal joints, thorax and knee).

The Protocol on containment included the medicines to be administered during mechanical containment. As for the simultaneous enforcement of mechanical and chemical containment, the European Committee for the Prevention of Torture emphasizes the importance of accurately assessing the applied medicine and dose and stipulates that they should be applied in the short run and considering possible secondary effects.

The hospital had Registers for containment measures for each pavilion, filled in according to legal provisions (art. 9 par. 11 of the Enforcement Guidelines of Law no. 487/2002, republished). The registers included: the hour and minute when the restrictive measure was established, the degree of restriction, the circumstances and reasons lying at the basis of the restrictive measure, the name of the physician deciding the restrictive measure, the names of the members of medical staff who took part in the enforcement of the restrictive measure, the presence of any physical injury suffered by the patient or by the medical staff regarding the enforcement of the restrictive measure, the performance of patient monitoring visits stipulating the values of vital functions, the fulfilment of physiological needs or other needs, as the case may be, the hour and minute when the restrictive measure was raised.

115 cases of enforcement of the containment measure were found in 2017, and **41 cases** were included in medical records in 2018, by the date of the visit (15 in Pavilion 1 and 26 in Pavilion 2).

The visit team, checking the reasons for the containment measure and seeing that the number of containments in 2018 was higher in Pavilion 2 (where patients with a lower degree of aggressiveness were accommodated) than in Pavilion 1, *found that containment was also enforced in case of attempts to escape* (attempts to escape took place in Pavilion 2, where the patients, unlike the patients in Pavilion 1, spent a lot of time in the hospital yard). Therefore, *it can be said that the containment measure was also applied with a sanctioning purpose or with a view to changing the patients' behaviour, which went against the provisions of art. 39 par. (3) of Law no. 487/2002, republished: the measure of containment cannot be used as a sanction (...) or to force proper behaviour, as well as relevant CPT Guidelines.*

This unit did not enforce the therapeutic isolation of patients, since no isolation rooms were arranged based on art. 8 par. (4), (5) and (6) of the Enforcement Guidelines of Law no. 487/2002, republished

Recommendations: • *mechanical containment had to be strictly enforced by medical staff, respecting the patients' dignity and rights, since non-qualified workers supervised hazardous mentally ill patients and could enforce this measure, as well as the fact that patients were contained in common rooms, in the presence of other patients;* • *Enforcing containment with the observance of the provisions of article 39 paragraph (3) of Law no. 487/2002 republished, based on which the containment measure cannot be used as a sanction or to force proper behavior, since it was also enforced in the case of patients who escaped/tried to escape* • *Arranging isolation rooms in compliance with article 8 paragraphs (4), (5) and (6) of the Rules for the enforcement of Law no. 487/2002, republished.*

• the patients were wearing pyjamas (*the "Sfanta Maria" Psychiatry Hospital of Vedeia, Arges county*). Considering the guidelines of the European Committee for Prevention of Torture, based on which "the practice to always dress patients in pyjamas/nightgowns, seen in some psychiatric institutions, does not favour the reinforcement of personal identity and self-esteem; individual clothing is a part of the therapy".

Recommendation: to observe the recommendations of the European Committee for the Prevention of Torture regarding allowing/encouraging patients to

wear other clothes than pyjamas/nightgowns during daytime, as well as purchasing clothing such as shirts, tracksuits, for persons who do not have their own clothes, ensuring individual clothing within the psychiatric unit.

B. Neuropsychiatric recovery and rehabilitation centres

Positive aspects were found during the visits performed in 2018, such as:

- the bedrooms of beneficiaries were clean, sunny, ventilated, in a proper state of cleanliness and hygiene, with clean walls, customized with paintings, flower ornaments or photographs, with the pavement covered in sanitized linoleum, with PVC windows equipped with termopane glass and insect protection meshes, with enough and functional electrical installations and illumination facilities;
- all bedrooms were outlined with a red dot for emergency situations and a fire simulation was organized to this purpose, which was completed successfully;
- each bedroom was provided with 2-3 beds, bedside tables and wardrobes for each beneficiary, a chest-of-drawers, functional radio and TV sets, a sofa, clothes hangers, etc.
- the furniture in the rooms was clean, heating facilities were enough and functional;
- each beneficiary had bed linen, blankets and other personal items, clean and in a good state, so that a proper level of comfort and hygiene was provided;
- bed linen was changed whenever required;
- each room was provided with its own sanitary facility, adapted to be used by persons with disabilities (supporting rods, wide access doors, non-slip mats, wheelchairs, special toilet seats). Sanitary facilities were clean, properly sanitized and equipped with functional technical and sanitary installations (toilet, tub, shower, basin, mirror, fan, etc.);
- the inside of the rooms seemed comfortable, pleasant, and rooms were properly supplied with wardrobes, bed linen, blankets, pillows, carpets, towels and curtains. The centre had supplies, 200 bed linens had been purchased through the same project. A TV set was installed in each room. Cleaning and bed linen change schedules were posted on bathroom doors. Each room had a notebook for administrative staff where maintenance activities were mentioned (*C.I.A.P.A.H. Urlați, Prahova county*);
- as for the personal care of the accommodated beneficiaries, the general appearance of beneficiaries with high abilities was neat, clothes were clean, the cleanliness of the rooms was acceptable,

which showed the staff's interest in the beneficiaries' hygiene (*C.R.R.N. Plătărești, Călărași county*); • the general appearance of beneficiaries was neat, clothes were clean, the rooms were clean, which showed the staff's interest in the beneficiaries' hygiene, both for those with normal abilities, and those with lower abilities; • beneficiaries who could not take care of themselves (partial or total wash, shaving, combing, dressing/undressing, putting shoes on/taking shoes off, transfer to the wheelchair, movements inside the room) were assisted by the care staff on a daily basis - nurses, under the supervision of head nurses; • no beneficiaries with eschars or other skin injuries proving potential faulty care were identified (*C.R.R.N. Războieni, Neamț county*); • the rooms for palliative care were equipped with a panic button and beds with special systems for gripping and raising persons with motor disabilities and anti-eschar mattresses. Furthermore, the centre was equipped with a hydraulic elevator with harness (on wheels, crane type) for the transport of persons with locomotor disabilities and/or who are overweight; • the building was equipped with a modern elevator, adapted to persons immobilized in wheelchairs (also access with a stretcher) and inside and outside access ramps for persons with locomotor disabilities; • every level of the building included three rooms adapted for persons with disabilities, including their sanitary facilities (thus, access to all areas was provided, based on the *Order of the Minister of Regional Development and Public Administration no. 189/2013 on the approval of technical regulations "Guideline on the adjustment of civil buildings and of the urban area to the individual needs of persons with disabilities, indicative NP 051-2012-Review NP 051/2000"*); • the dormitory building was equipped with an automated fire extinction station; • the windows on the third floor were equipped with automated opening devices in case of fire; • tables were provided with the room allocation of beneficiaries with walking issues, so as to efficiently help evacuate them if needed; • the closing system of doors for access to the stairs was automatically unblocked in case of danger (*C.R.R.N. Nedelea, Prahova county*).

Visit teams of the NPM found a range of **failures** during the performance of their monitoring activities. In order to solve them, the People's Advocate made recommendations to the managements of the visited units, by means of a visit report.

The visit reports drawn up in 2018 resulted in **80 recommendations**, of which **61 for the reports resulting from visits undertaken in 2018** to the *Centre for Care and Assistance for Adults with Disabilities of Urlati (C.I.A.P.A.H.), Prahova county; the Centre for Integration through Occupational Therapy for Adults with Disabilities (CITOPAH) of Urlati, Prahova county; the Centre for Neuro-Psychiatric Recovery and Rehabilitation (CRRN) of Razboieni, Neamt county; the Centre for Neuro-Psychiatric Recovery and Rehabilitation (CRRN) of Plataresti, Calarasi county*, as well as **19 recommendations resulting from the reports for visits undertaken in 2017**, to the *Centre for Neuro-Psychiatric Recovery and Rehabilitation for Adults with Disabilities (CRRNPAH) of Nedelea, Prahova county; the Centre for Recovery and Rehabilitation for Persons with Disabilities (CRRPH) of Păstrăveni, Neamț county; the Centre for Neuro-Psychiatric Recovery and Rehabilitation (CRRN) of Balaceanca, Ilfov county.*

* The following visited units had submitted answers by the date of this report: *the Centre for Care and Assistance for Adults with Disabilities of Urlati, Prahova county; the Centre for Integration through Occupational Therapy for Adults with Disabilities of Urlati, Prahova county; the Centre for Neuro-Psychiatric Recovery and Rehabilitation of Razboieni, Neamt county; the Centre for Neuro-Psychiatric Recovery and Rehabilitation of Plataresti, Calarasi county; the Centre for Neuro-Psychiatric Recovery and Rehabilitation for Adults with Disabilities of Nedelea, Prahova county; the Centre for Recovery and Rehabilitation for Persons with Disabilities of Păstrăveni, Neamț county; the Centre for Neuro-Psychiatric Recovery and Rehabilitation of Balaceanca, Ilfov county*

Regarding the supply of medical assistance • though the visited unit had entered a cooperation contract with a dentist, beneficiaries were identified who had serious dental disorders, with pain, who needed emergency intervention, which was mentioned by the physician in the medical records. (*C.I.A.P.A.H. of Urlați, Prahova county*). **Recommendation:** providing emergency dental assistance for beneficiaries with dental disorders. **Answer:** The Centre mentioned that they had a partnership with the Overland for Smile Association, providing examinations for all beneficiaries in the centre and dental interventions based on the collaboration convention.

Considering the previously mentioned answer of the Centre, the People's Advocate Institution requested DGASPC Prahova to perform additional checks. • an isolation room for the accommodation of beneficiaries with infectious diseases was not arranged in the Centre. The area presented to the team as an isolation room could not be used, since various materials were stored there (*C.I.A.P.A.H. Urlați, Prahova county*). **Recommendation:** to arrange an isolation room for temporary accommodation for beneficiaries with infectious diseases. **Answer:** *C.I.A.P.A.H. Urlați, Prahova county* mentioned that an isolation room was arranged in the centre for the isolation of persons with infectious diseases, based on legal provisions. • the presence in rooms reserved for TBC patients of beneficiaries who did not have this disease, which was caused by a door that separated the area for TBC patients and which did not lock (*C.R.R.N. Plătărești, Călărași county*). **Recommendation:** to carefully supervise beneficiaries, so that they do not have access to the rooms reserved for TBC patients. **Answer:** The centre informed that TBC patients were supervised carefully and had their exclusive space for activities. • certain medicines were not available in the medicine stock or bottlenecks occurred in the supply of medicines, as the limitation was determined by the approved budget. (*C.I.T.O.P.A.H. Urlați, Prahova county*). **Recommendation:** to provide emergency medication and identify measures to avoid bottlenecks in the supply of medicines. **Answer:** the representatives of the Centre informed that the amounts needed to purchase the medicines would be included in the 2019 Investment Plan.

• the presence of skin injuries (eschars, eritema) in some beneficiaries with serious disorders, immobilized in bed. The centre was equipped with special anti-eschar mattresses, but they were not enough for all the beneficiaries who could not move (*C.R.R.N. Plătărești, Călărași county*). **Recommendation:** to purchase enough anti-eschar mattresses, according to the beneficiaries' needs. **Recommendation:** The Centre informed that two anti-eschar mattresses were purchased.

• the nurses attended training courses on sanitization, but first aid courses were not organized. (*C.I.T.O.P.A.H. Urlați, Prahova county*). **Recommendation:** the staff of the Centre should take part in training courses for the supply of first aid. **Answer:**

The Centre informed that first aid courses would be included in the Professional Training Plan.

Regarding the enforcement of containment and isolation measures ● no isolation room was available, though it was needed in case of infectious diseases in the Centre (*C.R.R.P.H. of Păstrăveni, Neamt county*). **Recommendation:** to arrange an isolation room, needed in case of infectious diseases in the Centre. **Answer:** regarding the arrangement of an isolation area, needed in case of infectious diseases in the Centre, it was informed that the area for such activities is sanitized and maintained on a regular basis, in case it may be used. ● no suitable mentions were made in the containment register or in the medical report of containment measures (*C.R.R.P.H. of Păstrăveni, Neamt county*). **Recommendation:** to properly draw up and mention the containment measures both in the containment register and in the medical records. **Answer:** regarding the suitable elaboration and mention of containment measures both in the containment register and in the medical records, in agreement with the legal provisions in force, the measures for their observance have been ensured. ● containment/isolation rooms did not meet legal provisions, i.e. their walls were not covered in durable materials, from a single piece and with no visible joints, they did not have access to their own sanitary facilities, they were not protected so as to prevent injuries to the isolated persons, for instance: the chair and table were not secured to the wall, the bed frame was of iron and had rounded corners, and a stove was mounted inside the rooms. (*C.R.R.N.P.H. of Nedelea, Prahova county*). **Recommendation:** to arrange isolation/atraumatic rooms in compliance with the legal provisions in force. **Answer:** the destination and arrangement of the “isolation room” comply with the Project implemented in the Centre. Moreover, the Centre mentioned that, during the project implementation period, the areas and enclosures cannot be modified for a period of 5 years (until December 2019); isolation rooms are equipped with furniture (table, chair and bed) secured to the pavement and a stove with metal protection; to avoid voluntary or involuntary traumas to the beneficiaries, the bed and the metal protection of the stove are covered in atraumatic protection materials, the walls of the spaces are covered in polystyrene over concrete; access doors to the “isolation rooms” are not locked so as

to allow the beneficiaries' access to the sanitary facilities; they have a semi-open surveillance system; after the expiry of the Project implementation period, the heating for these areas might be changed and stoves might be removed; moreover, a durable material, from a single piece and with no visible joints might be applied onto inside walls, within the budget to be approved at that time.

Regarding accommodation conditions: • the failure to observe legal provisions regarding the accommodation of beneficiaries, i.e. providing a personal accommodation area to each beneficiary, according to his/her own needs - 6 sqm in the bedroom and no more than 3 beds and minimum furniture: bed, bedside table, table, chair, wardrobe (*C.R.R.N. Plătărești, Călărași; C.I.T.O.P.A.H. Urlați, Prahova county*). Overcrowding in most visited bedrooms (with 5-12 beds; for instance, one room had 10 beds and accommodated 8 persons); the beds of beneficiaries were joined in some rooms and various objects were stored under the beds (buckets, boxes, bags, buckets with dirty clothes) (*C.R.R.N. Plătărești, Calarasi county*).

Recommendation: to take the required actions to reduce overcrowding and observe the standards of the legislation in force; providing a personal accommodation area to each beneficiary, according to his/her own needs (6 sqm in the bedroom and no more than 3 beds and minimum furniture: bed, bedside table, table, chair, wardrobe).

Answer: The Centre informed that the required actions to reduce overcrowding and comply with the standards stipulated in the legislation in force had been undertaken by D.G.A.S.P.C. Prahova, since the centre has no legal personality. The answer from D.G.A.S.P.C. Calarasi mentioned that procedures for the transfer of adult beneficiaries from the territory of other counties/districts of Bucharest and for the identification of family and community alternatives will be resumed; for beneficiaries residing in the Calarasi county, actions for the identification of individual needs, for the assessment of family reintegration possibilities, for the establishment of community services – daycare centres and protected homes – will be resumed by accessing funding lines with the support of the Calarasi County Council, by supplying each beneficiary with a personal accommodation area, according to his/her own needs (6 sqm in the bedroom and no more than 3 beds and minimum furniture: bed, beside table, table, chair, wardrobe) according to legal provisions. Furthermore,

the representatives of *C.I.T.O.P.A.H. Urlați* answered that the funds for the rehabilitation, refurbishment, equipment and replacement of the furniture/equipment for all areas (bedrooms, hygiene and sanitation areas, therapy/recovery practices, areas for sports activities, inside and outside common areas) through sanitization, painting, replacement of used furniture, additional equipment will be requested in the 2019 investment plan. • movement from the first floor to the attic was made by means of abrupt and improper stairs, with the risk to fall. (*C.I.T.O.P.A.H. Urlați*). **Recommendation:** to arrange the stairs for access to the attic, so that the beneficiaries are no longer at hazard. **Answer:** the funds for the rehabilitation, refurbishment, equipment and replacement of the furniture/equipment for all areas through sanitization, painting, replacement of used furniture, additional equipment will be requested in the investment plan for the following year.

• not enough sanitary facilities compared to the number of beneficiaries, in infringement of the minimum quality standards on hygiene and sanitary facilities. Showers were not separated by means of separating walls or curtains, thus failing to ensure the privacy of the residents. Sanitary facilities had various drawbacks: some of them did not have a door, the electrical installation was missing or bulbs were missing, the stoves were rusty, toilets did not have seats. In some sanitary facilities, the access door did not have a handle, and latches were arranged, while some wc doors were replaced with curtains. Damp was found on the ceiling of one sanitary facility (*C.R.R.N. Plătărești, Călărași county*). **Recommendation:** to supplement and arrange sanitary facilities according to the legal provisions in force, ensuring the privacy of beneficiaries. **Answer:** The centre informed that, since it was undergoing a reorganization-restructuring process, the actions for the equipment of the Centre according to the standards stipulated by the legislation in force with a view to obtaining the required permits and authorizations for its operation, as well as the licensing of the social service, were not fulfilled, and the possibility to take over 100 beneficiaries from the centre was not available so far.

Regarding the beneficiaries' legal protection: • in most neuro-psychiatric recovery and rehabilitation centres for adults with disabilities, beneficiaries with no reasoning were identified, who had no legal representatives appointed (*C.I.A.P.A.H.*

Urlați, Prahova county; C.R.R.N. Plătărești, Călărași county; C.R.R.N. Războieni, Neamț county; C.I.T.O.P.A.H. Urlați, Prahova county). ● in *C.R.R.N. Plătărești, Călărași county*, documents for 10 beneficiaries were sent to the legal department of D.G.A.S.P.C. Calarasi for indictment purposes, and for the other 30, solutions were being sought to identify guardians and to establish indictment. The issue of how to ensure their protection was raised, since the actions were just being taken for some of them and had not even been initiated for the others. ● in *C.I.T.O.P.A.H. Urlați, Prahova county* it was found that only 9 beneficiaries had been indicted, and a legal representative had been appointed so that, considering the beneficiaries' medical diagnosis, the issue of their legal protection was being raised, since the management of the centre had not taken actions with the Legal Service of D.G.A.S.P.C. Prahova, so as to appoint legal representatives, if required. ● in the case of *C.R.R.N. Războieni, Neamț county*, 31 indicted beneficiaries had no guardianship or curatorship established so that, even though they could not exercise their rights, they were not represented by anyone when decisions concerning them were being taken. The information and documents provided by the staff of the institution showed that actions had been taken to this purpose and discussions were initiated with the relatives of beneficiaries or actions with courts of law. Most cases pending with the courts were suspended, since no persons were identified to be appointed as guardians for indicted persons. Regarding this situation, visit team members found that, with a view to ensuring fundamental rights and the required guarantees for avoiding abuse on beneficiaries, filing complaints, access to justice, freedom of movement, private life, etc., actions must be pursued to establish protection measures, where applicable, since art. 111 N.C.C. stipulates the Centres' obligation to notify the guardianship court ● in *C.I.A.P.A.H. Urlați, Prahova* some persons were not indicted, had no legal representative, but had serious cognitive impairment (e.g. oligophrenia) and were unable to sign the contract with the centre, so that legal representation was absolutely required. **Recommendation:** to initiate or pursue the required actions in order to take legal action to ensure the beneficiaries' legal protection. **Answer:** the representatives of the Centre said that they had discussed with the lawyer of the institution, who is under a legal services agreement with the Centre, so as to submit files for indictment

and appointment of legal representatives. It was also mentioned that the situation was discussed with the representatives of D.G.A.S.P.C. Prahova, who described the legal medico-legal assessment and indictment procedure, as well as aspects related to the coverage of fees for medico-legal assessment, transportation, etc. and their inclusion in the institution's budget. *C.R.R.N. Plătărești, Călărași county* answered that the documentation for indictment and appointment of legal representatives for the 29 beneficiaries had been drawn up, and some of the files were sent for solution to the Legal Service of DGASPC Călărași. Besides, *D.G.A.S.P.C. Călărași* sent an internal note to the management of the Centre setting out deadlines and responsible persons for each individual recommendation. Thus, they were asked to draw up the specific documentation for the indictment of the 29 beneficiaries of the Centre, as well as take the required legal action. (*C.R.R.N. Plătărești, Călărași*) • As for the pursuit of actions to set out measures for the protection of beneficiaries, since 31 indicted beneficiaries were unable to manage their goods and properly defend their interests as of the date of the visit, the management mentioned that an action to establish the legal representative of indicted beneficiaries had been initiated, by means of correspondence with the municipalities of the settlements of origin, with a view to identifying a family member or any other person in the community that could be appointed guardian (*C.R.R.N. Războieni, Neamț county*).

Regarding social assistance and activities organized in the centre • no case officer was allocated for the 50 beneficiaries of the Centre, which resulted in a low number of actions for family reintegration, and the tasks belonging to the social assistance activity were delegated to other types of staff (the social worker position of the Centre was vacant). Relevant documents were not properly filled in and not always took into account the changes in the beneficiary's daily lives. Personal intervention plans were similar, though the beneficiaries had been included in the public care system for long periods of time. When the case was taken by another manager, the latter could not determine significant changes because s/he was replaced by someone else soon. The absence of a specialist in the staff of the centre results in the failure to perform specific activities or the delegation of tasks to other staff without specialized studies. (*C.I.A.P.A.H. Urlați, Prahova county*).

Recommendation: to re-assess case management activities and match the attributions of the case manager and case officer with the ones stipulated in the minimum quality standards. **Answer:** The Centre mentioned that case officers are appointed by decision of the general director of DGASPC Prahova. • the presence in the centre of a young beneficiary who submitted repeated requests for transfer to other centres where, in his opinion, he could have developed new skills, for instance perform lucrative activities. Thus, the specific analysis of this beneficiary had to be analysed and he should have been channelled to other centres that could provide alternatives to autonomy, personal qualification, compensated work. His placement in a centre that cannot provide enough activities and customized services at a young age is an infringement of his rights to social reintegration. (*C.I.A.P.A.H. Urlați, Prahova county*). **Recommendation:** to re-analyse the specific situation of beneficiaries with high skills and take the compulsory action to re-channel them to centres that may provide alternatives to autonomy, personal qualification, work and social reintegration. **Answer:** The Centre enclosed the transfer decision issued by the Committee for the Assessment of Adults with Disabilities of DGASPC Prahova, in compliance with the legal provisions in force. • the beneficiaries were not involved in activities to develop and maintain personal and social autonomy capacities, to develop and practise capacities and behaviours needed for adjustment to social life, though they were mentioned in the Individual Recovery Programme (*C.I.T.O.P.A.H. Urlați, Prahova county; C.R.R.N. Nedelea, Prahova county*). **Recommendation:** to perform recovery and rehabilitation activities, occupational activities to develop the beneficiaries' abilities and mention them in the relevant reports; to develop specific programmes involving the beneficiaries in activities resulting in the restoration of normal functional capacities or the compensatory development of remaining healthy functions, as well as to reduce or mitigate behaviour disorders, so that the recommendations in the Individual Recovery Plan can be implemented. **Answer:** assessment reports were revised, i.e. they mention how the objectives in the Individual Intervention Plans were reached (*C.I.T.O.P.A.H. Urlați, Prahova*); plans and activities of occupational therapy and specific therapeutic programmes for the development of the psycho-behavioural capacities and skills needed for adjustment to

social life were drawn up and implemented (...)” (*C.R.R.N. Nedelea, Prahova county*).

Regarding psychological assistance • Individual Intervention Plans generally included the developed activities/performed services with a view to ensuring personal care needs, maintaining and/or improving the state of health and physical and psychological autonomy, functional (physical and/or psychological) recovery/rehabilitation needs, social integration/reintegration needs, and were not individualized for each beneficiary. Furthermore, the plans did not include mentions regarding the assessment of results. (*C.I.T.O.P.A.H. Urlați, Prahova county*).

Recommendation: to customize specific individual plans, so that they do not include generally described activities, but specifically the achievement and fulfilment of the established goals. **Answer:** Specific individual plans were customized. • the existence of licensed assessment tools - the Kohs cubes (screening of cognitive abilities) and PANSS (focused assessment of the positive and negative dimensions of schizophrenic disorder), not exploited enough, due to the staff’s lack of experience. (*C.R.R.N. Războieni*).

Recommendation: to take action to improve the beneficiaries’ psychological assistance by pursuing the psychologists’ professional evolution.

Answer: The representatives of the Centre informed that specific tests will be purchased, which will also include the professional training period. • the areas of psychological practices were small, improper for the performance of psychological activities. Thus, a psychological practice had to be arranged to observe the conditions regarding the confidentiality of the professional act and the beneficiaries’ emotional security, based on the provisions of Decision no. 1/10.03.2006 of the Steering Committee of the College of Romanian Psychologists. (*C.R.R.N. Războieni, Neamț county*). **Recommendation:** to take the required actions to improve the psychological assistance of beneficiaries by arranging a psychological practice to ensure the privacy of psychological acts. **Answer:** a new programme for the efficient use of areas for the psychological act was drawn up.

Regarding registers • “improper general state, call 112!” appeared in the Register of special events in one case in 2018. Regarding this incident, the Incident Report of March 2018 includes no details on the description of the incident, possible

causes, circumstances, whether traumas resulted. (*C.I.A.P.A.H. Urlați, Prahova county*). **Recommendation:** to properly draw up the incident report and include in it a heading on actions taken pursuant to the incident, other than informing the management of the unit and/or the physician. **Answer:** The centre informed that the conclusions heading was included in the incident/accident report. • Some registers were not drawn up, such as: the Register of protocols drawn up on the daily report, the Register of activity reports, the Register of menstrual cycles, the Medico-legal Register including deaths, the Register of notifications and complaints; therefore, the above mentioned registers must be drawn up and filled in (*C.R.R.N. Războieni, Neamț county*). **Recommendation:** to draw up and fill in medical registers (the register of protocols drawn up on the daily report, the register of activity reports, the register of menstrual cycles, the medico-legal register including deaths, the register of sanitary education) and the register of notifications and complaints. **Answer:** in the provided answer, the management of the Centre did not mention anything on this recommendation, and monitoring activities would be pursued, also by performing a visit with a view to enforcing the recommendations drawn up by the People's Advocate Institution.

Regarding the staff • most centres faced the issue of lack of staff. A special situation was found in *C.I.T.O.P.A.H. Urlați, Prahova*, where the staff chart included 172 positions, and the number of employees was 70, resulting in a major deficit of 102 persons, especially in the medical assistance, assessment/socialization and recovery departments. The lack of staff was also an issue for *C.R.R.N. Războieni, Neamț county*; *C.R.R.N. Nedelea, Prahova county*; *C.R.R.P.H. Păstrăveni, Neamț county*; *C.R.R.N. Plătărești, Călărași county*; *C.I.A.P.A.H. Urlați, Prahova county*. • physical aggressions on the employees of the centre, with no actions being taken, though the Centre had been controlled by the Territorial Labour Inspectorate of Neamț, which did not set out any actions to this purpose (*C.R.R.N. Războieni, Neamț county*). **Recommendation:** enhancing the supervision of persons under custody at the centre, with known aggressive behaviour, by increasing the number of carers who performed activities in the wards, to provide personal safety for both the beneficiaries and the staff of the centre. **Answer:** the management of the unit mentioned that the

number of video cameras had been increased, besides the activities undertaken by the staff. • the staff members' failure to perform professional training courses, especially given the behavioural diversity of beneficiaries in neuro-psychiatric recovery and rehabilitation centres.(C.R.R.N. Plătărești, Călărași county).**Recommendation:** the staff should take part in professional training courses on crisis management, considering the beneficiaries' behavioural diversity. **Answer:** The centre mentioned that the staff did not take part in professional training courses.

Recommendations/proposals to change the legislative framework

Monitoring bodies (NPMs) play a central part in defending the rights of persons deprived from freedom. Their preventive mandate, providing access to all detention places, confers them a unique position, as they are able to report on the encountered realities and provide recommendations with a view to improving relevant practices. The mandate goes beyond visits and the check of material conditions, including an assessment of the general management and constructive dialogue with authorities, with a view to finding solutions to prevent abuse.

In most visited neuro-psychiatric recovery and rehabilitation centres for adults with disabilities, beneficiaries with no reasoning were identified, who had no legal representatives appointed, though art. 111 NCC stipulates the centres' obligation to notify the court for guardianship.

Regarding this, **the Committee for the rights of persons with disabilities interpreted article 12 of the Convention on the rights of persons with disabilities, in its General Comment 1, establishing that mechanisms to substitute the decisions of persons with disabilities should be replaced by supporting mechanisms for decision making, ensuring a person's autonomy and choices.** The direct effect of the failure to ensure legal capacity is the ignorance of the person's consent in all spheres of his/her life, but especially in terms of institutionalisation in various psychiatric institutions and the administration of treatment. The committee for the rights of persons with disabilities decided that there is a close connection between the failure to ensure a person's legal capacity, discrimination and forced medical intervention, which may result in torture or inhuman or degrading treatment in some cases.

The same conclusions were set out by the Special Rapporteur for torture and other cruel, inhuman or degrading treatment, **Manfred Nowak, who indicated that torture is one of the most serious infringements of people's right to personal integrity and dignity and implies a situation of helplessness, where the victim is under the total control of someone else, and the failure to ensure legal capacity can undoubtedly create such a situation** (Report of the Special Rapporteur for torture and other cruel, inhuman or degrading treatment, Manfred Nowak, A/63/175, para. 50).

Considering the above, **the authorities must give priority to reforming the psychiatric medical system, by increasing the efficiency of supporting mechanisms for decision making, as well as development programmes and strategies allowing for an improvement of material conditions, an enhancement of the staff's degree of care and an efficient defence of the rights and interests of persons admitted to such institutions.**

2. Residential Centres for Children

In order to ensure the children's safety, their care should take place in licensed centres, thus certifying to the fulfilment of minimum compulsory standards on residential child protection services by public and private providers; such standards include a set of criteria regarding: the mission and position of the residential child protection service in the social service system, child protection planning, the quality of care, education and socialization, entertainment and socialization, complaints and protection against abuse, outstanding events, the environment (location, separation and dimensions of the construction, living conditions, hygiene and sanitation areas, safety and security), human resources, administration and management.

The data published on the website of the Ministry of Labour and Social Justice, as of January 9, 2019, show that **1177 centres for children in the special protection system (882 public and 295 private) have an operating license**(<http://www.mmuncii.ro>). **Of all the 1177 centres for children in the special protection system, 218 are residential centres.**

Despite the high number of children in the protection system, the Romanian Government admitted that residential care has negative effects, especially on the development of young children, and has managed to substantially improve child protection services by developing family-type alternatives. Thus, **two thirds of the children in the protection system are under family-type services** at present.

However, after the global crisis that affected the situation of children in the entire region, the reduction of the number of institutionalized children was significantly lower, both in Romania and in other countries in the region. On the one hand, given the serious worsening of living conditions and enhanced poverty, many families leave their children in institutions on a temporary or permanent basis. On the other hand, the capacity of the system decreased due to the blocking of positions in the public system and to the limited budget, especially the one dedicated to family services.

Therefore, the reduced number of children in the child protection system remains a priority for the following years as well. In response to recent evolutions, **the Government agreed to accelerate the de-institutionalisation process, a priority set out in various strategic documents**, also in the *National strategy for protecting and promoting children's rights 2014-2020*, the *National strategy on social inclusion and poverty reduction 2015-2020* and the *Partnership agreement for the 2014-2020 programming period*.

The special protection system represents the range of measures, performances and services dedicated to the care and development of children who are temporarily or permanently left without the protection of their parents or those who cannot be left in the care of their parents, for their own benefit.

Too many children in Romania are still separated from their natural families or subjected to various forms of violence or social exclusion. Romania is one of the countries who have forbidden violence against children, i.e. any humiliating or degrading physical punishment or treatment against children, based on the 2004 laws on promoting and protecting children's rights. However, governmental authorities admitted that the impact of the laws will be limited if they are not enforced in a sustained and efficient manner, and children (especially those in vulnerable groups)

are still frequently exposed to various forms of violence, both in the family and in school.

Sustained efforts are still needed to enhance the awareness of the population and decision makers on the fact that zero tolerance against any form of violence must move from being a policy priority to a lifestyle, a way of living together, of rearing and taking care of children, since few or no data is available on abuses that leave no other scars or marks than those in the heart and mind of a child.

In 2013, **the European Commission (EC) recommended that all member states should draw up and implement policies to reduce poverty and social exclusion of children, based on multidimensional strategies aimed at ensuring the children's welfare and promoting equal opportunities, so that all children may reach their maximum potential.** To this purpose, EC recommends maintaining a suitable balance between universal policies aimed at promoting the welfare of all children and targeted approaches, aimed at supporting the most disadvantaged, with a focus on children with increased risk for multiple disadvantages, such as children with special needs or disabilities, children benefitting from alternative care, Roma children and children from households with low incomes. These strategies to promote children welfare need sustained investments, ensuring policy continuity and long-term planning, based on assessments of how policy reforms affect the most disadvantaged persons and including approaches to reduce possible negative effects.

Based on these recommendations, ***Romania drew up the National Strategy for promoting and protecting children's rights 2014-2020***, aimed at promoting investments in children development and welfare, ensuring the observance of children's rights, covering the children's needs and universal access to services. This national strategy was designed so as to act as a catalyst for the national implementation of the principles stipulated in the UN Convention on Children's Rights. At the same time, it is based on an integrated and holistic approach helping create consistent links with the National Reform Programme and other national strategic documents for the following five years, especially those in the field of social protection, education and health.

In compliance with national targets on the reduction of poverty and social exclusion set out in the Europe 2020 Strategy, Romania drew up *the National Strategy on social inclusion and poverty reduction 2015-2020*. Based on this strategy, the Romanian government agrees to implement, by 2020, a set of policies and programmes with a view to: reducing the number of persons affected by poverty until 2020; interrupting the vicious generational cycle of poverty; preventing the re-appearance of poverty and social exclusion and providing equal access to social assistance and services, with a view to increasing social cohesion.

As a response to the issue of the poverty risk reaching a disproportionately high level among children and youth, **both previously mentioned national strategies have set out the development of social services (increased coverage, access and quality) as a major priority for the following period.** The supply of financial aid to the most vulnerable families is a necessary, but not sufficient approach. Actions have to focus on preventing the children's separation from their families. This can only be done by developing services providing support to families and increased access to medical assistance, education, workplaces, suitable housing and other public services. Integrated services should be created to this purpose, ensuring the harmonization and alignment of the various programmes and interventions with the help of social workers and other certified and well-trained workers/professionals, both on an individual and a community level, as well as budget allocation making possible such services. The performance of so complex reforms depends on the capacity to coordinate the various public and private actors, as well as central and local authorities, but also the capacity to identify and the willingness to allocate suitable funds to cover the costs entailed by such reforms (UNICEF, ANPDCA and BM Report, Romania: Children in the child protection system, Bucharest, 2016).

For situations when the special measure of placement with a residential service is decided, Romania, as a state party to the Convention on the Rights of the Child, shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision. As stipulated by the European

Committee for Prevention of Torture, *the custody and care of children is a highly difficult task, especially since many of them have been subject to physical, sexual or psychological violence. The staff of a centre having under age individuals in custody must receive professional training and benefit from support and supervision in their operation. Staff members and the management of the centre must form a team to identify issues, discuss them and find solutions together, within regular meetings.*

Moreover, Romania has the obligation to ensure that *no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment and shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of violence.*

When exercising its attributions, the field regarding prevention of torture in detention places (NPM) of the People's Advocate institution monitors any place where persons are deprived from freedom; by deprivation from freedom we understand any form of detention or imprisonment or placement of a person in a public or private place of detention, that s/he cannot leave at his/her own will, by decision of any judicial, administrative or other type of authority (art. 4 of the Optional Protocol to the Convention against torture and other cruel, inhuman or degrading punishment or treatment; art. 292 par. (35) of Law no. 35/1997, republished).

To this purpose, the National Prevention Mechanism (NPM) which, based on its mandate, monitors the observance of international and national legal instruments on prevention of torture and punishment or cruel, inhuman or degrading treatment plays an essential part in protecting the rights of the child. Likewise, the Subcommittee for the Prevention of Torture considers that, regarding the implementation of the definition of a detention place, it would be desirable *"to provide a more extended interpretation to this definition, so as to increase the impact of the preventive activities of NPMs"*. The state should allow the National Prevention Mechanism to visit any place under its jurisdiction where persons deprived from freedom (i.e. they are not free to leave it at their own will) are or could be found, as stipulated by art. 4 and art. 29 of the Optional Protocol.

According to the above mentioned legal provisions, the Field regarding prevention of torture in detention places (NPM) monitors the conditions of accommodation and the treatment applied to children in these centres.

As for the exercise of attributions to visit places where public or private social assistance is granted, respectively centres for children, the visit teams identified a range of major **failures** in the visited institutions in 2018. Thus, we present some relevant aspects in the following:

♦ *the “Ciresarii” Emergency Admission Centre, district 2, Bucharest*

► the required conditions to maintain the special measure of emergency placement were not available in all cases; thus, considering the type of the Centre, for some beneficiaries (whose duration of stay in the Centre ranged from 1 to 6 years), educational, social needs, etc. could not be met. Regarding the found aspects, the management of the Centre was **recommended** to take the required legal action for the “Ciresarii” Emergency Admission Centre, district 2, to operate strictly as an Emergency Placement Centre, based on Order 89/2004 on minimal compulsory standards on emergency admission centres for abused, neglected and exploited children.

► the Centre had no procedures for the performance, registration and solution to notices and complaints based on Order 89/2004 on minimal compulsory standards on emergency admission centres for abused, neglected and exploited children; No clear procedure was available for the beneficiaries’ permission to leave (based on the statements of the management and staff members, children aged more than 16 could leave the Centre based on a written affidavit regarding the place they went to - such applications were shown to the team, which was confirmed by some beneficiaries; however, some beneficiaries claimed they could leave the Centre for a few hours with only verbal notice).

Regarding the found aspects, the management of the Centre was **recommended** to draw up work procedures based on *Order no. 89/2004 on minimal compulsory standards on emergency admission centres for abused, neglected and exploited children*; to establish a clear procedure on the beneficiaries’ exit from the Centre

during emergency placement, to be notified to the staff and the beneficiaries and observed, so as to ensure uniform practice.

► the faulty supervision of beneficiaries was obvious in the Centre, along with the absence of suitable prevention and intervention measures in cases of conflict (several beneficiaries came in and out of the Centre during the monitoring visit, creating an agitated atmosphere, especially as the management of the Centre asked for a written application stating where they went - one of the beneficiaries became irritated and verbally aggressive); there were no procedures on the positive control of children's behaviour, and the staff was not properly trained for such situations (the visit team found, after studying the Register of special events and the discussions between beneficiaries and employees, a high number of physical and verbal aggressions between beneficiaries or targeting staff members - the teams of Police Department 6 were frequently used).

Regarding the found aspects, **the management of the Centre was recommended** to take multi-disciplinary action for the management of cases and situations of tension and verbal and physical conflict: the professional training of staff members regarding the positive control of children's behaviour.

► the Centre also accommodated children diagnosed with psychological disorders; some of them did not follow the permanent treatment recommended by the specialist physician according to the diagnosed disorders, since they left the Centre without authorization or refused to; ● some beneficiaries of the Centre were classified as disabled; ● the deadline scheduled for their regular reassessment was not always met; beneficiaries who were recommended to be included in psychotherapy programmes were not provided with these services.

Regarding the found aspects, ***the management of the Centre was recommended***: ● to regularly reassess beneficiaries diagnosed with psychological disorders and to include them in psychological counselling programmes so that they become aware of the consequences of the refusal to receive specialized medical treatment; ● to regularly reassess beneficiaries classified as disabled, in compliance with the programmed deadline; ● to perform psychotherapy for the beneficiaries

where this is recommended in the medical report or when identified by the psychologist of the Centre.

Since the representatives of both the “Ciresarii” Emergency Admission Centre of district 2, Bucharest, and DGASPC district 2 Bucharest did not provide an answer to the recommendations in the visit report, the Ministry of Labour and Social Justice was notified, so as to take the required legal action.

♦ *the “Casa Noastra” Placement Centre of Zagujeni, Caras-Severin county*

► in some registers of the Centre: the Register for deviant behaviour, the Register for children’s behaviour for 2018 mentioned events such as self-inflicted injuries, improper verbal behaviour, failure to attend school, aggressive verbal and physical behaviour, alcohol use, suicide threats; ● in some cases, the staff of the Centre considered that psychological counselling was needed, but no subsequent measure of intervention was specified in most cases.

Considering these aspects, as well as the fact that: some of the accommodated beneficiaries were children with a psychiatric diagnostic, children who had suffered trauma and who were victims of abuse and exploitation; a beneficiary’s death by suicide (mechanical asphyxia by hanging) was registered in the Centre in 2017, the management of the Centre and D.G.A.S.P.C. Caras-Severin county **were recommended**: ● to adopt new suitable administrative, social and educational measures to facilitate the physical and psychological recovery of children, victims of a form of negligence, exploitation or abuse; ● readaptation and reintegration will take place in conditions favourable for the child’s health, self-respect and dignity; ● the efficient management of cases of risk to safety, health and personal life, with cases of suicide ideas and attempts through cooperation with child psychiatry departments, observing psychiatric medication recommendation, providing counselling and psychotherapy and permanent supervision in the Centre with a view to preventing special incidents.

► psychological assistance, assessment and counselling, psychotherapy could not be provided in the schedule of 10 hours/week (two hours/day) undertaken by the psychologist of the Centre who worked based on a services agreement (the position of full-time psychologist was vacant and no applicants came at the competition

organized by D.G.A.S.P.C. Caraş-Severin), considering the beneficiaries' complex and multiple needs: • some of the accommodated beneficiaries were children with a psychiatric diagnostic, who had suffered traumas and had been victims of abuse and exploitation (some of them were recommended to follow psychiatric treatment and did so); • psychological counselling was also requested by education instructors, when aggressive behaviour, vulgar language, alcohol use was found among beneficiaries or suicide threats; • beneficiaries with suicide risk were identified (for which the beneficiary initiated the performance of individual counselling sessions).

Regarding the found aspects, the management of the Centre was **recommended** to perform the psychological counselling of beneficiaries who had a recommendation for psychological counselling by cooperating with the general practitioner and in compliance with the psychologist's recommendations resulting from psychological assessments (especially for two beneficiaries who were siblings and would be transferred separately to professional foster homes, though the psychologist of the Centre had recommended that they should not be separated, in order to prevent trauma).

► some beneficiaries did not attend school; many beneficiaries accommodated by the Centre were visited by no one from their families or relatives.

Regarding the found aspects, the management of the Centre **was recommended**: • to provide educational support, to monitor school attendance and enhance cooperation with the school in order to reduce the absences of institutionalized children; • to perform the required actions through social assistance services with a view to initiating contact and cooperation with the families of beneficiaries.

► since a beneficiary was heard in a prostitution trial as a witness by police officers of the Bureau for Fighting Organised Crime (B.C.C.O.) of Timisoara without assistance from a representative of the Centre and by means of or in the presence of a psychologist, and the person who conducted the hearing did not have the same sex as the minor, the management of the Centre and the management of D.G.A.S.P.C. Caraş-Severin was recommended to comply with legal provisions on ensuring the legal protection of all minor beneficiaries or beneficiaries who have reached the age

of majority within a criminal trial, their hearing by means of or in the presence of a psychologist or another specialist in victim counselling. Furthermore, in order to protect children against any forms of physical or psychological violence, injury or abuse, abandon or negligence, ill treatment or exploitation, including sexual abuse, sexual violence, to prevent situations when children are enticed or constrained to perform illegal sexual activities and be exploited for prostitution or other illegal sexual practices while they are in the custody of their legal representatives, the management of the Centre and the management of D.G.A.S.P.C. Caraş-Severinewre recommended to take all required administrative, social and educational maesures.

◆ *The residential centre for children with severe disabilities of the Community Service Complex of Oltenita,. Călăraşi county*

► the beneficiaries did not attend school, even though they had a recommendation to do so based on the Certificate of school and professional counselling issued by the County Centre for Resources and Educational Assistance (CJRAE) of Calarasi; ● the residential centre had filed many notices to the County School Inspectorate of Calarasi both for the 2016-2017 academic year and for the 2017-2018 academic year, requesting that “Second chance” a classroom for children with special educational needs should be established in the municipality of Oltenita for children with deficiencies/disabilities, in order to provide schooling for seven residents of the Centre, who had Certificates of school and professional counselling issued by CJRAE Calarasi; ● the visit team found that the services of the Centre did not meet the needs of beneficiaries with a cognitive potential and that their accommodation in this Centre was not proper, as it was unfavourable to their development potential; some of the children could go to school, could benefit from other recovery and specific educational intervention services and, hence, they had to be reassessed and transferred to Centres where schooling was possible or to establish a “Second chance” type school.

Regarding the found aspects, the management of the Centre **was recommended:** ● to pursue actions with the County School Inspectorate of Calarasi on the establishment of a “Second chance” type classroom for the academic year 2018-2019 for children with deficiencies/disabilities in the Oltenia Municipality; ● to

provide school counselling to beneficiaries with enough cognitive abilities for school integration.

- one beneficiary was wearing a protective helmet. Since the helmet was not adapted to his size, a **recommendation** was provided to purchase a new helmet, corresponding to the beneficiary's height, so as to prevent head hitting;

- the names and diagnostics of beneficiaries who lived in a room were posted on the door of every room; regarding the found aspects, the management of the Centre was **recommended** to remove the diagnostic of beneficiaries who lived in a room from the door of the room, in order to ensure the privacy of data on the children's/youth's state of health.

Since none of the children/young people benefitted from a form of schooling (though some of them did not have a recommendation, based on the Certificates of school and professional counselling issued by the County Centre for Resources and Educational Assistance of Calarasi), a notice was sent to the County School Inspectorate asking to decide all the required measures for the schooling of beneficiaries who either hold Certificates of school counselling, or do not, but who, pursuant to the psychological-educational assessment, might benefit from the certificate, irrespective of their age. **The County School Inspectorate of Calarasi informed the People's Advocate Institution** that two school units developing the "Second Change" educational programme for lower secondary school, mass education. Since the minors/youth in the Centre had the following recommendation in the Certificates of school and professional counselling: "special education", being classified as the 1st degree of disability, but also the fact that they did not exceed the age of the class they are registered in by more than four years, based on art. 206 par. (2) of the Master Regulation on the organization and operation of pre-university education institutions (ROFUIP), it is considered that the seven minors can be registered in a "Second change"-type classroom for children with deficiencies/disabilities. Furthermore, it is mentioned that no school unit of the Calarasi county operates with these features. Based on art. 47 par. (2) of the Rules of organization and operation of special and special integrated education (ROFISSI), if the settlement of residence does not have a special education unit suitable to the type

and degree of deficiency/disability, and the concerned child/young person has orientation toward such an education institution, s/he will be schooled by the closest specialized education institution. The same above mentioned regulation stipulated, under art. 28, that: “School inspectorates approve the organization of special classes made of children with special educational needs who could not graduate the first 5 classes of compulsory general education until 14 years. These classes operate as special and special integrated education, with 4-12 pupils, depending on the degree of deficiency. When the Centre’s request for registering/providing schooling to the seven residents was sent to the School Inspectorate of the Calarasi county, only 3 of the children/young persons met the requirement of art. 28 of the previously mentioned regulation. To this purpose, the School Inspectorate of Calarasi county recommended that the Centre should request the cooperation of an education institution in a neighbouring county, which could provide schooling according to the children’s type and degree of deficiency, or request their registration with classes of special integrated education of the “Carol I” Secondary School of Calarasi, and transfer to another residential centre located in the municipality of Calarasi would be performed to this purpose.

◆ *The “Casa Sperantei” Association of Campina, Prahova county*

► the situation of 16 minors (of the total of 28 beneficiaries) was found, who were under a protection measure within the “Casa Sperantei” Association of Campina and were studying abroad, in Italy (15 children) and France (1 child). The visit team found that, *although they had pursued education in the following academic years, based on the documents on their school records, the president of the “Casa Sperantei” Association did not issue decisions to this purpose.* Furthermore, for some minors who were abroad, the required updated information on school status, state of health, social integration and the family of volunteers were not provided. In this context, it is our belief that the relevant Romanian authorities must get involved and decide on the situation when the minors in the “Casa Sperantei” Association may leave the country to take part in classes and request the extension of their stay, as well as monitor their situation on a permanent basis. Regarding this aspect, the People’s Advocate Institution considered it was proper to notify the National

Authority for Children's Rights Protection and Adoption (ANPDCA). *Thus, ANPDCA informed the People's Advocate Institution that checks of the shown issues were decided, so that information could be sent regarding the obtained results and, as the case may be, measures could be decided according to the attributions of the institution, established through the normative acts in force.*

The visit team requested information on their study stay in Italy and France, on holidays, their state of health, their school progress, the coverage of their personal, social, cultural needs, but the representatives of the centre could not provide full information on every case. Considering these aspects, the visit team asked the management of the Centre to provide contact details of the beneficiaries or of the families where they lived in Italy and France, so as to contact them by phone during the visit; some beneficiaries and guardians thereof were selected and contacted. All beneficiaries contacted by phone stated they were happy with their stay abroad, with the relation with the host family, that they were going to school and felt integrated. At the same time, both their statements, the statements of guardians and the consultation of files showed that their purpose was to stay abroad forever. Some of the contacted people did not answer their phones: neither the beneficiary, nor the host family. The statement of a family taking care of a beneficiary for study purposes: "If they want to, they can stay here all their lives. They only go to Romania to prepare their documents." It was found that some of the beneficiaries began their visits to Italy more than 10 years before, and they understood and spoke Romanian with some difficulty. Therefore, we consider that this was not a strict school/study programme, where they would go back to the centre during their holidays. Some of the beneficiaries came back for a few days, only in order to renew their identity documents issued by the Romanian state. Other folders included statements of families stipulating that the beneficiaries did not go back to the Centre during their holidays.

Some of the folders included the approval for spending the holiday abroad from the General Directorate for Social Assistance and Child Protection of Prahova. Thus, the statements of the representatives of the centre, that they are involved in strict study programmes, are unsupported. Moreover, though the beneficiaries had a

protection measure at the “Casa Sperantei” Association, their representatives were unable to provide information on the regular monitoring of beneficiaries during their stay abroad, such as their health, the activities and programme during summer, the existence of any personal issues, with no precise monitoring and knowledge of their date of return at the centre. Some personal records included statements of the management of the Centre who approved the beneficiary’s travel abroad to undertake studies, also mentioning the period - usually 6 months. Such statements were renewed at the expiry of each period. *Divergences were found between the consulted documents, the statements of the beneficiaries, of the representatives of the centre and the actual situation.* Thus, several beneficiaries had their latest Detailed Assessment Reports drawn up in March 2018; according to the documents provided based on their phone statements, the beneficiary had been abroad since 2017 and had not come back to Romania, so the assessment report was drawn up in the beneficiary’s absence. Since the received information was not enough and not clear, *the General Directorate for Social Assistance and Child Protection (DGASPC) of Prahova county* was asked to provide additional documents, which showed the following: Some plans of intervention, drawn up after the visit of the representatives of the Field regarding prevention of torture in detention places, involved the head teacher from the Italian school and the host family, but they had not signed the individual intervention plan, so they were not aware of it. Also pursuant to the visit and the requests to DGASPC Prahova, affidavits of the families where some children lived were sent, stipulating that the minors lived with them, that they had completed their primary school cycles and that they would cover all living expenditure (education, transportation, health, etc.). Brief descriptions from Italian psychologists (of August 2018) were added, generally stipulating that the “minors were integrated at a family, school and social level”. Since: the beneficiaries were under a placement measure at the “Casa Sperantei” Association of Campina and benefitted from social services within DGASPC Prahova, but some of them did not go back to the country for at least 12 months; individual protection plans, affidavits of the host families, psychological descriptions were drawn up pursuant to the visit and upon request of the visit,

The People's Advocate provided recommendations both to the representatives of the visited unit and to DGASPC Prahova, regarding the check of the situation of minors leaving to study abroad. Furthermore, the National Child Protection Authority was notified on the found aspects and the required actions. DGASPC Prahova informed, in its answer to the People's Advocate Institution, that the *recommendations were pending implementation, and ANPDCA informed the People's Advocate Institution that checks of the shown issues were decided, so that information could be sent regarding the obtained results and, as the case may be, measures could be decided according to the attributions of the institution, established through the normative acts in force. Until the elaboration of this report, the representatives of the "Casa Sperantei" Association of Campina, Prahova county did not answer the recommendations included in the visit report.*

◆*the Behavioural Rehabilitation Centre for Boys – the "Floare de Colt" Complex of Social Services, Targoviste, Dambovita county and the Placement Centre for Children with Disabilities of Hunedoara, Hunedoara county were closed and turned into family-type modules as the case may be.*

The following approaches were taken in this regard, with the results presented below:

●*regarding the knowledge of the attributions of the Field regarding prevention of torture,*

Pursuant to the actions taken by the People's Advocate Institution in 2017 to the Ministry of Labour and Social Justice regarding the dissemination of the attributions of the People's Advocate institution as an autonomous constitutional public authority, independent from any other public authority, *Government Decision no. 797/2017 was issued on the approval of the master regulations for the organization and operation of public social assistance services and indicative staff structure, which was subsequently modified by G.D. no. 797/2017 on the approval of the master regulations for the organization and operation of public social assistance services and indicative staff structure.* Thus, it explicitly included the obligation of the public social assistance service of the administrative/territorial unit to inform or provide the

requested information to the institutions/structures with attributions regarding prevention of torture, as the case may be, providing support in the performance of monitoring visits.

► **16 visits** were performed during 2018 to residential centre for children (*the Ciresarii Emergency Placement Centre, district 2, Bucharest; the “Sf. Nicolae” Placement Centre of Trusesti, Botosani county; the “Casa Noastra” Placement Centre of Zagujeni, Caras Severin county; the Residential Centre for Children with Severe Disabilities the Community Services Complex of Oltenita, Calarasi county; the “Casa Sperantei” Association of Campina, Prahova county; the “Novaci” Family Home for the Residential Protection of Children of Pociovalistea, Gorj county; the “Micul Rotterdam” Placement Centre of Constanta, Constanta county; the Care Centre no. 3 of Slobozia, Ialomita county; the Residential Centre for the recovery and rehabilitation of children with behavioural disorders no. 5 of Beceni, Buzau county; the Family Home of the “Sf. Gheorghe” Settlement of Sebes, Alba county; the Tandarica Complex of Services for the recovery of children with slight and average neuro-psychological disabilities, Cluj county; the “Sf. Apostol Andrei” Care Centre of Craiova, Dolj county; the Care Centre of Filipestii de Targ, Prahova county; the Specialized Care Centre for Children with Disabilities Less than Three Years Old, Slobozia, Ialomita county; the Domino Emergency Care Centre, the Complex for Services of MaguraCodlea, Brasov county; the Tarlungeni Complex for Services - Casa Anastasia, Brasov county*), of which **7 visit reports** have been drawn up so far (*the Ciresarii Emergency Placement Centre, district 2, Bucharest; the “Sf. Nicolae” Placement Centre of Trusesti, Botosani county; the “Casa Noastra” Placement Centre of Zagujeni, Caras Severin county; the Residential Centre for Children with Severe Disabilities the Community Services Complex of Oltenita, Calarasi county; the “Casa Sperantei” Association of Campina, Prahova county; the “Novaci” Family Home for the Residential Protection of Children of Pociovalistea, Gorj county; the “Micul Rotterdam” Placement Centre of Constanta*); visit reports are pending for the other visits performed in 2018.

The visits were not announced and they aimed at monitoring the treatment applied to beneficiaries and checking the observance of relevant legal provisions;

some of them also aimed at **checking aspects notified by the media**(the “Casa Noastra” Placement Centre of Zagujeni, Caras Severin county).

3 visits also aimed at **checking the implementation of recommendations** provided to the management of Centres pursuant to visits performed in the previous years (the Ciresarii Emergency Placement Centre, district 2, Bucharest; the Residential Centre for Children with Severe Disabilities the Community Services Complex of Oltenita, Calarasi county; the Behavioural Rehabilitation Centre for Boys – the “Floare de Colt” Complex of Social Services, Targoviste, Dambovita county).

Of the 16 visits undertaken by the Field regarding prevention of torture in detention places to centres for children, **5 visits were performed with the participation of the Field Defence, protection and promotion of children’s rights** (the “Micul Rotterdam” Placement Centre of Constanta county; the Residential Centre for the recovery and rehabilitation of children with behavioural disorders no. 5 of Beceni, Buzau county; the Tandarica Complex of Services for the recovery of children with slight and average neuro-psychological disabilities, Cluj county; the Specialized Care Centre for Children with Disabilities Less than Three Years Old, Slobozia, Ialomita county).

Visit reports drawn up during 2018 (visit reports drawn up in 2018 pursuant to visits performed during 2017, drawn up after the completion of the Annual Activity Report for 2018, for visits to the following centres the “Azur” Placement Centre - Victoria Complex of Social Services, Brasov county; the Placement Centre for Children with Disabilities of Hunedoara, Hunedoara county; the Residential Centre for Children with Disabilities of Focsani, Vrancea county; the Alexandra-Violeta Family Centre, Teleorman county; the Behavioural Rehabilitation Centre for boys - the “Floare de Colt” Complex of Social Services, Targoviste, Dambovita county), pursuant to the visits performed by the field regarding prevention of torture in detention places showed aspects regarding: accommodation, hygiene and sanitary conditions, food and water quality, medical assistance and care, psychological and social assistance, drawing up and implementing specific procedures regarding: admission, termination of services, observing the beneficiaries’ rights regarding

complaints and notices, access to legal assistance, taking part in socialisation and entertainment activities and activities to maintain or readapt the beneficiaries' physical and/or intellectual capacities, aspects regarding staff structure and entering service agreements.

The main aspects notified within **the monitoring activity undertaken in residential centres for children included in the visit reports drawn up, are detailed below.**

► **Positive aspects** were found during the visits, mentioned in the visit reports, such as:

- several *documents were posted* on the board located on the ground floor of each home/module, at the moment of the visit, such as: the Rules for organization and operation (ROF), the Internal Rules (ROI), the Organization and Operation Methodology, the Institutional Project, the Mission of the Centre, the Charter of the Beneficiaries' Rights, the Ethical Code, etc. Furthermore, in the homes of children with a schooling age, the contact details of the head teachers of the concerned children were also posted on the board (*the "Micul Rotterdam" Care Centre of Constanta, Constanta county; he Family Home for Residential Protection of Children "Novaci", Pociovalistea, Gorj county; the Residential Centre for Children with Disabilities of Focsani, Vrancea county; the Placement Centre for Children with Disabilities of Hunedoara, Hunedoara county*).

- the beneficiaries' records were properly drawn up and filled in, based on the legal provisions, they included all the documents stipulated by the legislation in force, also the one on case management; files were organized by easily accessible sections (*the "Micul Rotterdam" Care Centre of Constanta, Constanta county; the "Casa Noastra" Placement Centre of Zagujeni, Caras Severin county; the Family Home for Residential Protection of Children "Novaci", Pociovalistea, Gorj county; the Residential Centre for Children with Disabilities of Focsani, Vrancea county*).

- when entering the Centre, children were subjected to epidemiological and medical examinations, after which they were provided with proper hygiene, were fed, were provided with an accommodation place and then followed the normal schedule

of the Centre. If needed, the physician would establish the required therapy(*the “Micul Rotterdam” Placement Centre, Constanța county*).

- when a child was admitted to the residential service, the head of the Centre organized a meeting with the case officer of DGASPC Constanta, the physician/nurse of the Centre, the psychologist and specialist educator appointed for the concerned child, where the child’s situation was briefly presented (*the “Micul Rotterdam” Placement Centre of Constanta; the “Casa Noastra” Placement Centre of Zagujeni, Caras Severin county; the Residential Centre for Children with Severe Disabilities the Community Services Complex of Oltenita, Calarasi county; the Family Home for Residential Protection of Children “Novaci”, Pociovalistea, Gorj county; the Residential Centre for Children with Disabilities of Focsani, Vrancea county*).

- for each child, the general director of DGASPC had appointed a case manager within the Children Case Management Service of DGASPC. The case manager and the case officer ensure the involvement and cooperation of the specialist team (multidisciplinary team) during case management phases. (*the “Micul Rotterdam” Care Centre of Constanta, Constanta county; the “Casa Noastra” Care Centre of Zagujeni, Caras Severin county; the Sf. Nicolae Care Centre of Trusesti, Botosani county; the Ciresarii Emergency Care Centre, district 2, Bucharest; the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Calarasi county; the “Casa Sperantei” Association of Campina, Prahova county; the Family Home for Residential Protection of Children “Novaci”, Pociovalistea, Gorj county; the Residential Centre for Children with Disabilities of Focsani, Vrancea county; the Alexandra-Violeta Family Centre, Teleorman county*).

- children could go out for a walk or shopping, and the older could also go unaccompanied; there were no cases when the children did not come back to the Centre or left without notifying the staff that they wanted to come out of the Centre (*the “Micul Rotterdam” Care Centre of Constanta, Constanta county; the “Casa Sperantei” Association of Campina, Prahova county*).

- in study rooms, with a view to exercising their fundamental rights related to freedom of expression (the freedom to receive or communicate information or ideas), the beneficiaries had access to the internet (*the “Micul Rotterdam” Care Centre of*

Constanta, Constanta county); most beneficiaries had their own phones and they also had access to the fixed phone of the Centre, if requested (*the “Micul Rotterdam” Care Centre of Constanta, Constanta county; the “Casa Noastra” Care Centre of Zagujeni, Caras Severin county; the Sf. Nicolae Care Centre of Trusesti, Botosani county; the “Casa Sperantei” Association of Campina, Prahova county*).

- the children’s rooms were clean and properly lit, heating was provided, and the furniture was suitable; rooms were customized and a family-like atmosphere was created; areas for cultural and educational activities were spacious and adapted to their specificities (*the “Micul Rotterdam” Care Centre of Constanta, Constanta county; the “Casa Noastra” Care Centre of Zagujeni, Caras Severin county; the Sf. Nicolae Care Centre of Trusesti, Botosani county; the “Casa Sperantei” Association of Campina, Prahova county; the Family Home for Residential Protection of Children “Novaci”, Pociovalistea, Gorj county; the Residential Centre for Children with Disabilities of Focsani, Vrancea county; the Placement Centre for Children with Disabilities of Hunedoara, Hunedoara county; the Alexandra-Violeta Family Centre, Teleorman county*).

- sanitary facilities were clean, arranged with materials allowing for quick sanitization; enough showers, basins and toilets were provided given the number and specific needs of the beneficiaries; cold and hot water was supplied on a permanent basis (*the “Casa Noastra” Care Centre of Zagujeni, Caras Severin county; the Sf. Nicolae Care Centre of Trusesti, Botosani county; the “Casa Sperantei” Association of Campina, Prahova county; the Family Home for Residential Protection of Children “Novaci”, Pociovalistea, Gorj county; the Residential Centre for Children with Disabilities of Focsani, Vrancea county; the Placement Centre for Children with Disabilities of Hunedoara, Hunedoara county; the Alexandra-Violeta Family Centre, Teleorman county*).

- the children went to school and were registered in kindergartens, schools and high schools in the municipality. Some of the beneficiaries went to the university or vocational schools, in compliance with the provisions of art. 55 par. (2) of *Law no. 272/2004 on the protection and promotion of children’s rights, republished*, based on which: *“Upon request of the young person, expressed after the achievement of full*

capacity of exercise, if they continue studies once in each form of full-time education, ,special protection is provided according to the law, for the entire duration of pursuit of the studies, without exceeding the age of 26".(the "Micul Rotterdam" Care Centre of Constanta, Constanta county; the "Casa Noastra" Care Centre of Zagujeni, Caras Severin county; the Sf. Nicolae Care Centre of Trusesti, Botosani county).

- Personalized intervention programmes - PIP and Specific intervention programmes - SIP were properly drawn up and filled in, following the phases for intervention in the case of children under a special protection measure at the Centre *(the "Micul Rotterdam" Placement Centre of Constanta county; the Sf. Nicolae Care Centre of Trusesti, Botosani county; the Ciresarii Emergency Placement Centre of district 2, Bucharest; the Family Home for Residential Protection of Children "Novaci", Pociovalistea, Gorj county; the Residential Centre for Children with Disabilities of Focsani, Vrancea county; the Placement Centre for Children with Disabilities of Hunedoara, Hunedoara county).*

- with a view to preparing the children's reintegration on the labour market, some of the children residing in the Centre performed seasonal activities, as DGASPC facilitated their employment *(the "Micul Rotterdam" Placement Centre of Constanta county);* the children were involved in household activities, as the Centre had a vegetable garden and a greenhouse for the performance of activities for the development of independent life skills or in meal serving activities based on the weekly schedule, as well as the service schedule *(the "Casa Sperantei" Association of Campina, Prahova county).*

- the establishment of a representation group - the Children's Council, and each cottage was represented by a chosen beneficiary, so that the children's opinion in terms of age and maturity were considered in making the decisions regarding them. Each child/young person was encouraged and supported to take part in the performance of the activities of the service, as well as take responsibilities, based on his/her development and degree of maturity. *(the "Micul Rotterdam" Care Centre of Constanta, Constanta county; the "Casa Sperantei" Association of Campina, Prahova county).*

- the involvement of the psychologist employed by the Centre in various additional activities. Besides individual and group psychological counselling, psychological assessment, PIP elaboration, the psychologist also took part in assisting children as they were subjected to the medical assessment of NPI; in the court hearing by police representatives; social and family integration/reintegration activities performed on site or in other places where the supply of specialized emotional support was needed (*the “Micul Rotterdam” Placement Centre of Constanta county*); psychological assessments included, besides general information, medical history and the assessment of relevant aspects such as emotional aspects, cognitive, behavioural aspects, aspects of personality and interpersonal issues. Recommendations were provided at the end, thus observing the essential elements of psychological assessment (*the Ciresarii Emergency Placement Centre of district 2, Bucharest; the Family Home for Residential Protection of Children “Novaci”, Pociovalistea, Gorj county*); the psychologist of the Centre also performed other activities, i.e. personal development, psychological education, psychological counselling in emergency situations, detensioning conflicts between minors and between the minors and employees, took part in the meetings of the Children’s council, drew up evolution reports, performed risk management at the level of the centre, assisted the minors in court when they were heard in order to set the placement measure and accompanied them to police departments for hearings or to fill in personal documents (*the Ciresarii Emergency Placement Centre of district 2, Bucharest*).

- various cultural, sports and entertainment activities were organized for the beneficiaries of the Centre, e.g. educational visits, seeing theatre plays, football games, camps (*the “Micul Rotterdam” Care Centre of Constanta, Constanta county; the Sf. Nicolae Care Centre of Trusesti, Botosani county; the Ciresarii Emergency Care Centre, district 2, Bucharest; the “Casa Sperantei” Association of Campina, Prahova county; the Family Home for Residential Protection of Children “Novaci”, Pociovalistea, Gorj county; the Residential Centre for Children with Disabilities of Focsani, Vrancea county; the Placement Centre for Children with Disabilities of Hunedoara, Hunedoara county; the Alexandra-Violeta Family Centre, Teleorman*

county); other beneficiaries stated that they had birthday parties where they had cake, listened to music, etc.; others mentioned that they had received Christmas present (e.g. tablets). In the same context, some beneficiaries stated that they attended dancing lessons and got prizes in various competitions (*the “Micul Rotterdam” Placement Centre of Constanța county*).

- the daily food of beneficiaries was prepared in the centre’s own kitchen; the menus had good quality and were enough, and diversity was ensured by frequently consulting children; the kitchen of the centre was properly equipped for operation and had the required installations, devices and qualified staff to prepare food; beneficiaries were provided with three meals and two snacks per day; the beneficiaries had meals according to a preset schedule, the dining room was properly arranged and equipped with suitable furniture (tables, chairs), in a proper state of cleanliness and hygiene; though specialized staff was employed in the food preparing installations, children helped choose menus, prepare food, set the table and serve meals, wash the dishes, learning and performing activities in accordance with their age and maturity (*the “Casa Noastra” Care Centre of Zagujeni, Caras Severin county; the Sf. Nicolae Care Centre of Trusesti, Botosani county; the “Casa Sperantei” Association of Campina, Prahova county; the Family Home for Residential Protection of Children “Novaci”, Pociovalistea, Gorj county; the Residential Centre for Children with Disabilities of Focsani, Vrancea county; the Placement Centre for Children with Disabilities of Hunedoara, Hunedoara county; the Alexandra-Violeta Family Centre, Teleorman county*).

- each beneficiary had a medical report where the monitoring of the general state of health was written down, along with the measured values of vital functions, the symptoms of disorders, treatments, medical examinations, admissions/releases, medical reports, the results of analyses performed during the stay in the centre (*the “Casa Noastra” Care Centre of Zagujeni, Caras Severin county; the Sf. Nicolae Care Centre of Trusesti, Botosani county; the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Calarasi county; the “Casa Sperantei” Association of Campina, Prahova county; the Behavioural Rehabilitation Centre for Boys – the “Floare de Colt” Complex of Social Services,*

Targoviste, Dambovita county; the Residential Centre for Children with Disabilities of Focsani, Vrancea county; the Placement Centre for Children with Disabilities of Hunedoara, Hunedoara county; the Alexandra-Violeta Family Centre, Teleorman county).

- the medical practice was equipped with emergency installations and medicines as provided by the sanitary guidelines in force and, in case of medico-surgical emergencies, the Single Emergency Service 112 was called (*the “Casa Noastra” Care Centre of Zagujeni, Caras Severin county; the Sf. Nicolae Care Centre of Trusesti, Botosani county; the Family Home for Residential Protection of Children “Novaci”, Pociovalistea, Gorj county; the Residential Centre for Children with Disabilities of Focsani, Vrancea county; the Placement Centre for Children with Disabilities of Hunedoara, Hunedoara county; the Alexandra-Violeta Family Centre, Teleorman county).*

- children were vaccinated according to the National Immunisation Programme; they had free of charge medicines, based on medical prescriptions issued by the general practitioner or by other physicians; for medicines recommended by a physician which were not included on the list of medicines provided free of charge in the health insurance system, a report was filed to DGASPC, which acquired such medicines from its own funds; the medicines were properly stored in the medical practice and were allocated to beneficiaries according to medical prescriptions (*the “Casa Noastra” Care Centre of Zagujeni, Caras Severin county; the Sf. Nicolae Care Centre of Trusesti, Botosani county; the “Casa Sperantei” Association of Campina, Prahova county; the Residential Centre for Children with Disabilities of Focsani, Vrancea county).*

- the Centre had a part-time physician specialized in infantile neuro-psychiatry, who supervised the children’s state of health and evolution from the perspective of his specialization, while general prophylaxis and examinations, for intercurrent disorders, were provided by a general practitioner with a practice in Hunedoara who was in charge of all beneficiaries (*the Placement Centre for Children with Disabilities of Hunedoara, Hunedoara county).*

- dental medicine services for the children accommodated in the Centre were supplied in dental practices of the community, based on a cooperation protocol and prior appointment (*the “Casa Noastra” Care Centre of Zagujeni, Caras Severin county; the Family Home for Residential Protection of Children “Novaci”, Pociovalistea, Gorj county*).

- the clothing and footwear of children were purchased in a centralized system in the Centres subordinated to DGASPC, considering the beneficiaries’ preferences; they were enough and suitable for the season (*the “Micul Rotterdam” Care Centre of Constanta, Constanta county; the “Casa Noastra” Care Centre of Zagujeni, Caras Severin county; the Sf. Nicolae Care Centre of Trusesti, Botosani county; the “Casa Sperantei” Association of Campina, Prahova county*).

- the buildings were equipped with access ramps for persons with a locomotor disability, which were arranged both at the main entrances of the buildings and at the secondary entrance. Furthermore, the building where girls were accommodated was equipped with an elevator to provide access to the first floor for persons with locomotor disabilities, though none of the children residing in the Centre had such disorders (*the “Casa Sperantei” Association of Campina, Prahova county*).

- the Centre had a library, study rooms, spaces for activities, as well as playrooms suited to the various age categories of the children; the club was equipped with a TV set and an audio-video system, arranged both for viewing and as a dancing area. The centre was connected to the TV cable and internet network (*the “Micul Rotterdam” Care Centre of Constanta, Constanta county; the “Casa Noastra” Care Centre of Zagujeni, Caras Severin county; the Sf. Nicolae Care Centre of Trusesti, Botosani county; the “Casa Sperantei” Association of Campina, Prahova county; the Family Home for Residential Protection of Children “Novaci”, Pociovalistea, Gorj county*).

► Visit teams of the NPM found a range of **failures** during the performance of their monitoring activities. In order to solve them, the People’s Advocate made recommendations to the management of each visited unit, by means of a visit report. **A total number of 127 recommendations was provided in visit reports drawn up in 2018, of which 93 were drawn up pursuant to visits performed in 2018.**

In the following we present some of the **failures, recommendations and answers**:

The following visited units *had submitted answers* by the date of this report in 2018: *the Sf. Nicolae Care Centre of Trusesti, Botosani county; the “Casa Noastra” Care Centre of Zagujeni, Caras Severin county; the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Calarasi county and the units visited in 2017 whose visit reports were drawn up in 2018: the Placement Centre for Children with Disabilities of Hunedoara, Hunedoara county; the Residential Centre for Children with Disabilities of Focsani, Vrancea county; the Alexandra-Violeta Family Centre, Teleorman county; the Behavioural Rehabilitation Centre for Boys – the “Floare de Colt” Complex of Social Services, Targoviste, Dambovita county; the “Micul Rotterdam” Placement Centre of Constanta county.*

For the units visited in 2018 where the People’s Advocate Institution provided recommendations in Visit Reports and which did not provide any answer, notices were sent to the relevant hierarchical authorities, so as to take the required legal action (*the Ciresarii Emergency Placement Centre, district 2, Bucharest*).

Some of the units visited in 2017 sent answers to the recommendations provided in visit reports during 2018, i.e.: *the “Robin Hood” Placement Centre of Bucharest;; the “Sf. Maria” Emergency Admission Centre, Calarasi county; the Social Centre for under age individuals who have perpetrated criminal deeds and are not criminally liable of TarguFrumos, Iasi county; the Emergency Admission Centre for Boys of district 4, Bucharest; the Emergency Admission Centre for abused, neglected and exploited children of Oradea, Bihor county.*

► **Regarding accommodation conditions:**

- some centres did not provide the minimum area of 6 sqm for each child and the maximum number of 4 children in a room; bedrooms had 6-12 bunk beds (*the Ciresarii Emergency Placement Centre, district 2, Bucharest*). Regarding these issues, the People’s Advocate recommended that the management of the centre should provide no more than 4 children in bedrooms and an area of at least 6 sqm for each child. By the date of this report, the management of the Ciresarii Emergency

Placement Centre, district 2, Bucharest, did not provide an answer to the recommendations; • a precarious state of cleanliness and hygiene of bedrooms was found, as the walls were dirty, scratched or had traces of hits; damaged ceiling, doors and damaged/broken doors or with faults at the locking system, electrical installations with missing or faulty elements, non-functional lighting devices; the persistence of an unpleasant smell, with barely breathable air; the children's drawings were posted on the wall of one of the bedrooms with large nail-type thumbtacks, and the names and diagnostics of the beneficiaries in each room were posted on the door of every bedroom, which infringed the privacy of data on the health state of the residing children/young people; the walls of rooms connecting to the hall had transparent windows (*the Ciresarii Emergency Care Centre, district 2, Bucharest; the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Calarasi county; the "Casa Sperantei" Association of Campina, Prahova county; the Family Home for Residential Protection of Children "Novaci", Pociovalistea, Gorj county*). Regarding the found aspects, the People's Advocate **recommended** that the management of the Centre should refurbish the space, replace the broken/damaged windows and doors, rearrange the ceiling and damaged walls, solve the failures of power installations, mount power switches and provide proper and functional lighting bodies, ensure the beneficiaries' privacy in the rooms by equipping windows with curtains, regularly ventilating the areas. Furthermore, a **recommendation** was provided to remove the diagnostic of beneficiaries who lived in a room from the door of the room, in order to ensure the privacy of data on the children's/youth's state of health and to use suitable methods to apply drawings on the walls of the bedroom without risks for the beneficiaries. **The answer provided by the visited units** stipulated that actions were taken with a view to fulfilling the recommendations, with internal notes/reports to DGASPC, as the case may be; the required actions were taken (*the Residential Centre for Children with Severe Disabilities, the Community Services Complex of OltenitaCălărași county*). • the furniture was old and worn, some beds were equipped with rusty/not finished metal corners and sheets tied with irons; some of the beds were smaller than the beneficiaries' height; some of the rooms did not have a family appearance (they

were not decorated or did not have enough furniture and customized items); the minors did not benefit from their own area for the storage of clothing and personal items (*the Ciresarii Emergency Placement Centre, district 2, Bucharest; the Residential Centre for Children with Severe Disabilities the Community Services Complex of Oltenita, Calarasi county; the Emergency Admission Centre for Boys of district 4, Bucharest*). Regarding the established aspects, the People's Advocate **recommended** that the management of the Centre should replace the damaged furniture or purchase new beds with a view to replacing old and worn ones or which did not meet the beneficiaries' height. The answer provided by the visited units stipulated that actions were taken with a view to fulfilling the recommendations, with internal notes/reports to DGASPC (*the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Călărași county*), but also the fact that old furniture was replaced (*the Emergency Admission Centre for Boys of district 4, Bucharest*).

- improper hygiene was found in some sanitary facilities; damaged sanitary items; non-functional showers, with no taps or showerheads, and some of them were not equipped with separating curtains to ensure the beneficiaries' privacy; video surveillance cameras were not functional, based on the statement of Centre representatives; an insufficient number of toilets, basins and showers (*the Ciresarii Emergency Care Centre, district 2, Bucharest; the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Calarasi county; the "Casa Sperantei" Association of Campina, Prahova county; the "Micul Rotterdam" Placement Centre of Constanta, Constanta county*). The People's Advocate **recommended** that the management of the Centre should meet specific quality standards, i.e. to provide toilets, basins and showers for no more than 6 beneficiaries each, to replace the faulty technical and sanitary facilities and to supplement missing ones, as well as arrange separating curtains to ensure the beneficiaries' privacy in the shower, pay more attention to hygiene guidelines and regularly ventilate sanitary facilities, as well as remove video surveillance cameras. The **answer** provided by the visited units informed that the faults were solved (*the "Micul Rotterdam" Placement Centre of Constanta, Constanta county*) or actions

were initiated with a view to fulfilling the recommendations, drawing up internal notes/reports to DGASPC (*the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Calarasi county*). • the absence of access of persons with locomotor disorders to all the areas of the Centre, without ramps at the entrance to the building, the absence of an elevator or the non-functionality of the existing one for buildings organized along several levels (*the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Calarasi county*). The People's Advocate **recommended** that the management of the Centre should commission the elevator, with a view to carrying the beneficiaries to the dining room, set up ramps at the level of the centre, as well as purchase mobile stretchers to facilitate the beneficiaries' transportation. The **answer** provided by the visited unit stipulated that actions were taken with a view to fulfilling the recommendations, with internal notes/reports to DGASPC (*the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Călărași county*); • no isolation room was arranged or the existing one was not functional and not adapted according to minimum specific quality standards; it did not have its own sanitary facility or the existing one did not work (*the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Calarasi county; the Ciresarii Emergency Care Centre, district 2, Bucharest*). The People's Advocate **recommended** that the management of the Centre should take urgent action to ensure the functionality of the isolation room and of the sanitary facility therein. The **answer** provided by the visited unit stipulated that actions were taken with a view to fulfilling the recommendations, with internal notes/reports to DGASPC (*the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Călărași county*). • the accommodation capacity of the centre was not established (*the "Casa Sperantei" Association of Campina, Prahova county*). The People's Advocate **recommended** that the management of the centre should establish the centre's capacity, so as to meet legal requirements in terms of the existing area, based on the minimum compulsory standards on residential child protection services.

► **Regarding the supply of food and water:**

● the amount of salt in the beneficiaries' food did not meet the regulations in force (*the "Micul Rotterdam" Placement Centre of Constanta, Constanta county*), and a **recommendation** was made to closely monitor the amount of salt used in the beneficiaries' food; the visited unit informed that the central kitchen in charge with the supply of food was notified in order to monitor the proper amount of salt used to prepare food; ● the children's opinion was not taken into account when deciding the menu (*the "Casa Sperantei" Association of Campina, Prahova county*), and the People's Advocate Institution provided a **recommendation** to this purpose. ● proper ventilation was not provided in the food preparing facility (*the Residential centre for children with disabilities of Focsani, Vrancea county*), so that the **recommendation** to ensure the proper ventilation of the food preparing facility was provided and the representatives of the Centre **informed** the People's Advocate that the beneficiaries were being fed, as of April 2018, by means of a catering service, so that the purchase of a hood to provide ventilation in the food preparing facility is no longer needed; ● food samples, labelled and stored in a separate refrigerator were not taken, based on the sanitary guidelines in force (*the Alexandra-Violeta Family Centre, Teleorman county*). The People's Advocate Institution **recommended** that the visited unit should take food samples on a daily basis and keep them in a separate refrigerator, and the representatives of the Centre informed that food samples are taken on a daily basis and kept in another refrigerator than the one for food; ● water backup supply for 48 hours was not ensured, as provided by the minimum quality standards applicable to the Centre (*the Sf. Nicolae Care Centre of Trusesti, Botosani county, the "Sf. Maria" Emergency Admission Centre of Calarasi, Calarasi county*). Pursuant to the People's Advocate's **recommendation** to observe the provisions of the minimum quality standards in force, the received answer was that, at present, the amount of water for 48-hour backup supply is ensured (*the Sf. Nicolae Care Centre of Trusesti, Botosani county*), and the "*Sf. Maria*" Emergency Admission Centre of Calarasi, Calarasi county answered that the purchase of this supply was requested from DGASPC.

► **Regarding healthcare:**

• some of the medicines and sanitary materials were expired (*the “Casa Sperantei” Association of Campina, Prahova county, the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Calarasi county*). The People’s Advocate **recommended** to check the validity of medicines and sanitary materials in the medical practice on a regular basis. The **answer** provided by the *Residential centre for children with severe disabilities of the Community Service Complex of Oltenita, Calarasi county* stipulates that actions were initiated with a view to fulfilling the recommendations, and internal notes/reports to DGASPC were drawn up.

• the absence of a first aid medical kit (*the “Casa Sperantei” Association of Campina, Prahova county*). The People’s Advocate **recommended** that the Centre should be equipped with a first aid medical kit.

• some of the beneficiaries were not directed to specialized medical practices (*the “Casa Sperantei” Association of Campina, Prahova county*) or to undertake medical tests (*the “Micul Rotterdam” Placement Centre, Constanta county*). The People’s Advocate **recommended** that some beneficiaries should go to specialized medical practices, the visited unit **answered** that the medical practice complied with the recommendations of physicians, so that the under age person identified with referral for surgery as of the date of the visit underwent surgery (*the “Micul Rotterdam” Placement Centre, Constanta county*).

• the absence of a medical register (*the “Casa Sperantei” Association of Campina, Prahova county*). The People’s Advocate **recommended** to draw up a medical register stipulating the name of the beneficiary, the date and hour when the medicines were provided (including the dosage) or therapy, the reason of administration, the signature of the staff providing medication.

• the absence of a register for daily examinations (*the “Sf. Maria” Emergency Admission Centre of Calarasi, Calarasi county*) and the incomplete registration of examinations (*the Residential centre for children with severe disabilities of the Community Service Complex of Oltenita, Calarasi county*). Pursuant to the identified failure, the People’s Advocate **recommended** to draw up a register of examinations mentioning the daily examinations, and the representatives of the visited unit **informed** that such a register was drawn up at the medical practice, including the examinations performed by the physician (*the “Sf. Maria” Emergency Admission Centre of Calarasi, Calarasi*

county) or that internal notes were drawn up notifying this to the staff involved in the activity (*the Residential centre for children with severe disabilities of the Community Service Complex of Oltenita, Calarasi county*).

- immunisation records were not provided (*the Family Home for Residential Protection of Children “Novaci”, Pociovalistea, Gorj county*). The People’s Advocate **recommended** that the records of immunisation should be enclosed to the medical records of each child, and the representatives of the Family Home answered that this was done;
- prophylactic dental and ophthalmology services were not provided (*the “Sf. Maria” Emergency Admission Centre of Calarasi, Calarasi county, the “Micul Rotterdam” Placement Centre of Constanta county*). The People’s Advocate **recommended** to identify a solution to provide prophylactic dental and ophthalmology services for the beneficiaries of the Centres, and the representatives of the visited units answered that actions were taken to identify a dental practice for a cooperation convention or cooperation protocols had already been entered with dentists;
- the refrigerator in the medical practice was also used to store food (*the Residential centre for children with severe disabilities of the Community Service Complex of Oltenita, Calarasi county*). The People’s Advocate **recommended** to observe the destination of the refrigerator in the medical practice, i.e. to store and keep medicines, as well as that of the refrigerator for medical waste, strictly for the provided purpose;
- not all the headings of some medical reports were filled in and the signature and seal of the physician having performed the examination were not applied (*the Residential centre for children with severe disabilities of the Community Service Complex of Oltenita, Calarasi county; the “Micul Rotterdam” Placement Centre of Constanta county*). The People’s Advocate **recommended** that the heading "General clinical examination" in the medical reports should be filled in, as well as apply the signature and seal of the physician of the Centre after each medical examination. The **answer** provided by the visited units mentions that the beneficiaries’ medical reports were signed by the medical staff or actions were initiated with a view to fulfilling the recommendations, and internal notes/reports to DGASPC were drawn up.

► **Regarding activities for the recovery/rehabilitation of beneficiaries**

- the absence of regular assessments on possible therapies with a view to maintaining/developing skills of the beneficiaries (*the Alexandra-Violeta Family Centre, Teleorman county; the Ciresarii Emergency Care Centre, district 2, Bucharest; the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Calarasi county*). The People's Advocate **recommended** to assess the beneficiaries' status in terms of their therapeutic needs, and the representatives of the visited unit answered either that the physical therapy assessment was performed, or that actions was being taken in order to implement the recommendation.
- the absence of physical therapy rehabilitation programmes for children with such needs (*the Alexandra-Violeta Family Centre, Teleorman county*). The People's Advocate **recommended** to perform physical therapy rehabilitation programmes and the representatives of the Centre provided an **answer** based on which the physical therapist of the Centre drew up a recovery programme for such therapy;
- not all children were included in a form of special education (*the Alexandra-Violeta Family Centre, Teleorman county; the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Calarasi county*). The People's Advocate **recommended** to take educational action to include the children who did not go to the special school in a form of special education, as well as pursue actions with the County School Inspectorate for the establishment of a "Second chance" classroom for the following academic year. The representatives of the visited units **answered** that actions were taken for the assessment of children with a view to obtaining Certificates of school/professional expertise and counselling, and the School Inspectorate was approached on this matter;
- beneficiaries were not included in psychotherapy programmes (*the Ciresarii Emergency Care Centre, district 2, Bucharest*). The People's Advocate **recommended** that psychotherapy should be performed for those beneficiaries having this recommendation in the medical report or in the cases identified by the psychologist of the centre.

► Regarding social assistance and organized activities

• the absence of a special area for the activities of the social worker (*Certificate of school and professional counselling issue*). The People's Advocate **recommended** to arrange a space dedicated to the activities of the social worker, since the activity of the social worker was undertaken in the same office as the head of the Centre, and the beneficiaries' files were stored in the same office. The visited unit **informed** that an area had been identified for the proper performance of these activities; • the social worker was not registered with the College of Romanian Social Workers and the relevant legal provisions were not met (*the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Calarasi county*). The People's Advocate **recommended** that s/he should register with the College of Romanian Social Workers, and the visited unit **answered** that the employed social worker was informed on this obligation; • no Specific Intervention Programmes - SIP were drawn up; SIPs were not drawn up properly, and the objectives were not individualized; their content was not known (*the Behavioural Rehabilitation Centre for Boys – the “Floare de Colt” Complex of Social Services, Targoviste, Dambovita county; the Alexandra-Violeta Family Centre, Teleorman county; the “Casa Sperantei” Association of Campina, Prahova county*); the awareness of each beneficiary, depending on his/her degree of maturity, was not ensured regarding the Individual Protection Plan - IPP and the Specific Intervention Programmes or these documents failed to include all information. The People's Advocate **recommended** that Specific Intervention Programmes (SIP) should be drawn up for all children under a special protection measure; the awareness of each beneficiary, depending on his/her degree of maturity, had to be ensured regarding the Individual Protection Plan and the Specific Intervention Programmes; Individual Protection Plans had to be supplemented with detailed information regarding children who were studying abroad, based on regular reporting and communication. The visited units **informed** that the mentioned specific documents had been drawn up, according to the minimum quality standards, for each individual beneficiary. • no activities adapted to the beneficiaries' needs were performed (*the Behavioural Rehabilitation Centre for Boys – the “Floare de Colt” Complex of Social Services, Targoviste, Dambovita county*). The People's Advocate **recommended** to adapt the activities of the Centre to the

needs of all beneficiaries and to the realities of today's society, with a focus on developing the skills and competences required for the young people's subsequent adjustment to the labour market. The visited unit **informed** that DGASPC followed the compliance with this recommendation in all the Centres; ● children were not assessed and monitored; the multidisciplinary team did not hold meetings to monitor the beneficiaries' status (*the Alexandra-Violeta Family Centre, Teleorman county; the Social Centre for under age individuals who have perpetrated criminal deeds and are not criminally liable of TarguFrumos, Iasi county; the Behavioural Rehabilitation Centre for Boys – the “Floare de Colt” Complex of Social Services, Targoviste, Dambovita county*). The People's Advocate **recommended** to regularly monitor and assess progress, decisions and specialized interventions undertaken in compliance with Specific Intervention Programmes, as well as fill in all documents with the date when they were drawn up and reviewed. The visited units **informed** that the progress was monitored and assessed on a regular basis and all documents were filled in with the date when they were drawn up and reviewed; ● not enough action for the family and social reintegration of beneficiaries, with a low number of reintegrated beneficiaries (*the Alexandra-Violeta Family Centre, Teleorman county; the “Sf. Maria” Emergency Admission Centre of Calarasi, Calarasi county; the “Casa Noastra” Care Centre of Zagujeni, Caras Severin county*). The People's Advocate **recommended** to further the actions for the family and social reintegration of beneficiaries; to implement the objectives set out in the Specialized Intervention Programmes to maintain family relations so as to integrate/reintegrate children, by developing activities that involve families as much as possible in the children's lives, so that they can be integrated in the family. The visited units **informed** that actions were taken to further relevant approaches.

● the attributions of the case officer and the case manager were not consistent (*the “Sf. Maria” Emergency Admission Centre of Calarasi, Calarasi county*); legislative provisions in the field of case management are not observed (*the Ciresarii Emergency Placement Centre, district 2, Bucharest; the “Sf. Nicolae” Placement Centre of Trusesti, Botosani county*). The People's Advocate **recommended** to reassess case management activities and match the attributions of the case manager

and the case officer, as well as observe procedures on the elaboration of quarterly reports and the protocols of team meetings; the representatives of the visited units **informed** that the required actions were taken;

- no entertainment activities were organized on an individual or group level (*the “Micul Rotterdam” Placement Centre of Constanta, the “Novaci” Family Home for the Residential Protection of Children of Pociovalistea, Gorj county; the “Casa Sperantei” Association of Campina, Prahova county*). The People’s Advocate **recommended** that the beneficiaries should take part in more cultural and educational actions (theatre/movies) and that dancing lessons should be pursued, so as to provide them with proper conditions for the development of independent life skills, as well as better organization of entertainment and socialization during school holidays. Furthermore, it was **recommended** to ensure the beneficiaries’ access to the sports hall and the library (based on the beneficiaries’ statements, they were mostly kept locked), to involve the children in activities outside the Centre, to extend TV watching time, computer games, so that they meet the beneficiaries’ actual needs. The representatives of the visited units **informed** that the beneficiaries were encouraged to express their opinions and preferences on how to spend spare time and were included in various programmes, also in preparing shows organized with the beneficiaries.

- the existence of incomplete or mistakenly filled in documents: the visit register for the leave of beneficiaries (*the “Sf. Nicolae” Placement centre of Trusesti, Botosani county*), the register of deviant behaviour prevent such type of behaviour; registering, numbering and sealing all compulsory registers for the operation of the centre and writing down the taken actions (*the “Casa Noastra” Placement Centre of Zagujeni, Caras Severin county; the Family Home for Residential Protection of Children “Novaci”, Pociovalistea, Gorj county*). The People’s Advocate **recommended** that a register should be filled in and all compulsory registers for the operation of the centre should be registered, numbered and sealed; actions had to be written down in the deviant behaviour register, so as to prevent such type of behaviour. The visited institutions **informed** that they had taken all required actions to solve these irregularities;
- insufficient communication between the centre staff

and the school (*the “Casa Noastra” Care Centre of Zagujeni, Caras Severin county*). The People’s Advocate **recommended** to provide educational support, monitor school attendance and enhance cooperation with schools with a view to reducing the absenteeism of institutionalized children. The visited unit **answered** that the beneficiaries were monitored on a continuous basis regarding school attendance and that they would enhance cooperation with school; the beneficiaries would be included in a programme for the prevention of early school leave; • strict rules with intransigent and threatening messages were posted in the dining room, improper to create a harmonious and pleasant environment, considering the beneficiaries’ psycho-social profile (*the “Casa Sperantei” Association of Campina, Prahova county*). The People’s Advocate **recommended** that these messages should be removed.

► ***Regarding psychological assistance***

- the absence of a special area for the performance of psychological activities (*the Residential Centre for Children with Disabilities of Focsani, Vrancea county; the “Casa Noastra” Care Centre of Zagujeni, Caras Severin county*). The People’s Advocate **recommended** that a psychological practice should be arranged, ensuring the privacy of psychological acts; the visited units **informed** that an area had been identified for a psychological practice and actions will be taken to properly equip it;

- the psychologist’s activities were reduced (only assessment/reassessment activities), since he only worked at the Centre twice a week, two hours each time; no psychological intervention activities were performed (*the Placement Centre for Children with Disabilities of Hunedoara, Hunedoara county*). The People’s Advocate **recommended** to amend the psychologist’s working hours so that they may undertake, besides assessment/reassessment activities, specific psychological intervention activities, as well as equip the psychological practice of the centre with licensed work tools (scales, questionnaires, assessment tests). The visited unit **answered** that the psychologist would perform assessment/reassessment activities, as well as specific psychological intervention activities, three times a week, 8 hours each time and, regarding the supply of licensed work tools for the psychological practice, actions will be taken to purchase new work tools after budget rectifications;
- the psychologist of the centre also undertook other non-specific activities, as per

the Job Description (*the Alexandra-Violeta Family Home of Alexandria, Teleorman county*); the People's Advocate **recommended** to amend the psychologist's job description, so as to only include specific attributions for psychologist requirements; the representatives of the visited unit informed that human resources were being sought to take over the attributions stipulated in the psychologist's job description, attributions of manager of the Centre, as well as to amend this job description • the children's psychological, speech therapy and psychiatric assessment was not performed and therapy and recovery programmes were not drawn up for children identified as having such needs (*the Alexandra-Violeta Family Centre, Teleorman county; the "Casa Noastra" Care Centre of Zagujeni, Caras Severin county, the Ciresarii Emergency Care Centre, district 2, Bucharest*). The People's Advocate **recommended** to perform such assessments and draw up therapy and recovery programmes for children, as well as efficiently manage cases of risk to safety, health and personal life, as beneficiaries were identified with suicide ideas and attempts through cooperation with child psychiatry departments, observing psychiatric medication recommendation, providing counselling and psychotherapy and permanent supervision in the Centre with a view to preventing special incidents. Furthermore, psychological counselling of beneficiaries was **recommended**, so that they may become aware of the consequences of the refusal to take specialized medical treatment. The visited unit **informed** that, within the courses attended by children, they benefitted from therapy and recovery programmes, and the Psycho-Pedagogical Report for pupils with disabilities and/or special educational requirements was drawn up and enclosed to each child's records. Psychiatric assessment was performed by a specialist physician every three months, who decided the medicine therapy. The "Casa Noastra" Placement Centre of Zagujeni, Caras-Severin county answered that beneficiaries with suicide attempts had been identified. They were under psychiatric treatment, took psychiatric examinations on a regular basis, were supervised by the care staff, and the Centre provided beneficiaries with many alternatives to spend spare time; • no activities were undertaken to protect children against all forms of physical or mental violence, injury or abuse, abandon or negligence, ill treatment or exploitation, inclusiv sexual abuse, sexual violence (*the*

“Casa Noastra” Placement Centre of Zagujeni, Caras-Severin county). The People’s Advocate **recommended** to take all suitable administrative, social and educational actions in order to protect children against any forms of physical or psychological violence, injury or abuse, abandon or negligence, ill treatment or exploitation, including sexual abuse, sexual violence, to prevent situations when children are enticed or constrained to perform illegal sexual activities and be exploited for prostitution or other illegal sexual practices while they are in the custody of their legal representatives. The visited unit **answered** that police representatives had been and will still be invited for actions regarding the prevention of drug use, physical exploitation and prostitution. The beneficiaries will be included in a group-level prevention programme with the psychologist of the Centre on the topic of drug use, prostitution and exploitation; • the absence of the register with records of the psychologist’s professional acts (*the “Micul Rotterdam” Placement Centre of Constanta*). The People’s Advocate **recommended** that the psychology practice should draw up a register with records of the psychologist’s professional acts, since they were not registered in a practice register as of the date of the visit. The representatives of the visited unit **informed** that a register was drawn up where the documents drawn up along these lines were recorded;

- no psychological support and counselling was provided to children who had been intimidated or discriminated (*the “Casa Noastra” Placement Centre of Zagujeni, Caras-Severin county*). The People’s Advocate **recommended** to observe legal provisions on supplying psychological support and counselling to children who were intimidated or discriminated , as well as access to services set out by the specialized child protection public service, also when children are separated. The visited unit **answered** that the purpose was to meet the children’s needs and the required actions were taken to follow the psychologist’s recommendations.

► **Regarding the enforcement of measures to restrict the capacity of movement**

Based on the review of documents provided by the Centre’s representatives, the beneficiaries’ and the staff’s statements, it was found that containment was not enforced in the visited centres and no specific means and medical recommendations

were provided for this therapeutic method. Hence, *a procedure on the enforcement of containment was not drawn up* in most centres. If such a procedure existed, this was not in accordance with the provisions of the Guideline of April 15, 2016 on the enforcement of the Law on the mental health and protection of psychologically disordered persons no. 487/2002, prohibiting the isolation of people aged less than 18. In the case of one centre, the Methodology of organization and operation of the Centre did not meet the provisions of the Guideline for the enforcement of the Law on the mental health and protection of psychologically disordered persons no. 487/2002, so that **the People's Advocate recommended** to adjust the Methodology of organization and operation of the Centre in accordance with the legal provisions on mental health and protection of psychologically disordered persons, and the visited unit **answered** that the document was remade, a Register of containment was drawn up, and situations of restriction would be mentioned therein (*the Emergency Admission Centre for Boys of district 4, Bucharest*).

► **Regarding the staff of the centre** • the absence/insufficiency of employed staff: **physician** (*the Social Centre for under age individuals who have perpetrated criminal deeds and are not criminally liable of TarguFrumos, Iasi county, the Behavioural Rehabilitation Centre for boys - the "Floare de Colt" Complex of Social Services, Targoviste, Dambovita county; the Ciresarii Emergency Care Centre, district 2, Bucharest; the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Calarasi county*), **social worker** (*the Placement Centre for Children with Disabilities of Hunedoara, Hunedoara county, the Sf. Nicolae Care Centre of Trusesti, Botosani county; the Ciresarii Emergency Care Centre, district 2, Bucharest; the Family Home for Residential Protection of Children "Novaci", Pociovalistea, Gorj county; the "Casa Noastra" Care Centre of Zagujeni, Caras Severin county; the "Casa Sperantei" Association of Campina, Prahova county*), **psychologist** (*the Sf. Nicolae Care Centre of Trusesti, Botosani county; the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Calarasi county; the Family Home for Residential Protection of Children "Novaci", Pociovalistea, Gorj county; the "Casa Noastra" Care Centre of Zagujeni, Caras Severin county*), **physical therapist** (*the Placement*

Centre for Children with Disabilities of Hunedoara, Hunedoara county; the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Calarasi county), **speech therapist**(the Alexandra-Violeta Family Centre of Alexandria, Teleorman county), **medical nurse**(the Sf. Nicolae Care Centre of Trusesti, Botosani county; the Ciresarii Emergency Care Centre, district 2, Bucharest; the Family Home for Residential Protection of Children “Novaci”, Pociovalistea, Gorj county; the “Robin Hood” Placement Centre of Bucharest), **other staff categories:** nurse (the Family Home for Residential Protection of Children “Novaci”, Pociovalistea, Gorj county), **education instructors** (the Ciresarii Emergency Care Centre, district 2, Bucharest). To this purpose, the People’s Advocate **recommended** to employ/attract staff so that the beneficiaries’ needs are covered, and the representatives of the visited units answered that the positions were occupied by employing/transferring staff (the Sf. Nicolae Care Centre of Trusesti, Botosani county; the “Sf. Maria” Emergency Admission Centre of Calarasi, Calarasi county), or actions were taken to employ staff (the Social Centre for under age individuals who have perpetrated criminal deeds and are not criminally liable of TarguFrumos, Iasi county; the Family Home for Residential Protection of Children “Novaci”, Pociovalistea, Gorj county; the “Casa Noastra” Care Centre of Zagujeni, Caras Severin county). The Behavioural Rehabilitation Centre for boys - the “Floare de Colt” Complex of Social Services, Targoviste, Dambovita county was closed, so that the representatives of DGASPC **informed** that they aimed at employing a physician in their subordinated Complex of social services, but this was hard to do, considering the labour market and the opportunities for this professional segment, so it is hard to attract physicians in these units. The “Robin Hood” Placement Centre of Bucharest **did not provide** the People’s Advocate Institution with an answer to this recommendation, so **the relevant hierarchical authority was notified** (the Local Council of district 4, Bucharest). The **answer** sent by the Local Council of district 4 Bucharest stipulates that the number of positions of medical nurse needn’t be supplemented, since the Centre will soon be closing. • the absence of collaboration contracts with specialized physicians: infantile neuropsychiatry (the Residential Centre for Children with Severe

Disabilities, the Community Services Complex of Oltenita, Calarasi county), paediatric orthopaedist (the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Calarasi county). To this purpose, the People's Advocate **recommended** to enter collaboration contracts with specialist physicians, so that the beneficiaries' needs would be covered, and the representatives of the visited units **answered** that requests were made to DGASPC to this purpose; • annual professional training plans were not drawn up and implemented; the employed staff did not take part in professional training courses (*the Placement Centre for Children with Disabilities of Hunedoara, Hunedoara county; the Behavioural Rehabilitation Centre for Boys – the “Floare de Colt” Complex of Social Services, Targoviste, Dambovita county; the Ciresarii Emergency Placement Centre, district 2, Bucharest*). The People's Advocate **recommended** to draw up and implement annual professional training plans and that the employed staff should take part in professional training courses, and the visited unit **informed** that the recommendations had been implemented.

► Other issues

• the status of beneficiaries who attended school outside the country was not monitored (*the “Casa Sperantei” Association of Campina, Prahova county*). The People's Advocate **recommended** that the visited unit should monitor the status of minors on a permanent basis, by maintaining contact with the social assistance services of the local authorities where children live abroad, education institutions, as well as the family of volunteers the minor lived with, so as to respect and guarantee the children's rights. Furthermore, **DGASPC was recommended** to get engaged in making decisions to leave the country to attend school, in the case of the minors from the *“Casa Sperantei” Association of Campina, Prahova county*, also in the extension of periods of stay, in collaboration with the authorities abroad with relevance in the field of child protection, so as to monitor the status of children while they are abroad and permanently monitor the status of children under a special protection measure who live abroad in order to attend school, in cooperation with the public authorities of this country. Until the elaboration of this report, the representatives of the *“Casa Sperantei” Association of Campina, Prahova county* did not answer the

recommendations included in the visit report.; ● annual decisions were not issued regarding the pursuit of studies abroad (*the “Casa Sperantei” Association of Campina, Prahova county*). The People’s Advocate **recommended** that the visited unit should issue decisions on the pursuit of studied abroad on an annual basis, for each academic year, as well as consider their content in drawing up Individual Protection Plans. ● a procedure on the children’s exit from the country during the period when a special protection had been decided was not available at the DGASPC level. The People’s Advocate Institution decided that the management of DGASPC should draw up a clear procedure regarding the children’s exist from the country while a special protection measure was enforced, stipulating the conditions for exit, return, selection criteria and the period of stay abroad, as well as the foreign institutions in charge with monitoring the children’s status along the entire period. By the date of this report, DGASPC representatives had not answered the recommendations in the visit report; ● faulty cooperation with local public authorities with attributions in the child protection field with a view to monitoring the status of the family for child reintegration purposes (*the Behavioural Rehabilitation Centre for Boys – the “Floare de Colt” Complex of Social Services, Targoviste, Dambovita county*). The People’s Advocate **recommended** that DGASPC should inform all local public authorities with attributions in the field of child protection in the county on the obligation to send social inquests drawn up pursuant to visits at the children’s homes, showing the possibility of their family integration; to follow up the child’s evolution, as well as how parents exercise their rights and fulfil their obligations regarding the child by drawing up monthly reports for at least 6 months. DGASPC Dâmbovița informed that is had disseminated these aspects within regular meetings with the representatives of local public authorities; ●many children who left the Centre without permission (*the Social Centre for under age individuals who have perpetrated criminal deeds and are not criminally liable of TarguFrumos, Iasi county; the “Sf. Maria” Emergency Admission Centre, Calarasi county*).The People’s Advocate **recommended** that the situations when minors leave the Centre without permission should be reduced, by counselling beneficiaries in order to prevent this, by enhancing psychological assessments, by increasing supervision

measures, by reanalysing the procedures regarding the beneficiaries' leaving of the Centres and by empowering the employees on the enforcement of this procedure. The representatives of the visited units **answered** that beneficiaries had behaviour disorders, came from families where clear and firm rules were missing, without a set of functional values or a positive parental model; thus, due to their loyalty to the above, the children showed deviant behaviour, seeing their family reality as a normality. Thus, children are included in the records of the psychological practice; the purpose of psychological counselling is to enhance the beneficiary's awareness through the negative side of behaviour, explaining the risks and consequences they are exposed to by acting like this. Moreover, discussions are held with the child within psychological counselling sessions and his/her motivation to leave the Centre is analysed, s/he is encouraged to identify alternative, constructive solutions for meeting his/her needs and expectations. Furthermore, social workers maintain contact and cooperate with the family of every beneficiary, with local authorities, to find him/her and take him/her back to the Centre. The case of each beneficiary is discussed on a monthly basis within meetings with members of the pluridisciplinary team, so as to identify risk situations. Considering the cases of minors who left the Centre without permission, **the People's Advocate Institution submitted a request to the Calarasi County Police Inspectorate.** The answer from this institution did not contain information regarding the concrete actions taken by the Calarasi County Police Inspectorate to prevent the worsening of the phenomenon the young people abandon the Centres, to ensure the protection of minors while they are being interviewed/heard by police bodies, so a notice to the Ministry of Internal Affairs was submitted to this purpose. Based on the statements of the Ministry of Internal Affairs, the minors who left Placement centres without approval were heard by police bodies, after they were found, in compliance with the provisions of art. 124 of the Criminal procedure Code, so as to establish whether they had been victims of a crime during their disappearance. Regarding the measures to ensure the protection of minors while they are being interviewed/heard by police bodies, the Ministry of Internal Affairs informed that these procedural acts are fulfilled in compliance with the provisions of art. 124 of the Criminal Procedure Code, if the minors are witnesses in a criminal

case; they are heard in the presence of a parent, of their guardian or the person or representative of the institution having custody over the minor's rearing and education; if required, the hearing should also be attended by a psychologist. If the above mentioned persons cannot attend or find themselves in another situation stipulated under art. 124 par. (2) of the Criminal Procedure Code, the minors are heard in the presence of a representative of the custody authority or of a relative with full capacity of exercise, decided by the judicial body. It also mentioned that, if the minors are heard as perpetrators of a crime, the provisions of art. 505 of the Criminal Procedure Code are complied with, and the parents or, as the case may be, the guardian, curator or the person under whose care or supervision the minors are placed temporarily, as well as the DGASPC of the settlement where the hearing is held, are called to attend the hearing or confrontation of minors. As for potential measures to prevent the placement centres being left by the minors, the Ministry of Internal Affairs informed that placement centres must comply with the relevant legal provisions; • the protection of minors is not ensured when they are heard/investigated by police bodies (*the "Sf. Maria" Emergency Admission Centre, Calarasi county*). The People's Advocate **recommended** that the minors' dignity should be observed when they are heard/investigated by police bodies, ensuring a positive affective climate. The visited unit **informed** that the protection of minors was ensured as they were heard/investigated by police bodies, with respect for the minor's dignity and ensuring a positive affective climate, by facilitating access to a space which would ensure the confidentiality of information and through the presence of a psychologist to monitor the hearing; • the children were kept in the Centre though the accommodation period had been exceeded (*the "Sf. Maria" Emergency Admission Centre, Calarasi county; the Ciresarii Emergency Care Centre, district 2, Bucharest; the Residential Centre for Children with Severe Disabilities, the Community Services Complex of Oltenita, Calarasi county*). The People's Advocate **recommended** to reassess the status of children whose accommodation period had expired and to take the required action. The visited units **informed** that the special protection measures for children/young persons whose accommodation period had expired were reassessed with a view to leaving the

Centre. For the cases where solutions have not been identified yet, actions are taken to reduce the period of accommodation in the Centre, primarily aiming at ensuring family reintegration, then placement with a professional foster parent/family or transfer to other Centres. By the date of this report, the representatives of the Ciresarii Emergency Care Centre, district 2, Bucharest had not answered the recommendations in the visit report; ● the beneficiaries subject to a criminal trial was not performed in the presence of a psychologist (*the “Casa Noastra” Care Centre of Zagujeni, Caras Severin county*). The People’s Advocate **recommended** to comply with legal provisions on ensuring the legal protection of all minor beneficiaries or beneficiaries who have reached the age of majority within a criminal trial, and their hearing had to be performed by means of or in the presence of a psychologist or another specialist in victim counselling, since the heard persons were under age and with a psychiatric diagnostic. The visited unit **answered** that all actions would be taken so that the beneficiaries would only be heard in the presence or by means of a psychologist; ● contracts for the supply of social services were not drawn up (*the Alexandra-Violeta Family Centre of Alexandria, Teleorman county*). The People’s Advocate recommended that the records of all beneficiaries should be supplemented with contracts for the supply of social services and that they should be signed by the legal representatives of children, and the visited institution answered that this recommendation was enforced, the contracts for the supply of social services were signed by the parents and by the legal representative of the child, as the case may be; ● the absence of programmes for beneficiaries regarding the risks of alcohol and drug use and the harmful effects of smoking (*the “Micul Rotterdam” Placement Centre of Constanta, Constanta county*), as well as regarding the management of tensioned situations and verbal and physical conflicts (*the Ciresarii Emergency Care Centre, district 2, Bucharest*). The People’s Advocate **recommended** that beneficiaries should receive counselling on the harmful effects of smoking and be informed on the risks they are exposed to, the prohibition of smoking in confined spaces, especially since they live in wooden cottages, and smoking in secret inside them might cause fire. The representatives of the *“Micul Rotterdam” Placement Centre of Constanta, Constanta county* **informed** that beneficiaries were counselled in a first phase and

such counselling would be performed on a monthly basis, within the topics discussed on fire prevention. • the absence of work procedures in compliance with specific minimum quality standards: the procedure for the beneficiaries' exit from the Centre (*the Ciresarii Emergency Care Centre, district 2, Bucharest*). The People's Advocate **recommended** that clear procedures should be drawn up in compliance with legal procedures.

► **Regarding the beneficiaries' possibility to file complaints, notices**

• a box was missing where children could submit suggestions or notices (*the Behavioural Rehabilitation Centre for boys - the "Floare de Colt" Complex of Social Services, Targoviste, Dambovita county; the Ciresarii Emergency Care Centre, district 2, Bucharest; the "Sf. Nicolae" Placement centre of Trusesti, Botosani county*). The People's Advocate **recommended** to place a mailbox for the beneficiaries to submit suggestions and complaints; the absence of special registers for suggestions and complaints, as well as abuses or outstanding events, the visited units **answered** that the required actions were taken; • the absence of procedures on the performance, registration and solution to notices and complaints (*the Ciresarii Emergency Care Centre, district 2, Bucharest*). The People's Advocate **recommended** that such procedures should be drawn up in compliance with the legislation in force.

Proposals:

• To reduce the number of children entering the child protection system by **improving the prevention activity pursuant to the development of integrated community services for vulnerable children and their families**. Preventing the children's entry to the special protection system should be considered a priority and should be properly financed.

Since the child protection system cannot and should not solve the ineffectiveness of the current system of social benefits, the drawbacks of the education or health system, the low development of specialized services for persons with disabilities or vulnerable categories or the absence of a policy and investments in the field of social living, a multisectoral strategy of prevention services has to be

developed at the highest level by the Romanian Government. **The special protection system should be refocused from solving “emergencies” to preventing the separation of children from the family. A good protection system is centered on reducing the number of entries to the system, in combination with the de-institutionalisation process and finding suitable family alternatives as a permanent solution for the children who are now in the system and will enter in the future. Prevention can be achieved most efficiently by supplying a wide range of services at a community level, operating as a filter to decrease the number of entries to the system,** as well as enhance the opportunities to reintegrate children in the family (thus increasing the number of exits). A national assessment is needed to identify the services to be developed with priority, so that the existing resources are invested as efficiently and fairly as possible to produce an impact as high as possible.

- **Reinforcing monitoring and promoting de-institutionalisation by improving and developing alternatives of care inside a family or in a family-type structure.** Children should only remain in the system as a temporary solution. The reorganization of current child protection services with a view to increasing the quality of the provided care and reducing the duration of stay in the protection system to the minimum required.

- **Initiating a more systematic reform,** including more suitable processes and services providing suitable alternatives for care, as well as possible permanent or long-term solutions. The introduction of a law on inclusive education would increase the chances of children with disabilities of attending school in the community. *“Through inclusive education laws, States should establish an inclusive education system under the aegis of their respective ministries of education that prohibits rejection from mainstream schools on the basis of disability and provides for reasonable accommodation. A transformation plan should provide the framework for the implementation of an inclusive education system with measurable goals. States should put in place training programmes for teachers, create reasonable accommodation funds, provide for accessible materials, promote inclusive environments, improve testing methods, promote the transfer from special schools to*

mainstream schools, promote monitoring through indicators on inclusive education, provide adequate support to students, and use appropriate communication means and formats. Schools need to be properly funded, while at the same time availability of resources should not be a basis for denying access to the right to education for a student with disability.” (OHCHR - Office of the United Nations High Commissioner for Human Rights - 2013).

Teaching staff plays a significant part in prevention services for other categories of children at risk. Thus, early identification and suitable support for children at risk whose parents work abroad are much more effective when performed in cooperation by SPAS and the school. **The following are needed in the relation with education institutions: improving and reinforcing local monitoring and reporting mechanisms (SPAS) for children who need support; increasing the capacity of schools, i.e. to compensate for the parents’ absence through counselling; the performance of several health education activities, as well as activities to prevent risk behaviour, including sexual behaviours, among teenagers.** Preventing the children’s separation from their families is associated with the prevention of early school leaving risk. School units developing early school leaving prevention activities also help indirectly reduce the risk of the children’s separation from their families, especially when such activities also involve activities with parents, not only children.

3. Residences for the elderly people

Elderly persons represent a vulnerable category of population with Special needs, due to the physiological limitations and to the fragility associated to aging; they benefit from social assistance measures additionally to social insurance, to cover old age and health risks, depending on social, economic, medical and physiological personal situations, based on art. 92 of Law no. 292/2011 on social

assistance, as subsequently amended and supplemented. **Taking care of elderly people in retirement homes is a measure of social assistance**, meaning that this activity can only take place in the form of social services and exceptionally for elderly persons, based on art. 16 of Law no. 17/2000 on the social assistance of the elderly, republished, as subsequently amended and supplemented.

In order to avoid all form of abuse on elderly people, they have to be admitted to retirement homes after their medical, socio-medical, psycho-affective needs are assessed, based on the National Grid for the Assessment of the Needs of elderly people, based on Government Decision no. 886/2000 on the approval of the national grid for the assessment of the needs of elderly people, Annex 3.

This implies a classification in dependence categories and the supply of suitable social services for taking care of an elderly person, in compliance with priority criteria: s/he needs special permanent healthcare that cannot be provided at home; s/he cannot manage his/her own household; s/he has no legal supporters or the latter cannot meet their obligations due to their state of health or economic situation and family tasks; s/he has no residence and no income.

For the safety of elderly persons, they must be taken care of in licensed homes, which certifies that public and private providers meet minimum quality standards, stipulating a set of criteria regarding: accessing, assessing and planning services, activities required for personal care, healthcare, recovery, socialisation and integration/reintegration, living conditions, rights of the beneficiaries, management and human resources- Order of the Minister of Labour, Family, Social Protection and Elderly People no. 2126/2014 on the approval of the minimum quality standards for the accreditation of social services dedicated to elderly people, homeless people, young people who left the child protection system and other categories of adults in difficulty, as well as services provided in the community, services in an integrated system and social canteens.

Based on the data published on the website of the Ministry of Labour and Social Justice, **352 retirement homes (public and private) have an operating license.**

Domestic and international laws recognize the right of any elderly person to social protection, ensuring suitable measures for elderly people, either directly or in cooperation with public or private authorities, so that they may: • remain full members of society for as long as possible, by means of enough resources to have a decent life and actively participate in public, social and cultural life and by disseminating information on available services and facilities for elderly persons and their possibilities to use them; • choose their own lifestyle and live an independent life in their usual environment for as long as they want to and as long as it is possible, by providing suitable residences for their needs and health state, or suitable support for arranging their homes and by healthcare and supply of the services required by their state; • receive suitable support in institutions.

► *National and international regulations on social assistance, also for elderly people and in terms of preventing torture and ill treatment*

The most important international and national normative acts, stipulating the rights of a person, elderly persons included, to protection and social assistance are as follows, without limitation:

1. International regulations: • The Universal Declaration of Human Rights adopted by the United Nations General Assembly in 1948; • the European Social Charter, revised and ratified by Romania by Law no. 74/1999; • the European Code of Social Security, ratified by Romania by Law no. 116 of April 24, 2009; • the International Covenant on Civil and Political Rights; • the European Convention on Human Rights (ECHR); • the Optional **Protocol** adopted on December 18, 2002 in New York (OPCAT), to the **Convention** against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on December 10, 1984 in New York, ratified by Romania by Law no. 109/2009; • the Charter of Fundamental Rights of the European Union.

2. National regulations: • the Romanian Constitution; • Law no. 17/2000 on the social assistance to elderly persons, republished; • Government Decision no. 886/2000 on the approval of the National Grid for the assessment of the needs of elderly persons; • Law no. 16/2000 on the establishment, organization and operation of the National Council of Elderly Persons, republished, as subsequently amended

and supplemented; • Government Decision no. 499/2004 on the establishment, organization and operation of consultative committees for civic dialogue on the issues of elderly persons, within prefectures; • Order of the Minister of Labour and Social Solidarity no. 73/2005 on the approval of the draft Contract for the supply of social services, entered by social service providers accredited according to the law and beneficiaries of social services; • • Law no. 292/2011 on social assistance, as subsequently amended; • Law no. 197/2012 on quality assurance in the field of social services, as subsequently amended and supplemented; • Government Decision no. 118/2014 on the approval of the Methodological Guidelines for the enforcement of the provisions of Law no. 197/201 on quality assurance in the field of social services, as subsequently amended and supplemented; • **Government Decision no. 903 of October 15, 2014 on the determination of the minimum daily allocation for food for collective consumption in public and private institutions and units for social assistance to adults, adults with disabilities and elderly persons;** • Order of the minister of labour, family, social protection and elderly persons no. 2126 of November 5, 2014 on the approval of the minimum quality standards for social services with accommodation organized as residential centres for elderly persons, stipulated in Annex no. 1 (hereinafter referred to as the Order of MMFPSCV no. 2126/2014); • Government Decision no. 566/2015 on the approval of the National strategy to promote active aging and the protection of elderly persons for the period 2015-2020 and the Strategic Action Plan for 2015-2020, as subsequently amended and supplemented;

- Government Decision no. 867/2015 on the approval of the List of social services, as well as master regulations for the organization and operation of social services, as subsequently amended and supplemented; • Government Decision no. 978/2015 on the approval of minimum cost standards for social services and the monthly revenue per family member lying at the basis of the monthly maintenance contribution payable by the legal supporters of elderly persons in residential centres; • the Criminal Code.

► Based on art. 34 par. (1) of Law no. 35/1997 on the organization and operation of the People's Advocate institution, republished, according to the law, a

detention place is any place where persons are deprived from freedom based on a decision of an authority, upon its request or with its explicit or tacit approval.

According to the previously mentioned normative act, **freedom deprivation** means any form of detention or imprisonment or placement of a person in a public or private detention place that s/he cannot leave at his/her own will, by decision of any judicial, administrative or other authority. Moreover, the provisions of the same article stipulate which are **detention places**. For instance: penitentiaries, including hospital-penitentiaries; educational centres, detention centres; hospitals for psychiatry and safety measures, psychiatry hospitals, any other place meeting the above requirements *or which is included in the health system or the social assistance system*, etc. Regarding the above mentioned, the definitions of terms regarding deprivation of freedom and detention places are also found in international rules, such as the Optional Protocol of December 18, 2002 to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), the Guidelines of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the practical guide *Monitoring detention places* of the Association for Prevention of Torture (APT), etc.

To this purpose, based on art. 16 (1), art. 33 (1), art. 35 (a) and art. 29 (3) of Law no. 35/1997 on the organization and operation of the People's Advocate institution, republished, the People's Advocate institution, through the Field regarding prevention of torture in detention places, **performs announced or spot visits to the detention places stipulated by law, with a view to checking accommodation conditions and the treatment applied to persons deprived from freedom under the custody of the visited units, also monitoring the health and social assistance system, i.e. residential homes/centres for elderly people.**

In 2018, the field regarding prevention of torture in detention places performed **14 visits to residential homes/centres for elderly people**: the Centre for Elderly Persons of Mereni-Contesti, Dambovită county; the Centre for Elderly Persons of Anina, Caraș Severin county; the "Odai" Complex for Social Services, Bucharest; "Sf. Andrei" Centre for Elderly Persons of Malu Mare, Dolj county; the the Centre for Elderly Persons of Fierbinti, Ialomița county; the Centre for Elderly

Persons of Furculesti, Teleorman county; the Centre for Elderly Persons of Fitionesti, Bacau county; the “SalvatiBatranii” Centre for Elderly Persons of Bacau, Bacau county; the “Speranta” Residential Centre for Elderly Persons of Bucharest; the “SchitulDarvari” Care and Support Centre for Dependent Persons of Bucharest; the Centre for Elderly Persons of Cervenia, Teleorman county; the Centre for Elderly Persons of Mangalia, Constanta county; the Medical and Social Support Centre of Bacesti, Vaslui county; the Centre for Elderly Persons of Roznov, Neamt county. Visits were not announced and aimed at checking the reinforcement of the protection of beneficiaries against torture and inhuman or degrading punishment and treatment, the enforcement of recommendations pursuant to the visit undertaken in the previous years, as well as any other aspects relevant to the activity of the National Mechanism for the Prevention of Torture in detention places.

The visits resulted in **58 recommendations** sent to the management of the visited unit together with the drawn up visit reports.

► ***Positive aspects were found during the visits, such as;***

● **regarding the beneficiaries and the monthly contribution:** ● the maintenance contribution was calculated based on the provisions of art. 25 of Law no. 17/2000 on social assistance to elderly persons, republished, so that the beneficiary paid 60% of his/her pension. If the 60% percentage did not cover the value of the maintenance contribution in full, the difference from this percentage to the equivalent value of the contribution was covered by the legal representatives of the beneficiary; the beneficiaries of the services supplied by the centre were elderly persons residing in Romania, who could not cover their social needs and maintain themselves for economic, physical, psychological or social reasons; the beneficiaries' rights were stipulated in the contract for the supply of social services entered by the management of the home and each beneficiary and in the Beneficiary's Guide at the head office of the centre; ● the admission of elderly persons to the homes/centres was performed by the Committee for the assessment of files, which analysed the applicant's social, psychological, medical and material status (*"Sf. Andrei" Centre for Elderly Persons of Malu Mare, Dolj county, the Centre for Elderly Persons of Anina, Caras Severin county, the Centre for Elderly*

Persons of Fitionesti, Vrancea county, the Centre for Elderly Persons of Mereni-Contesti, Dambovita county, the Centre for Elderly Persons of Fierbinti, Ialomita county and the "Speranta" Residential Centre for Elderly Persons of Bucharest); • the beneficiaries could receive visits based on a posted visit schedule (*the Centre for Elderly Persons of Anina, Caras Severin county*); • some of the beneficiaries managed their income by themselves, and records of the beneficiaries' incomes were kept for some others; both the money and the receipts for expenditure were kept in individual envelopes, and the pensions were distributed to the centre by the mailman on a monthly basis (*the "Speranta" Residential Centre for Elderly Persons of Bucharest*).

• **regarding the legal accommodation capacity:** the visits showed that the visited units did not face overcrowding, as fewer persons than the number of positions expected to be occupied were accommodated at the moment of the visits.

• **regarding accommodation conditions:** • the beneficiaries were allocated into rooms in compliance with separation criteria - gender, affinities, family relations; • the rooms were in a proper state of cleanliness and hygiene, well lit and ventilated, with clean walls, with the pavement covered in parquet and carpets, with PVC windows equipped with termopane glass and insect protection meshes, with functional electrical installations and illumination facilities; • the furniture and equipment were in a proper state and each beneficiary had his/her own bed, wardrobe and bedside table; • each bedroom was equipped with its own sanitary facility which was clean and properly equipped and arranged; cold and hot water were supplied on a permanent basis, the centre had its own heating plant working on solid fuel and electrical boilers, and water supply was provided from the shared network of the settlement (*"Sf. Andrei" Centre for Elderly Persons of Malu Mare, Dolj county, the Centre for Elderly Persons of Mereni-Contesti, Dambovita county, the Centre for Elderly Persons of Fierbinti, Ialomita county*); • the rooms were clean, properly equipped with furniture - wardrobes, bedside tables, tables, chairs, etc., in compliance with the parameters of aesthetical, thermal, olfactory and lighting comfort; TV sets connected to the town's cable TV network were mounted in the rooms and in the dining room/living room; • the home had adjustable beds,

equipped with anti-eschar mattresses and enough wheelchairs, the bathrooms were accessible to persons with disabilities and a ramp for access to the building was provided (*the Centre for Elderly Persons of Anina, Caras Severin county*); ● the halls were equipped with panic buttons providing services for emergency situations based on a contract with a security company (*the Centre for Elderly Persons of Fierbinti, Ialomita county*); ● the centre had a sound warning system for the staff if the beneficiaries requested their presence; a button was mounted above each bed that could be quickly operated by the beneficiary (*the “Speranta” Residential Centre for Elderly Persons of Bucharest*);

● **regarding food preparation conditions:** ● the kitchen of the centre was properly arranged and equipped with domestic appliances and suitable furniture, and the kitchen was in a proper state of cleanliness and hygiene (*the “Speranta” Residential Centre for Elderly Persons of Bucharest*); ● the food was provided by a catering company based on the Master Services Agreement entered by the municipality, the beneficiaries’ preferences were taken into account when preparing the menu, and the food was diverse, with satisfactory quantity and quality (*“Sf. Andrei” Centre for Elderly Persons of Malu Mare, Dolj county*); ● the kitchen was sanitized, clean, and food was prepared in compliance with the hygiene and sanitary conditions stipulated by the legislation in force, based on a menu endorsed by the physician, the head of the complex, the medical nurse and the warehouse keeper (*the Centre for Elderly Persons of Fierbinti, Ialomita county*);

● **regarding healthcare supply:** ● medical healthcare services were supplied by the physician of the home and by the general practitioners of the beneficiaries, the mentioned physicians cooperated satisfactorily and no difficulties were found in the supply of medical services; the beneficiaries’ state of health was monitored on a proper basis, and beneficiaries with chronic disorders were subjected to specialized medical examinations on a regular basis or were admitted to the hospital so as to reassess their clinical and biological status and establish therapeutic conduct (*“Sf. Andrei” Centre for Elderly Persons of Malu Mare, Dolj county*); ● beneficiaries diagnosed with chronic medical disorders (cardiovascular disorders, arthrosis, diabetes mellitus, cerebrovascular diseases, dementia, psychiatric disorders, etc.); ●

medical recovery services were provided upon recommendation of the specialist physician, in a specialized clinic in town (*the Centre for Elderly Persons of Anina, Caras Severin county*); • medicines were kept in the medical practice in properly safe conditions, in individual bags and were distributed by the medical nurse according to the medical prescription, while psychotropic medicines were kept in a separate locked cupboard, according to the legal provisions in force; • the single emergency service 112 was called for medical emergencies (*the Centre for Elderly Persons of Anina, Caras Severin county*); • medication was recorded in the patients' monitoring reports and was provided on a regular basis, according to the physician's medical prescriptions; • the centre had a medical recovery room equipped with multifunctional medical devices - electrotherapy device, ultrasound device, laser, paraffin wraps, etc., used for procedures performed by the physical therapist of the centre under guidance of the physical therapy physician (*the Centre for Elderly Persons of Fitionesti, Vrancea county, the Centre for Elderly Persons of Mereni-Contesti, Dambovita county*); • specialized medical examinations (cardiology, neurology, psychiatry, internal disorders, orthopaedics, ophthalmology, etc.) were provided by taking the beneficiaries, accompanied by the staff of the centre, to local hospitals and clinics; elderly persons in the centre received partially free of charge medicines based on the medical prescription issued by the general practitioner or by specialized physicians (*the Centre for Elderly Persons of Mereni-Contesti, Dambovita county*); • the centre hosted regular collections of biological samples (blood coagulation tests, assessment of diabetes, etc.), for dental healthcare, the beneficiaries went to a local dental practice, and flu vaccine was administered to all beneficiaries who have provided approval within the vaccination campaign (*the Centre for Elderly Persons of Fierbinti, Ialomita county*); • the performed therapy was properly recorded in the therapy register, and all medical documents were recorded and filled in, and safely and confidentially kept in the medical practice (*the "Speranta" Residential Centre for Elderly Persons of Bucharest*);

• **regarding the supply of psychological assistance:** based on the Social Services Agreement entered with each beneficiary, the centre provided them with psychological counselling and a physician was employed full-time. The

psychologist of the centre had a right to practice since 2015 in the Clinical Psychology specialization, degree Apprentice, form of certification Autonomous, being registered with the College of Romanian Psychologists, based on Law no. 213/2004 on the exercise of the office of psychologist, the establishment, organization and operation of the College of Romanian Psychologists. The psychologist was a graduate of the “Analytical psychotherapy” master’s programme (*"Sf. Andrei" Centre for Elderly Persons of Malu Mare, Dolj county*);

- **regarding the supply of social assistance:** after examining several records of the beneficiaries, it was found that the Individual Assistance and Care Plan was drawn up in 2018, and activities were planned for a 6-month period, according to the results of the initial assessment and of the reassessment (*"Sf. Andrei" Centre for Elderly Persons of Malu Mare, Dolj county*);

► **Deficiencies found on visits to retirement homes, recommendations provided to the management of homes/centres and the actions taken by the latter:**

- **regarding the occupation of vacant positions,** the People’s Advocate **recommended** that the management of the home/centres should take actions to fill the vacancies with staff and attract staff (social worker, psychologist, medical nurse, qualified staff for functional recovery/rehabilitation services/therapies, cook, etc.) by employing or entering services contracts, so as to observe the provisions regarding the performance of activities and services, based on M.M.F.P.S.P.V. Order no. 2126 (assessment of the beneficiaries’ needs, performance of recovery/rehabilitation activities), introducing positions of qualified staff for functional recovery/rehabilitation services/therapies in the organizational chart, as well as deciding, together with D.G.A.S.P.C. representatives, the required number of staff, since the legal capacity of the centre was going to increase. The visited units **answered** that 5 vacant positions were published during 08.11-14.12.2018: 2 nurse positions, 1 carer position, 1 medical nurse position and 1 non-qualified worker position, and the number of published positions was established by D.G.A.S.P.C. depending on the salary budget approved by the county council (*the Centre for Elderly Persons of Fierbinti, Ialomita county*); ● depending on the budget allocations

and the accommodation capacity, the centre will propose to employ staff, and the occupant of the social worker position was already a student of the Faculty of Social Assistance of the University of Craiova (*"Sf. Andrei" Centre for Elderly Persons of Malu Mare, Dolj county*);● a Collaboration contract was entered with the Public Social Assistance Service, and actions would be taken to employ a medical nurse(*the Centre for Elderly Persons of Anina, Caras Severin county*);● once the institution will be reorganized, a new chart of positions will be drawn up, also including specialized staff of the centre and the positions will be published and occupied according to the law (*the "Speranta" Residential Centre for Elderly Persons of Bucharest*);

- **regarding the staff's continuous training**, the People's Advocate **recommended** that the management of the centre should take the required legal actions for the continuous professional training of staff members with a view to respecting the beneficiary's dignity and privacy during the performance of his/her care, by organizing regular meetings of the management of the centres with staff members, geriatric medical assistance, first aid courses for the staff with no medical training, procedures to follow in case staff members are facing a situation of conflict/aggression. The visited unit **answered** that, at the end of every year, all the heads of the centres within D.G.A.S.P.C. Ialomita informed the Human Resources Service of D.G.A.S.P.C. Ialomita on the proposals regarding the professional training topics for employees for the following year, to be included in the Annual professional training plan of the directorate. According to these proposals, the services/centres of D.G.A.S.P.C. Ialomita will organize continuous professional training courses for the employees. In November 2018, nine employees of the centre (warehouse keeper, cooks and nurses) took part in improvement courses in the field of "hygiene of food supply and living areas", and in December 2018 other five employees (nurses and carers) will attend the "Improvement course for the staff in residential services for adults/elderly people", approaching the issue of relevant legislation, the rights of beneficiaries, as well as the optimization of communication with them and understanding their importance in the service supply process. In order to organize staff training courses for 2019, the centre will submit all the topics proposed by the

visit team of the People's Advocate Institution to the specialized structure of D.G.A.S.P.C. Ialomita: first aid courses for staff with no medical training, courses on the procedures to be followed in case the staff is facing a situation of conflict/aggression, courses of geriatric medical assistance (*the Centre for Elderly Persons of Fierbinti, Ialomita county*).

● **regarding food**, the People's Advocate **recommended** that the management of the centre should take the legal actions to provide a morning snack on a daily basis, so that elderly persons benefit from two snacks per day, as stipulated in the Rules of Organization and Operation of the centre. The visited unit **answered** that the menu of the centre was drawn up by the medical nurse, the head of the centre, the warehouse keeper and the unit physician on a weekly basis and included three meals and two snacks (10 a.m. And 4 p.m.). Most times, the 10 a.m. snack was included in breakfast, which is why it was no longer mentioned at 10. According to the **recommendation**, the 10 a.m. snack has to be ensured on a permanent basis, as stipulated in the Rules of Organization and Operation of the centre (*the Centre for Elderly Persons of Fierbinti, Ialomita county*).

● **regarding the supply of healthcare**, the People's Advocate **recommended** that the management of the home/centres should take the required legal actions in order to observe the deadline for the regular assessment of beneficiaries diagnosed with chronic medical disorders, based on the recommendations of the specialist physician, to create a timeline of the beneficiaries' reassessment, to reassess beneficiaries and mention the results in assessment reports; ● drawing up new individual assistance and care plans based on annually reviewed reassessment reports; ● keeping food samples according to legal provisions; ● the centre should supply adhesive gel for the beneficiaries' dental prosthetics, the suitable removal of the expired medicines and the suitable filling in of reports for deceased beneficiaries; ● establishing, together with D.G.A.S.P.C. representatives, the required actions to ensure the transportation of beneficiaries to/from the hospital, by equipping the unit with a motor vehicle and including a position of driver in the organizational chart or ensuring a sufficient number of means of transportation in the directorate (no social assistance centre subordinated to the directorate had its own motor vehicle). The

visited units **answered** that the regular assessments of beneficiaries diagnosed with chronic medical disorders have been and will be made by the specialist physician; all the beneficiaries of the home will be examined by a specialist psychiatrist from Bucharest, who will also draw up medical letters for each individual beneficiary. At the same time, the beneficiaries were reassessed on a monthly basis and whenever needed, by the specialist physician of the home, who included the results in the reassessment report (*the Centre for Elderly Persons of Anina, Caras Severin county*);

- the centre had refrigerators to keep food samples and the deadline for their storage will be observed according to the sanitary guidelines in force (*the Centre for Elderly Persons of Anina, Caras Severin county*);
- the draft budget of the institution for 2019 included the required amounts for the purchase of adhesive gel, and the recommendations on the removal of expired medicines and the proper filling in of reports in the case of deceased beneficiaries were enforced (*the “Speranta” Residential Centre for Elderly Persons of Bucharest*);
- as for the beneficiaries’ transportation to/from the hospital, this procedure will be continued by requesting a motor vehicle of D.G.A.S.P.C. Ialomita, if needed, in case an ambulance is not provided by hospitals. Usually, the hospitals informed the centre by phone before the beneficiaries were released, and they were accompanied by the employees of the institution when they travelled by public transport. In the last 6 months, all hospital releases of beneficiaries were performed with the ambulances of the medical units where they were admitted (*the Centre for Elderly Persons of Fierbinti, Ialomita county*).

- **regarding the beneficiaries’ living conditions**, the People’s Advocate **recommended** that the management of the centre should take the required legal actions to improve the beneficiaries’ living conditions, by drawing up Analysis Reports on measuring the beneficiaries’ satisfaction, every 6 months, so that the waiting time on the proposals and the amendment of some aspects presented by the beneficiaries in questionnaires is low. The visited unit **answered** that, by the date of the visit of the representatives of the People’s Advocate Institution, satisfaction questionnaires were applied once a year. For a better self-assessment of the quality of the centre’s activity, upon recommendation of the People’s Advocate Institution, the

centre will apply questionnaires on the beneficiaries' satisfaction every semester. This activity will be completed by performing an Analysis Report including the actions to be taken. At the same time, the measures will be notified to beneficiaries and will be included in the Register of information to beneficiaries (*the Centre for Elderly Persons of Fierbinti, Ialomita county*).

- **regarding the supply of hygiene and sanitary products, the People's Advocate recommended** that the management of the centre should take the required legal action to provide such products, since the residents did not benefit from the mentioned products in a sufficient amount, of which many were purchased from the personal budget. The visited unit **answered** that hygiene and sanitary materials (soap, shampoo, toothpaste/brush, shaving cream, razors, razorblades, aftershave lotion, toilet paper, diapers) were provided to beneficiaries on a monthly basis according to their needs. The centre had a register with the received products and the provided quantities, with the beneficiary's signature for receipt. Some beneficiaries also used other brands of hygiene and sanitary materials than those received from the centre and bought additional products from their own budget. In order to provide sufficient amounts of hygiene and sanitary materials, the beneficiaries' viewpoint was also requested, by means of satisfaction questionnaires. The results and actions were mentioned in the Analysis Report of the centre. At the same time, all hygiene and sanitary materials provided to beneficiaries had to comply with the amount set out in the budget provided by the Ialomita County Council(*the Centre for Elderly Persons of Fierbinti, Ialomita county*).

- **regarding accommodation conditions, the People's Advocate recommended** that the management of homes should take the required legal actions to remove the unpleasant smell from the accommodation rooms located on the first floor of the centre, to identify solutions for the refurbishment of the home's building and to perform works for the arrangement of the yard, with additional equipment for the beneficiary's rest and for the development of outdoor entertainment. The visited units answered that, at the moment of the visit, the centre was undergoing disinfestation and disinfection and the beneficiaries were taken out of the rooms. The first floor had been allocated to semi-dependent and dependent persons and was not

washed any more, since disinfestation was about to begin. At the same time, the centre had specific solutions to remove unpleasant smell and maintain a pleasant climate in the institution (*the “Sf. Andrei” Centre for Elderly Persons of Malu Mare, Dolj county*); due to lack of funding and deficit at the Home for Elderly Persons of Anina, by notice to the County Agency for Payments and Social Inspection of Caras-Severin, the allocation of budget credit of 470,157 RON was requested, from the reserve fund for the operation of the institution and the coverage of outstanding debt. If these budget credit is approved, solutions will also be identified for the supply of additional equipment and arrangements within the building (*the Centre for Elderly Persons of Anina, Caras Severin county*).

● **regarding the assurance of the beneficiaries’ privacy**, the People’s Advocate **recommended** that the management of the centre should take the required legal action for the purchase of screens and curtains to ensure the beneficiaries’ privacy when performing personal hygiene activities in the rooms or while taking a bath. The visited unit **answered** that, pursuant to the received recommendation, in order to ensure the beneficiaries’ privacy, the centre purchased two more medical screens in November 2018, besides the one that had been purchased 2 years before. As for the assisted elderly persons being able to take a bath, after the refurbishment of the centre, each room will have its own bathroom with shower. Each beneficiary will be bathed individually and medical screens will no longer be needed for this activity, only for the medical act (*the Centre for Elderly Persons of Fierbinti, Ialomita county*).

● **regarding the equipment of the rooms**, the People’s Advocate **recommended** that the management of the centre should take the required legal action to provide them with panic buttons in order to ensure the quick intervention of staff in emergency situations. The visited unit **answered** that D.G.A.S.P.C. Ialomita would take this recommendation into account after the completion of the project to upgrade the centre, since a new investment allocated from the budget of the Ialomita County Council would be needed (*the Centre for Elderly Persons of Fierbinti, Ialomita county*).

● **regarding permissions**, the People's Advocate **recommended** that the management of the centre should take the required legal action to make sure that the persons in charge with providing permissions always restrict the beneficiaries' circulation without a companion outside the centre, only when needed and in direct proportion with their need for safety. The visited unit **answered** that, as per the Internal Rules, art. 23, "The procedures for the admitted persons to exercise their right to freedom of circulation are as follows: a) Social-educational staff/medical nurses keep record of the permissions of assisted persons within and outside the town, drawing up standard permission forms to be submitted for approval to the head of the centre; b) if the elderly person cannot go to the destination by himself/herself, s/he will be accompanied by a person appointed by the management of the centre; c) when the elderly person comes back to the centre, s/he will be interviewed by the social-educational staff/medical nurses on how the visit has taken place, on any issues arisen and a medical examination will be performed; d) social workers (social-educational staff) will encourage the beneficiaries to maintain their relation with the family and friends by: phone, correspondence, visits of the family to the centre and visits of the elderly person to the family; e) social-educational staff support elderly persons in the purchase of required personal items and accompany and help them perform various purchases; f) the staff of the centre supports the admitted beneficiaries to use community services (shops, mail, medical services, church, etc.); g) social workers support and encourage the elderly persons to go out to the community, to take part in entertainment, cultural, religious activities, etc.". Furthermore, depending on the recommendations in the medical records of assisted persons with issues of neuropsychiatric health, they will be accompanied to go shopping by employees (social-educational staff or medical nurses), based on Order 2126/2014, Module V. (*the Centre for Elderly Persons of Fierbinti, Ialomita county*).

● **regarding the elaboration of registers and storage of documents**, the **People's Advocate recommended** that the management of the home/centre should take the required legal action to draw up the registers stipulated by Annex 1 to Order no. 2126/2014, which were missing at the moment of the visit, to number and seal the existing registers, as well as train staff to properly fill in the registers stipulated by the

minimum compulsory standards. The visited units **answered** that the missing registers, provided by Annex 1 to Order no. 2126/2014 would be drawn up (*the Centre for Elderly Persons of Anina, Caras Severin county*); the centre enforced this recommendation (*the “Sf. Andrei” Centre for Elderly Persons of Malu Mare, Dolj county*).

● **regarding the supply of psychological assistance, the People’s Advocate recommended** that the management of the home/centres should take the required legal action for the psychological assessment of each beneficiary by specialized staff and to properly write them down in the Beneficiary's Assessment Report, according to Standard 1.1 of Order no. 2126/2014 on the approval of Minimum Quality Standards for the accreditation of social services for elderly persons; to fill in Individual Assistance and Care Plans/Intervention plans based on the assessment reports on psychological need;s to ensure functional recovery/rehabilitation services with a view to maintaining or improving the beneficiaries’ functional autonomy by means of physical therapy and psychological assistance activities; ● ensuring the psychological counselling of beneficiaries (or psychological therapy) with a view to preventing decompensation generated by psychological disorders (depression, affective disorders, etc.; ● the diversification and enhancement of entertainment activities for patients who cannot move or can barely move; the psychologist should obtain the right of free practice and register for continuous professional training courses or a psychologist with the right of free practice should be employed; ● the proper arrangement of a space for the psychological practice and the establishment of a register of professional acts where psychological assessments and counselling will be recorded.. The visited units **answered** that, once the institution will be reorganized, a new chart of positions will be approved, that will also include the specialized staff in the centre. After approval, the positions will be published and occupied according to the law. If the positions are not occupied, the required documentation will be drawn up in order to purchase specialized services through SICAP. As for the recommendation to diversify and enhance spare time activities for patients who cannot move or can barely move, this was achieved (*the “Speranta” Residential Centre for Elderly Persons of Bucharest*); ● the attributions are fulfilled

by a delegated psychologist of D.G.A.S.P.C. Ialomita who takes part in the regular assessment/reassessment of beneficiaries, provides counselling services and is a member of the multidisciplinary team for the implementation of Individual Care and Assistance Plans in the centre(*the Centre for Elderly Persons of Fierbinti, Ialomita county*); • until a psychologist obtains the right of free practice in his/her profession, based on the collaboration contract with the Public Social Assistance Service, the psychologist of the Service will provide counselling to the beneficiaries. At the same time, an area was to be arranged as psychological practice and a register was established for psychological assessments and counselling. Furthermore, assessments of the psychological needs of each beneficiary were drawn up by the multidisciplinary committee including a physician, a medical nurse and the representative of the Public Social Assistance Service, based on Standard 1.1 of Order no. 2126/2014 on the approval of minimum quality standards for the accreditation of social services for elderly persons (*the Centre for Elderly Persons of Anina, Caras Severin county*).

• **regarding the supply of social assistance, the People's Advocate recommended** that the management of centres should take the required legal action to observe the number of beneficiaries per case officer, to identify solutions in order to ensure socialization, recovery/rehabilitation with a view to maintaining or improving the beneficiaries' functional autonomy, to draw up individual care and assistance plans according to legal provisions (matching the proposed services/activities to the identified needs and the services proposed in the beneficiaries' reports and assessment sheets; to include objectives, deadlines and implementation officers for each activity/intervention/service, to describe services and activities in a "customized and concrete" manner, the specific method to meet the needs identified in the assessment, so that the care team understands what is actually done for a certain beneficiary and to include the service monitoring report in the service records of each beneficiary, according to the legal provisions in force. The visited units **answered** that the recommendations on the observance of the number of beneficiaries per case officer and the identification of solutions in order to ensure socialization were achieved (*the "Speranta" Residential Centre for Elderly Persons*

of Bucharest); the centre has drawn and will draw up individual care and assistance plans (P.I.A.I.) for each institutionalized beneficiary based on the recommendations in the visit report, by including objectives, deadlines and implementation officers for each activity/intervention/service, as well as describe services and activities in a “customized and concrete manner, the specific method to meet the needs identified in the assessment, so that the care team understands what is actually done for a certain beneficiary”. Furthermore, based on Order 2126/2015 on quality standards, module II, standard 2.5, the monitoring report may have any other name (observation report, service report, etc.) and is filled in according to the centre’s own model. The centre had drawn up this report, named observation report, for each institutionalized beneficiary; together with the P.I.A.I., it made up the services record, and the report was held at the medical practice, since the centre was provided with medical assistance on a permanent basis (*the “Sf. Andrei” Centre for Elderly Persons of Malu Mare, Dolj county*); • The Individual Care and Assistance Plan - drawn up for each beneficiary at the centre level included occupational therapy activities performed by the two employees as social-educational staff of the centre, in cooperation with the medical nurses, physician, psychologist, on a daily/weekly/monthly schedule. The programme for the promotion of active life developed within the centre, for beneficiaries, aimed at increasing confidence and self-esteem, enhancing positive thinking, increasing independence, supporting permanent adaptation to the social environment and social and family insertion. The programme referred to daily, weekly, monthly or regular activities. This included: soft physical activities (outdoor walks, exercise, maintenance of the living areas); educational activities on various topics (civic education, adjustment to the collectivity); travels to the community for shopping purposes, the payment of services, trips, having meals at the local restaurant on various occasions; taking part in external events (e.g. the holidays of the city, religious masses, etc.); the organization of parties and individual and group entertainment activities in the centre (reading, internet, musical auditions, board games, etc.); information on the awareness of legislation, of the values promoted in the society; individual counselling on the use of movement devices (frame, cane, wheelchair). The centre had special areas for occupational therapy (clubs, library

with computers connected to the internet, show room), as well as a physical therapy room with 2 trellises, medical mattresses, massage bed, medical bicycle. As for the physical recovery of beneficiaries with outstanding medical issues, D.G.A.S.P.C. Ialomîța would identify, in 2019, a specialized company/practice for a service agreement (*the Centre for Elderly Persons of Fierbinti, Ialomita county*).

● **regarding the deceased beneficiaries, the People's Advocate recommended** that the management of the home/centre should take the required legal actions to identify the beneficiaries' goods and values, as well as take note of the goods returned to their relatives for the deceased beneficiaries, according to the internal procedures, arrange a suitable area exclusively for deceased persons, until the corpse is retrieved by the family. The visited unit **answered** that, in the case of deceased beneficiaries, a commission was formed to identify the beneficiaries' goods and values so that they might be returned to the legal custodians (*the Centre for Elderly Persons of Anina, Caras Severin county*); ● the centre had a room with a separate entry/exit, equipped with an air conditioning device, where the lifeless bodies of the deceased beneficiaries were placed. This room was initially designed as a carpentry workshop, which is why several carpentry materials and tools were still present in that area at the moment of the visit. The area was exclusively dedicated to hosting the lifeless bodies of the deceased beneficiaries until they were retrieved by the family or until the burial organized by the centre (*the Centre for Elderly Persons of Fierbinti, Ialomita county*).

● **regarding other aspects, the People's Advocate recommended** that the management of the centres should take the required legal action to accelerate approaches with a view to obtaining the authorisations for the operation of the centre, as well as license the social service in compliance with the provisions of Law no. 197/2012 on quality assurance in the field of social services, as subsequently amended and supplemented, in order to comply with minimum quality standards. The visited unit **answered** that the institution was undergoing a reorganization process, and another Rules of organization and operation would be drawn up, lying at the basis of the approaches taken to obtain all permits/authorizations. At the same time, the institution's draft budget for 2019 included the amounts required to draw up the

DALI for the centre. This will also include solutions for compliance to fire safety requirements, so that the centre may obtain a relevant authorization (*the “Speranta” Residential Centre for Elderly Persons of Bucharest*).

Furthermore, a mailbox was **recommended** to be set up, checked for notices/complaints on a weekly basis, in the presence of two beneficiaries, and registered in the Register of notices/complaints on the spot, with a date and number, in compliance with Order no. 2126/2014 issued by the Minister of Labour, Family, Social Protection and the Elderly, Standard 3 (Notices/Complaints) of the Minimum quality standards for social services with accommodation organized as residential centres for the elderly. The visited units **answered** that, for the submission of notices or any written complaints of the beneficiaries, they were provided with a mailbox (*the Centre for Elderly Persons of Anina, Caras Severin county*); the centre provided the beneficiaries, at the entrance, a mailbox where they can submit written notices/complaints regarding some negative aspects, as well as proposals to improve the activity of the centre. At the moment of the visit, the box had not been unlocked by the replacement of the head of the centre (on annual leave) for a few weeks. After the date of the visit, starting September 2018, the box was unlocked on a weekly basis by the head of the centre, in the presence of two beneficiaries. This activity was included in the Register of notices/complaints along with the date, names and signatures of the participating beneficiaries, the signature of the head of the centre, the complaints that were found in the box or whether no complaints were found - based on Order 2126/2014, Standard 3 (*the Centre for Elderly Persons of Fierbinti, Ialomita county*).

Regarding the visits performed during 2017, 8 visits were performed to retirement homes. 5 visit reports were drawn up in 2017 pursuant to the performed visits, **and 3 visit reports were drawn up in 2018**: the “Academician Nicolae Cajal” Retirement Home of Bucharest; the Retirement Home of Baia Sprie, the Floriana House Retirement Home of Voluntari, Ilfov county. **61 recommendations** were drawn up and sent to the visited units with the opportunity of the 3 visit reports.

In the following we present the **aspects found** pursuant to visits to retirement homes performed by the Field regarding prevention of torture in detention places and

the **recommendations** to the visited detention places. As for the **actions decided** pursuant to the recommendations provided by the People's Advocate Institution to solve the drawbacks found during the visits, the visited authorities did not inform the People's Advocate Institution on the actions taken pursuant to their recommendations; the relevant hierarchical authority was informed and, as the case may be, the public administration authority which issued the operating permit, for private detention places. Pursuant to actions taken with the relevant hierarchical authority, the "Academician Nicolae Cajal" Retirement Home of Bucharest sent the supported answer on the recommendations included in the visit report on January 8, 2019.

Within the visits performed by the field regarding prevention of torture in detention places, aspects were taken note of regarding: • the organization and operation of homes, the admission and suspension of social services, accommodation, hygiene and sanitary conditions, food and water quality, medical assistance and care, psychological and social assistance, drawing up and implementing specific procedures regarding: • admission, termination of services, observing the beneficiaries' rights regarding complaints and notices, taking part in socialisation and entertainment activities and activities to maintain or readapt the beneficiaries' physical and/or intellectual capacities, aspects regarding staff structure and entering service agreements.

Positive aspects were found during the visits, such as:

► **regarding accommodation conditions:** • the beneficiaries' rooms were cleaned and properly maintained, equipped with furniture in a good state, well lit and ventilated, the bed linen was clean and changed whenever needed (*the Floriana House Retirement Home, the "Academician Nicolae Cajal" Retirement Home of Bucharest; the Retirement Home of BaiaSprie*); • all sanitary facilities were clean, with sandstone pavement and walls, and hygiene rules were met (*the Floriana House Retirement Home*); • cold and hot water were properly supplied and the centre had its own gas-powered heating plant (*the Floriana House Retirement Home, the "Academician Nicolae Cajal" Retirement Home of Bucharest; the Retirement Home of BaiaSprie*); • the latest sample analysis report showed that the parameters of water

observed the provisions of Law no. 458/2002 on the quality of potable water (*the Floriana House Retirement Home*); • meal hours and the menu of the concerned day were properly posted (*the Floriana House Retirement Home*); • the visit team analysed the food that would be served for lunch and found that it was proper from a physical and organoleptic point of view (*the Floriana House Retirement Home, the Retirement Home of BaiaSprie, the “Academician Nicolae Cajal” Retirement Home of Bucharest*); • the kitchen was equipped with domestic appliances, furniture and dishware, in a proper state of cleanliness and hygiene (*the Floriana House Retirement Home, the Retirement Home of BaiaSprie*); • dining rooms were clean and sanitized, properly equipped and maintained (*the Floriana House Retirement Home, the “Academician Nicolae Cajal” Retirement Home of Bucharest*); • the beneficiaries with medical disorders (high blood pressure, diabetes mellitus) followed the diet prescribed by the physician (*the Floriana House Retirement Home, the “Academician Nicolae Cajal” Retirement Home of Bucharest*); • an access ramp for persons with locomotor disabilities was placed at the entry to the building (*the “Academician Nicolae Cajal” Retirement Home of Bucharest*); • persons in a terminal status (only one person on the date of the visit) were not moved separately from the other beneficiaries, as the staff considered that the trauma would be very strong. They were accommodated in shared bedrooms and separating screens were used (*the “Academician Nicolae Cajal” Retirement Home of Bucharest*); • the home had a radio transmission system, and each room, the practices and halls were equipped with speakers; depending on the programme of the day, ambiental music was broadcasted and announcements were made regarding meals, the presence of certain visitors, activities or group meetings (*the “Academician Nicolae Cajal” Retirement Home of Bucharest*).

► **regarding healthcare:** • medical practices were equipped according to the provisions of the Order of the Minister of Health no. 153/2003 (*the “Academician Nicolae Cajal” Retirement Home of Bucharest, the Retirement Home of BaiaSprie*); • primary medicine services (examinations, issue of prescriptions, referrals, etc.) were provided by the general practitioners of beneficiaries, with good collaboration between the physician of the unit and the general practitioners (*the Floriana House*

Retirement Home); ● medicines were safely kept, in individual containers for each beneficiary and were distributed based on the medical prescriptions, by the medical staff on duty (*the Floriana House Retirement Home, the “Academician Nicolae Cajal” Retirement Home of Bucharest*); ● psychotropic medicines were kept in a separate locked cupboard, based on the legal provisions in force (*the Floriana House Retirement Home, the “Academician Nicolae Cajal” Retirement Home of Bucharest*); ● medical staff provided medical services on a permanent basis (*the “Academician Nicolae Cajal” Retirement Home of Bucharest, the Retirement Home of BaiaSprie*); ● technical support was properly provided, depending on everyone’s needs: dental works, glasses, medical devices (metal frame, crutches, cane, wheelchair, prosthetics, hearing aids) (*the Retirement Home of BaiaSprie*); ● the beneficiaries received the suitable therapy recommended by specialized physicians (*the “Academician Nicolae Cajal” Retirement Home of Bucharest, the Floriana House Retirement Home*).

► **regarding psycho-social assistance:** ● the centre had special areas for the performance of psychological counselling and social assistance, social integration/reintegration activities/therapies, equipped with suitable furniture, materials and equipment (*the “Academician Nicolae Cajal” Retirement Home of Bucharest*); the beneficiaries maintained contact with their families by visit or by phone contact (*the “Academician Nicolae Cajal” Retirement Home of Bucharest, the Floriana House Retirement Home*); ● the home provided beneficiaries with services of occupational therapy, ergotherapy, entertainment; creation workshops, socialization, trips, theatre, plays (*the “Academician Nicolae Cajal” Retirement Home of Bucharest, the Retirement Home of BaiaSprie*); ● the home hosted sanitary education programmes for the beneficiaries on the following topics: aspects on personal hygiene, the harmful effects of smoking and alcohol use, the importance of observing the physician’s indications in undertaking therapies, etc. (*the “Academician Nicolae Cajal” Retirement Home of Bucharest*); ● recovery activities were performed in psychological counselling and psychotherapy practices, a physical therapy and massage room, a physical therapy room (*the “Academician Nicolae Cajal” Retirement Home of Bucharest*); the home had a Register of complaints and notices,

and the beneficiaries had access, being trained on how to submit complaints(*the “Academician Nicolae Cajal” Retirement Home of Bucharest*).

► **other issues:** • NPM representatives received no complaints from the beneficiaries, their relatives or the staff regarding ill treatment against elderly persons or acts of violence between beneficiaries. Likewise, there were no signs on the perpetration of such acts (*the “Academician Nicolae Cajal” Retirement Home of Bucharest, the Floriana House Retirement Home, the Retirement Home of BaiaSprie*); • the beneficiaries were involved in all the decisions regarding them, by means of two representatives, elected by annual vote (*the “Academician Nicolae Cajal” Retirement Home of Bucharest*).

The **deficiencies and recommendations** were mentioned in the visit reports:

► **regarding the organization and operation of the home:** • the home did not have an operating permit (*the Floriana House Retirement Home, the “Academician Nicolae Cajal” Retirement Home of Bucharest*). **The People’s Advocate recommended** that actions should be started/pursued to obtain the operating permit for the provided social services. The “Academician Nicolae Cajal” Retirement Home **answered** that the Rules of organization and operation had been updated and submitted to the General Council of Bucharest for approval and that a services agreement had been entered with a specialized company to obtain ISU endorsement. They mention that the operating license for the social services provided within the home has not been obtained yet, and an answer will be provided by the relevant institutions; • based on the statements of the representatives of the home, it had a capacity of 60 places, and the statement submitted to the Public Health Authority of Ilfov, in order to obtain the operating permit, mentioned a capacity of 50 places. Based on its Sanitary Operating Permit, the legal capacity of the unit was of 38 places (*the Floriana House Retirement Home*). The People’s Advocate **recommended** that the capacity of the centre should be established/observed by means of an administrative document, depending on the available area; • the residents were not classified into degrees of dependence, based on the National Grid for the Assessment of People’s Needs (*the Floriana House Retirement Home*). The People’s Advocate recommended that the residents should be classified into degrees

of dependence, based on the National Grid for the Assessment of People's Needs; ● insufficient number of staff compared to the beneficiaries' needs (*the Floriana House Retirement Home*). The People's Advocate **recommended** that enough specialized and care staff should be attracted (employment or service agreements); ● a request to start procedures for the approval of the organization of competitions for the following vacant or temporarily vacant positions was submitted to the General Directorate for Social Assistance of Bucharest and to the Municipality of Bucharest - Human Resources Management Directorate (*the "Academician Nicolae Cajal" Retirement Home of Bucharest*). The People's Advocate **recommended** that the required actions should be taken to occupy all vacant positions included in the job chart. The "Academician Nicolae Cajal" Retirement Home of Bucharest **answered** that actions were taken to occupy the vacant positions included in the job chart in several phases, as follows: call for applications no. 1427/05.07.2018 and call for applications no. 2670/20.12.2018; ● no unitary procedure was provided on admission and compulsory documents, and admission was not based on an application submitted and signed by the beneficiary or, for persons without reasoning, by their legal representative, and there was no admission decision, approved or endorsed by the manager of the home, as the case may be (*the Retirement Home of BaiaSprie, the Floriana House Retirement Home*). The People's Advocate **recommended** to draw up and enforce the home's own admission procedure, including an application submitted and signed by the beneficiary or, for persons without reasoning, by their legal representative, the criteria for the eligibility of beneficiaries, who makes the admission/rejection decision and the inclusion of the following documents in the beneficiary's personal file: the admission application, signed by the beneficiary/legal representative, in original, the admission decision approved by the manager of the centre, in original; the update of contracts and protection of the beneficiaries' personal documents by placing them in plastic sheets in a folder; ● The home did not have a Register of beneficiaries, so no information was available on the date of admission to and exit from the home, there were no Internal Rules, Beneficiary's Guide, Charter of the Beneficiaries' Rights and Ethical Code of Beneficiaries, Register of notices/complaints, Register of special incidents, Register of cases of abuse, negligence or discrimination (*the Floriana*

House Retirement Home). The People's Advocate **recommended** that the following documents should be drawn up and updated on a permanent basis: the Register of beneficiaries, Register of notices/complaints, Register of special incidents, Register of cases of abuse, negligence or discrimination, as well as Procedures on admission to and exit from the home, the Procedure on the information of beneficiaries, Internal Rules, the Beneficiary's Guide, the Charter of the Beneficiaries' Rights and the Ethical Code of Beneficiaries. The Rules of organization and operation will be drawn up based on Government Decision no. 867/2015 on the approval of the Nomenclature of social services, as well as the master rules for the organization and operation of social services; • The work procedures, the Rules of organization and operation, the Internal Rules were drawn up superficially (*the Retirement Home of BaiaSprie*). **The People's Advocate recommended** that the Rules of organization and operation of the home and work procedures should be drawn up, and that each specific activity should be described; • the job description of the social worker classified the position as specialist, and the required level of studies was upper secondary education; under Description of tasks/attribution/activities of the position, activities specific to other specialists were mentioned, and a single attribution was mentioned for the specific field of intervention (*the "Academician Nicolae Cajal" Retirement Home of Bucharest*). **The People's Advocate recommended** that the job description of the social worker should be updated, by duly filling in the position level and its specifications, in compliance with the Rules of organization and operation of the home and the relevant legislative provisions, correctly mentioning specific social assistance activities. The "Academician Nicolae Cajal" Retirement Home of Bucharest answered that the social worker's job description was updated according to the position level and its specifications; • The services agreement for the supply of geriatrics-gerontology medical services did not include the number of hours worked by the physician on a weekly basis within this agreement; some job descriptions were not dated and signed by employees (*the "Academician Nicolae Cajal" Retirement Home of Bucharest*). **The People's Advocate recommended** that job descriptions and service agreements should be drawn up in compliance with the legal provisions, and all existing ones should be checked. The "Academician Nicolae Cajal"

Retirement Home of Bucharest **answered** that job descriptions were checked and were complying with legal provisions; ● there was no register for massage therapy, no special register for the measures to restrict freedom of movement that had been applied (*the “Academician Nicolae Cajal” Retirement Home of Bucharest*). The People’s Advocate recommended to draw up and fill in all the registers stipulated in the Minimum quality standards for social services with accommodation organized as residential centres for the elderly, approved by Order no. 2126/2014 issued by the Minister of Labour, Family, Social Protection and the Elderly, including the register for the measures to restrict freedom of movement. The “Academician Nicolae Cajal” Retirement Home of Bucharest **answered** that the registers stipulated in the minimum quality standards for social services with accommodation for the elderly were drawn up and filled in; ● there was a very high demand for places for dependent persons, which could not receive a positive answer, as such places were already filled (*the “Academician Nicolae Cajal” Retirement Home of Bucharest*). **The People’s Advocate recommended** to identify solutions to supplement the number of places for dependent and semi-dependent persons, complying with allocation according to the dependency degree. The visited unit **answered** that the floor allocation was reorganized according to the dependency degree, as follows: 1st floor – section for semi-dependent persons, 2nd floor – section for non-dependent persons, 3rd floor – section for dependent persons, and the 4th floor was changed from a section for non-dependent persons into a mixed section with semi-dependent and independent persons.

► **regarding admission to the centre and the termination of social services:**

● the contract for the maintenance and care of elderly persons did not comply with the master services agreement template, according to the Order of the Minister of Labour, Social Solidarity and Family no. 73/2005 on the approval of the agreement template for the supply of social services, entered by social service suppliers accredited according to the law with social service beneficiaries (*the Floriana House Retirement Home*). The People’s Advocate **recommended** that the contract for the supply of social services should be signed with all beneficiaries/legal representatives thereof (only if the beneficiary is indicted), and the document should be drawn up

according to the provisions of the Order of the Minister of Labour, Social Solidarity and Family no. 73/2005 on the approval of the agreement template for the supply of social services, entered by social service suppliers accredited according to the law with social service beneficiaries. The contract must also include conditions on the termination of services; • the beneficiaries' records did not include the social investigation undertaken by the representatives of the Public Social Assistance Service of the beneficiary's municipality of residence (*the Floriana House Retirement Home, the "Academician Nicolae Cajal" Retirement Home of Bucharest*). The People's Advocate **recommended** that the social investigation should be compulsory for admission to the home. The social investigation must be undertaken by the representatives of the Public Social Assistance Service of the beneficiary's municipality of residence. The "Academician Nicolae Cajal" Retirement Home of Bucharest answered as follows: based on art. 28 par. (2) of Law no. 17/2000 on social assistance to elderly persons, the social investigation of applicant beneficiaries is undertaken by social workers within the home, which is subordinated to the General Directorate of Bucharest, i.e. specialized staff from within the local council or the directorate for labour, social solidarity and family of the county/Bucharest; • the beneficiaries' needs were not assessed (*the Floriana House Retirement Home*). **The People's Advocate recommended** that the beneficiaries' needs should be assessed when admitted to the centre. The assessment will consider the functional and public status, the state of health and the degree of autonomy, the degree of communication, family and social relations, the level of education, special needs for treatment and recovery/rehabilitation, cultural and spiritual needs, possible risks and potential dependences, and the objectives would be established based on this assessment; • civil sentences regarding revocation and persons representing their interests were only available for three persons with no powers of judgment, though other persons were in the same situation too (*the Floriana House Retirement Home*). **The People's Advocate recommended** to ensure the legal protection of persons with no powers of judgment by a judge's decision; • the home did not ensure the annual training of the entire staff (*the "Academician Nicolae Cajal" Retirement Home of Bucharest*). The People's Advocate recommended to perform initial and continuous professional

training of the staff. The “Academician Nicolae Cajal” Retirement Home of Bucharest **answered** that the continuous professional training of the staff was organized on an annual basis starting 2016, and in 2018 it took place during 31.08-09.09.2018, based on contract no. 1789/29.11.2018.

► **regarding accommodation conditions:** ● based on the Sanitary Operating Permit, the legal capacity of the unit was 38 places, with 64 persons being accommodated in this residential structure on the date of the visit, by placing additional beds, so that the accommodation capacity was exceeded (*the Floriana House Retirement Home*). **The People’s Advocate recommended** to identify solutions to manage overcrowding and avoid the excess of the authorized number of places; ● beds were placed in the basement, in improper conditions, in order to increase the capacity of the centre (*the Floriana House Retirement Home*). **The People’s Advocate recommended** to remove the beds located in the basement of the building; ● no sanitary facilities were arranged for persons with disabilities (equipped with supporting rods, special tubs, non-slip mats, etc.), sanitary facilities were shared, arranged so as to be used by persons in two bedrooms (*the Floriana House Retirement Home*). **The People’s Advocate recommended** to arrange a sufficient number of sanitary facilities (no more than 6 beneficiaries for a sanitary facility) and sanitary facilities for persons with disabilities (equipped with supporting rods, special tubs, non-slip mats, etc.); ● persons with locomotor disabilities moved with difficulties, as the stairs were slippery; the access of beneficiaries to the inside yard was only allowed in the warm season and only when the representatives of the home approved the beneficiaries’ use of the stairs (*the Floriana House Retirement Home*). **The People’s Advocate recommended** to adapt all areas to ensure the free access of persons with locomotor disabilities to all the spaces of the centre, and to ensure the beneficiaries’ access to the inside yard in all seasons, not only the warm season. Placing non-slip mats/carpets on the stairs since they were slippery; ● the rooms were not equipped with panic buttons, and some rooms were provided with surveillance cameras (*the Floriana House Retirement Home*). **The People’s Advocate recommended** to remove surveillance cameras located in the bedrooms and equip them with panic buttons; ● the sanitary facilities in the old building had

traces of mould and one room had a plastic folding door located next to a door of access to the building, which did not ensure heating comfort for the persons accommodated in the concerned room (*the Retirement Home of BaiaSprie*). **The People's Advocate recommended** to replace the folding door of the room located next to a door of access to the building, which did not ensure heating comfort for the persons accommodated in the concerned room and perform sanitizations in the sanitary facilities; ● the criteria for the allocation of beneficiaries in rooms with one or several beds were not established (*the "Academician Nicolae Cajal" Retirement Home of Bucharest*). **The People's Advocate recommended** to draw up criteria for the beneficiaries' allocation into rooms. The visited unit **answered** that, regarding the beneficiaries' allocation to rooms, this is made pursuant to the beneficiary's assessment by the multidisciplinary team and considering the wishes of elderly persons, as well as the compatibility between this and the elderly persons; ● the floors of the home were provided with terraces, which were not closed with windows, and their protection was about 1 m high (*the "Academician Nicolae Cajal" Retirement Home of Bucharest*). The People's Advocate recommended that the areas should be arranged so as to provide safety to the beneficiaries, since the terraces, which were not closed with windows, had a protection about 1 m high. The visited unit **answered** that the terraces had been closed with windows and were locked for the moment, until safety bars would be mounted; ● the smell released by deodorising devices was very strong, and there was a risk that it would cause respiratory disorders to the beneficiaries (*the "Academician Nicolae Cajal" Retirement Home of Bucharest*). **The People's Advocate recommended** to identify solutions to discard risks of respiratory disorders of the beneficiaries living in the centre, by adjusting deodorising devices so that the smell had a suitable level. The visited unit **answered** that this recommendation was complied with; ● the 10 a.m. snack was not included in the menu and dinner was served at 17.00, meat and fruit were too hard sometimes, considering the ingestion problems of some beneficiaries that had no teeth and chewing issues (*the "Academician Nicolae Cajal" Retirement Home of Bucharest*). **The People's Advocate recommended** to comply with the meal serving hours established within the home, by supplying a snack at 10 a.m. and serving dinner

during 18.30-19.00, as well as to adapt food to the needs of some beneficiaries that had no teeth/with chewing issues. The visited unit **answered** that the food allocation was increased by Decision of the General Council of Bucharest no. 261/2018, which resulted in the supply of a 10 a.m. snack for the beneficiaries of the home. Serving dinner during 18.30-19.00 and adapting food to the needs of some beneficiaries with chewing issues (a blender is available in their room, to blend food when needed) were solved; • the beneficiaries' bedrooms had different surfaces, providing for the accommodation of 4 to 8 *beneficiaries*, as the case may be (*the Floriana House Retirement Home*). **The People's Advocate recommended** that the number of beds in the bedrooms should be set according to the provisions of the standard on accommodation based on the Order of the Minister of Labour, Family, Social Protection and Elderly People no. 2126/2004 on the approval of the minimum quality standards for the accreditation of social services dedicated to elderly people, homeless people, young people who left the child protection system and other categories of in difficulty, as well as services provided in an integrated system and social canteens, regarding accommodation conditions.

► **regarding healthcare:** • the unit did not have a medical practice (*the Floriana House Retirement Home*). **The People's Advocate recommended** to arrange a space as a medical practice, where specialized staff could perform activities under optimal conditions; • the home provided social services to 64 beneficiaries of various ages brought by their guardians, also for beneficiaries who were not subject to social services provided in such a home and suffered from various psychiatric disorders, with various diagnostics such as autism, schizophrenia, retardation (*the Floriana House Retirement Home*). **The People's Advocate recommended** that all beneficiaries diagnosed with psychological disorders should be subject to specialized reassessment and the opportunity of accommodating persons with severe psychological disorders should be established; • some of the medical records did not have medical documents enclosed (hospital release notes, medical letters, etc.) certifying to the specialized examinations and the regular assessment of therapy for beneficiaries with chronic disorders and permanent therapy (*the Floriana House Retirement Home*). **The People's Advocate recommended** that the medical reports of

the beneficiaries should be properly drawn up, and all examinations performed by the physician of the unit and by other specialized physicians should be noted chronologically, as well as enclose all medical documents (hospital release notes, medical letters, analysis reports, etc.) and the therapy received by beneficiaries; • medical registers were not drawn up (register of examinations, register of therapy, register of hospital admissions of beneficiaries) including medical examinations, hospital admissions and therapy provided to beneficiaries (*the Floriana House Retirement Home*). **The People's Advocate recommended** to draw up registers mentioning medical examinations, the therapy administered to beneficiaries, requests to the National Emergency Service 112 and the relevant reasons, as well as records of the beneficiaries' deaths; • the employees' medical records and skill reports endorsed by the occupational medicine physician were not updated on the date of the visit, and the programmed deadline was exceeded (*the Floriana House Retirement Home*). **The People's Advocate recommended** that the regular medical examination should be performed and skill reports for the entire staff of the centre should be updated; • no food samples were taken, labelled and kept in the refrigerator, based on the sanitary guidelines in force. The refrigerators were not provided with thermometers and daily temperature monitoring charts were not drawn up (*the Floriana House Retirement Home*). **The People's Advocate recommended** to take food samples on a daily basis, to label and keep them in a specially dedicated refrigerator, based on the sanitary guidelines in force, to provide food refrigerators with thermometers and temperature monitoring charts; • the refrigerator in the medical practice had no thermometer and the temperature was not mentioned in the temperature report (*the Retirement Home of BaiaSprie*). **The People's Advocate recommended** to purchase a thermometer and mention the temperature in the temperature report of the refrigerator in the medical practice; • a beneficiary was found by the visit team immobilized in bed with a belt over her thorax and upper limbs, and the personnel on duty claimed that this was to protect the beneficiary's safety against self-inflicted aggression (*the Floriana House Retirement Home*). **The People's Advocate recommended** that the entire staff of the home should be informed on the provisions of the Law on Mental Health no. 487/2002 and the Guidelines for the enforcement of this law regarding the

containment of persons with psychological disorders and the avoidance of the establishment of this measure against legal provisions. The registration and participation of the staff of the centre in staff training courses, especially courses for the management of situations with elderly people; • individual menus for persons with diets, as in diabetes mellitus, were not available (*the Floriana House Retirement Home*). **The People's Advocate recommended** to draw up individual menus for persons subject to food diets, as with diabetes mellitus;

► **regarding social assistance:** • the beneficiaries are not involved in recovery and therapy activities or in spare time spending activities (*the Floriana House Retirement Home*). **The People's Advocate recommended** to provide support and company for going out to the community, to shops and other areas close to the centre, to the church included; • a contract was signed with a company providing specific services with a social worker, based on which the social worker provided services once a month (*the Floriana House Retirement Home*). **The People's Advocate recommended** that the social assistance contract should be extended, so that enough time is allocated for the performance of specific activities: initial assessment, detailed assessment and monitoring, as well as developing recovery/rehabilitation programmes and for social integration/reintegration; • Individual Care Programmes were approved by the head of the centre (*the Floriana House Retirement Home*). **The People's Advocate recommended** to establish work tools for the specialists, so that their work is focused on the beneficiary, reducing the bureaucracy of documents by having them signed or approved by the head of the home; • the management of the centre did not appoint a case manager for each beneficiary, ensuring the coordination of cases (*the Floriana House Retirement Home, the "Academician Nicolae Cajal" Retirement Home of Bucharest*). **The People's Advocate recommended** that the management of the centre should appoint a case manager for each beneficiary, ensuring the coordination of cases. The "Academician Nicolae Cajal" Retirement Home of Bucharest **answered** that a case manager was appointed to coordinate and monitor the activity of the multidisciplinary team by decision no. 123/29.11.2018; • the initial assessment report did not include important data by which the degree of dependency of the person had to be established and it was only signed by the social worker with

no medical assessment; the intervention plan was drawn up on general terms for all beneficiaries (*the Retirement Home of BaiaSprie*). **The People's Advocate recommended** that the assessment of beneficiaries and the Individual Intervention Plan should be drawn up by the multidisciplinary team; • assessment/reassessment reports of the beneficiaries and the National Grid for the assessment of the needs of elderly persons were not drawn up, so that the objectives included general provisions and were not individual and specific (*the Floriana House Retirement Home, the Retirement Home of BaiaSprie*). **The People's Advocate recommended** that the beneficiaries' assessment/reassessment reports should be drawn up, based on which the objectives included in the Individual Assistance and Care Plans could be established; • regular reassessments of the beneficiaries' needs were not performed (*the Floriana House Retirement Home*). **The People's Advocate recommended** that regular reassessments of the beneficiaries' needs should be performed, so as to check the achievement of original objectives with a view to setting new objectives or maintaining them if they could not be achieved; • recovery/rehabilitation activities or socialization and spare time spending activities, healthy lifestyle and active life, development of social communication skills, social and cultural events or social integration/reintegration therapies were undertaken (*the Floriana House Retirement Home*). **The People's Advocate recommended** to ensure recovery/rehabilitation activities and socialization and spare time spending activities, healthy lifestyle and active life, development of social communication skills, social and cultural events or social integration/reintegration therapies; • the specialized staff did not attend professional training courses (*the Retirement Home of BaiaSprie*). **The People's Advocate recommended** to ensure the participation of the social worker in continuous training programmes, with a view to ensuring the 10 credits needed on an annual basis; the facility to take part in experience exchanges with other centres in the county or in the country and a most efficient organization of time, so as to cover the specific activity of social worker; • the mailbox for notices and complaints was not installed in a place accessible to all beneficiaries (*the "Academician Nicolae Cajal" Retirement Home of Bucharest*). **The People's Advocate recommended** that all beneficiaries should have access to the mailbox for notices and complaints. The

visited unit **answered** that it purchased and ensured the access of all beneficiaries to the mailbox for notices and complaints; • The Individual Service Plan was not drawn up for all beneficiaries and, where drawn up, it was not reviewed every 6 months or whenever needed, the intervention plans did not include clear objectives and deadlines and the established goals were not reassessed. The forms used in the activity of the social worker were not customized for each beneficiary and not all headings were filled in. The assessment/reassessment report did not include the dates of assessments/reassessments, which made impossible to identify the time frame for the reassessment, and the Personal Care Report for the elderly person had been filled in superficially (*the “Academician Nicolae Cajal” Retirement Home of Bucharest*). **The People’s Advocate recommended** to draw up specific documents for each beneficiary, to customize them and fill them with all the information. The visited unit **answered** that the multidisciplinary team reviewed the specific documents of each beneficiary, in compliance with the minimum quality standards for social services organized as residential centres for elderly persons;

► **regarding psychological assistance:** • not all beneficiaries had an individual assistance and care plan (*the Floriana House Retirement Home*). **The People’s Advocate recommended** to properly perform the individual assistance and care plan based on the standards, including functional recovery and rehabilitation therapy services provided by the centre and the assurance of functional recovery/rehabilitation therapies according to the individual assistance and care plan/service plan; • service monitoring reports including 3 sections were not used: the state of health and performed therapies, functional recovery/rehabilitation services and a part on social integration/reintegration services (*the Floriana House Retirement Home*). **The People’s Advocate recommended** to ensure the monitoring of the beneficiaries’ status by using service monitoring reports including 3 sections: the state of health and performed therapies, functional recovery/rehabilitation services and a part on social integration/reintegration services; • the position of psychologist was not occupied, psychological assessment and assistance activities were performed on an occasional basis, upon request of the management of the centre, by two volunteer psychologists; a room was not designed as psychological practice and work

instruments for the proper performance of psychological assistance activities were not available (*the Retirement Home of BaiaSprie, the Floriana House Retirement Home*).

The People's Advocate recommended that vacancies should be published, occupied and covered with specialized staff in order to meet the beneficiaries' needs, including for a psychologist or to contract psychological assistance services according to the law, as well as to arrange and equip a proper area, designed as psychological practice.

► **other issues:** • the access of beneficiaries between floors and the use of mobile phones were forbidden; persons were smoking on the hall (*the Floriana House Retirement Home*). **The People's Advocate recommended** that the beneficiaries should be granted permission to move in the centre from one floor to another, under supervision, as well as use mobile phones, to forbid smoking inside the centre (arrange a special place for smoking); • the status of deaths during 2016-2017 was not submitted upon the visit team's request (*the Floriana House Retirement Home*). **The People's Advocate recommended** to observe the provisions of art. 4 and art. 298 par. (1) of Law no. 35/1997 on the organization and operation of the People's Advocate institution, republished, as subsequently amended and supplemented, based on which the visited institutions have the obligation to provide the representatives of the visit team, according to the law, before, during or after the visit, any documents or information that they possess or could obtain, requested by them in order to fulfil their legal attributions.

Measures taken by the visited institutions pursuant to recommendations of the People's Advocate (answer provided in 2018 by D.G.A.S.P.C.Teleorman, after the 2017 visit to the Furculesti Retirement Home).

► **Regarding the performance of legal actions for staff coverage, i.e. a medical nurse based on the job chart, by covering the vacancy, since a position of medical nurse was vacant on the date of the visit, out of the 4 positions included in the organizational chart,** D.G.A.S.P.C. Teleorman informed that the vacant position of medical nurse was occupied on 01.08.2017;

► **Regarding the performance of legal actions to supplement positions for specialized staff and the employment of a social worker, a psychologist and a physical therapist/masseur,** D.G.A.S.P.C. Teleorman informed that the 2018

organizational chart was held by the Teleorman County Council with a view to approving the Council Decision where the conversion of an economist position into social worker was provided;

► **As for the pursuit of legal action with the relevant hierarchical bodies and D.G.A.S.P.C. Teleorman with a view to obtaining the promised support, i.e. a psychologist providing the required services at the Centre,D.G.A.S.P.C.** Teleorman informed that a psychologist delegated by the management of D.G.A.S.P.C. Teleorman, providing the services needed by the centre, travelled to the head office of the centre since July 2017, on a regular basis;

► **Regarding the elaboration of a visit register and a register of the beneficiaries' archived personal records,D.G.A.S.P.C.** Teleorman informed that the visit register and the register of the beneficiaries' archived personal records were drawn up and up-to-date;

► **As for filling in the registers in accordance with the Order of MMFPSCV no. 2126/2014,** D.G.A.S.P.C. Teleorman informed that the registers were filled in with all the information provided by the law;

► **Regarding the filling in of functional recovery/rehabilitation programmes and cases of abuse, neglect and discrimination in the register,** D.G.A.S.P.C. Teleorman informed that the register of functional recovery/rehabilitation programmes was filled in; no mentions are made in the register of cases of abuse, neglect and discrimination, since no abuse or discrimination events occurred;

► **As for the permanent training of care staff,** DGASPC Teleorman informed that the permanent training of care staff was performed based on a schedule decided by the head of the centre and the physician of the centre;

► **Regarding the equipment of all bathrooms of the Centre with supporting rods and special sanitary equipment for persons with locomotor issues,** D.G.A.S.P.C. Teleorman informed that the budget of D.G.A.S.P.C. Teleorman included the required funds for the supply of supporting rods and special sanitary equipment for persons with locomotor issues to the bathroom;

► **As for the elaboration of the procedure for the cleaning and disinfection of rooms based on the legislation in force, since this was made based on a legislative act abrogated on October 7, 2016, when the Order of the Minister of Health no. 1101/2016 on the approval of the Guidelines for the supervision, prevention and limitation of infections associated to medical assistance in sanitary units came into force,**D.G.A.S.P.C. Teleorman informed that the procedure for the cleaning and disinfection of rooms was updated and performed based on Order of the Minister of Health no. 1101/2016;

► **Regarding the change of the schedule for the second round of cleaning and disinfection of rooms, providing for the beneficiaries' rest at night time, i.e. plan it sooner (e.g. during 18:30-21:00),** D.G.A.S.P.C. Teleorman informed that the schedule for the second round of cleaning and disinfection of rooms was amended according to the recommendation provided by the People's Advocate Institution;

► **As for the examination of the possibility to purchase the centre's own sanitary vehicle,**D.G.A.S.P.C. Teleorman informed that purchasing a sanitary vehicle also implied the existence of ambulance driver positions (based on the legislation in force, the organizational chart may only provide 20 positions which are already occupied, for 40 beneficiaries), ensuring permanent service; 112 is called when needed to solve more serious medical issues, so as to proceed to hospital admission;

► **Regarding the consumption of raw fruit and fresh vegetables, the inclusion of the 10 a.m. snack, of dessert and the 4 p.m. snack for Tuesdays, Thursdays and Sundays,** D.G.A.S.P.C. Teleorman informed that fresh fruit and vegetables were included in the menu and thus constituted the 4 p.m. snack; the 10 a.m. snack is not served so as not to exceed the recommended number of calories for elderly persons (2000).

► **Furthermore, in 2017, the People's Advocate institution notified criminal prosecution bodies pursuant to the visit undertaken at the Centre for Elderly Persons of Mironesti, Giurgiu county.** Thus, the Prosecutor's Office attached to the Judge's Office of Giurgiu was notified on the case of a 95-year-old beneficiary who was found lying down in the bathroom by the service personnel,

conscious, but unable to get up. According to the submitted documents, the medical staff urgently notified the 112 Single National Emergency Service, but the medical staff in the ambulance attending the request did not take the patient to a hospital, for reasons that were not explained to the visit team. In the following days, the beneficiary's health worsened, and then she died. In November 2018, the Prosecutor's Office attached to the Judge's Office of Giurgiu **answered** to the People's Advocate Institution informing that a criminal file was drawn up on 30.01.2018, currently pending with the Giurgiu County Police Inspectorate- Criminal Investigation Service, and would be submitted with legal proposals to the above mentioned prosecutor's office after the completion of investigations.

Proposals:

- a compulsory social investigation for admission to the home. The social investigation will be performed by the representatives of the Public Social Assistance Service of the beneficiary's municipality of residence, as provided in Law no. 17/2000, republished, on social assistance to elderly persons, as subsequently amended and supplemented;
- amending/supplementing Law no. 17/2000, republished, on the social assistance to elderly persons, since it only refers to public residential centres, not also those which are private or developed in public-private partnership;
- correlating the provisions of Law no. 17/2000, republished, on the social assistance to elderly persons with those of Law no. 292/2011 on the national social assistance system regarding the definition of elderly persons;
- updating Government Decision no. 886/2000 on the approval of the National Grid for the assessment of the needs of elderly persons, based on which elderly persons are admitted to centres;
- obtaining the operating license for the supplied social services, based on the provisions of Law no. 197/2012 on quality assurance in the field of social services, as subsequently amended and supplemented;
- ensuring the required staff for the performance of activities of the centres;
- drawing up and filling in all registers stipulated in the Minimum Quality Standards on social services with accommodation organized as residential centres for elderly persons, approved by Order no. 2126/2014 issued by the Minister of Labour, Family, Social Protection and Elderly Persons;
- drawing up specific documents for each beneficiary, customizing

them and filling all information (objectives, activities, deadlines, etc.) according to the provisions of the Minimum Quality Standards for social services with accommodation organized as residential centres for the elderly; ● ensuring spaces for psychological practices, medical practices and their suitable arrangement; ● mounting panic buttons in all the rooms of the homes; ● adapting all areas in order to provide the free access of persons with locomotor disabilities to all the areas of the centre; ● properly drawing up the beneficiaries' medical reports, chronologically mentioning all the examinations performed by the physician of the unit and by other specialist physicians, as well as enclosing all medical documents (hospital release notes, medical letters, analysis reports, etc.) and the therapy received by beneficiaries; ● taking food samples on a daily basis, labelling them and storing them in a special refrigerator to this purpose, according to the sanitary guidelines in force, equipping food refrigerators with thermometers and temperature monitoring charts.

4. Centres for asylum applicants/migrants

Legal migration must be the result of the joint will of the migrant and of the host member state, for mutual benefit and for the benefit of the home state, in the context of circular migration. **Romania enforces an immigration policy that is specific, depending on nationally identified needs and also focused, considering the impact it may have on other European Union member states, ensuring a fair treatment of migrants and their harmonious integration with the host society.**

Based on the opinion of the European Committee for the Prevention of Torture, when the deprivation from freedom of some persons for a long time is required based on the legislation regarding the aliens' entry and stay, such persons should be placed in specially created centres, which provide material conditions, a system adapted to their legal status and properly qualified staff. Such centres should provide admission conditions and be properly equipped, clean, in a good state and provide enough living space for the number of space that can be placed there. Furthermore, care should be taken when designing and placing

arrangements, so as to avoid any impression of prison, as much as possible. As for the activity system, this must include outdoor exercise, access to a living room, radio, TV, newspapers, magazines and other entertainment methods (e.g. games, ping-pong tables, etc.). The longer the time of retention of persons, the more diverse the activities provided to them should be.

► *Based on Law no. 35/1997 on the organization and operation of the People's Advocate, republished, the field regarding prevention of torture in detention places exercises its attributions in regional centres for procedures and accommodation for asylum seekers, in triage centres of the border police and in the centres for the accommodation of aliens in public custody, which are part of detention places stipulated under art. 34 par. (1)-(3) of the law.*

The organization of the access of aliens taken in public custody in accommodation centres is regulated by Government Emergency Ordinance no. 194/2002 on the status of aliens in Romania, republished, as subsequently amended and supplemented, and by Order of the Minister of Internal Affairs no. 121/2014 approving the Regulation of the centres for the accommodation of aliens taken in public custody.

As for asylum seekers, the relevant guidelines are Law no. 122 of May 4, 2006 on asylum in Romania, as subsequently amended and supplemented, Government Decision no. 1251/2006 on the approval of the Guidelines for the enforcement of Law no. 122/2006, Order no. 130/2016 of the Minister of Internal Affairs on the approval of the Internal Rules of regional centres of procedures and accommodation of asylum seekers.

Romania hosts 88 detention places under the jurisdiction of the Ministry of Internal Affairs (public custody - 2, centres of procedures and accommodation - 6, triage rooms - 67, airports - 13).

Based on the provisions of art. 35 h) of Law no. 35/1997 on the organization and operation of the People's Advocate Institution, republished, the attribution of the Field regarding prevention of torture in detention places is to coordinate the organization of information, education and training campaigns with a view to preventing torture and cruel, inhuman or degrading punishment or treatment.

To this purpose, the representatives of the People's Advocate Institution organized several campaigns during 2018, of which the most important was the meeting of the representatives of the People's Advocate Institution - Field regarding prevention of torture in detention places (NPM) and the representatives of the General Inspectorate for Immigration of November 22, 2018.

The topic of the meeting was "Reinforcing the protection of persons accommodated in centres for asylum seekers and persons in public custody against torture and punishment and inhuman or degrading treatment".

The aspects discussed within the workgroups were the following:

- *identifying solutions for the cooperation of the representatives of non-governmental organizations* performing activities in centres for asylum seekers, with the members of NPM visit teams.

- *the insufficient number of staff of the centres*, both in some asylum centres and some public custody centres.

- *inefficient cooperation with General Directorates for Social Assistance and Child Protection on the topic of non-accompanied minors*. In order to solve this situation, according to IGI representatives, a Protocol is in progress to establish various aspects on the cooperation of centres with the General Directorates for Social Assistance and Child Protection. The means available to the People's Advocate Institution were proposed as solutions, i.e. drawing up recommendations to DGASPC units regarding the observance of the rights of unaccompanied minors or the performance of procedures at the Ministry of Labour and Social Justice/National Authority for the Protection of Child Rights and Adoption, to draw up specific procedures for the assistance of minors;

- *publishing vacant positions and recruiting medical staff*(physicians and nurses) for the vacant positions, also considering the additional number of medical nurses to provide permanent medical services in all accommodation centres.

- *entering protocols with medical units belonging to the Ministry of Health*. In the same context, the required approaches were mentioned with a view to: supplying dental medicine services for asylum applicants or aliens in public custody; equipping all centres subordinated to the General Inspectorate for Immigration with

quick tests for detecting syphilis, HIV, B and C viral hepatitis; performing procedures at the Ministry of Health and Public Health Departments with a view to providing the required inventories of vaccines to immunise foreign children based on the National Immunisation Programme; arranging isolation rooms for infectious diseases in all centres subordinated to the General Inspectorate for Immigration.

- *the need to fill in all medical registers* (examinations and treatment register, pregnant women register, chronic diseases register, psychotropic treatment register, register of hospital admissions, immunisations register, register of refusal of food, register of traumatic marks, etc.), as well as the unitary performance of medical services supplied to asylum applicants, in a single register of examinations and treatment and in the medical report.

- *the reluctance in accepting psychological assistance* (fear, ignorance, desire for privacy); the absence of procedures on psychological assistance in the case of asylum applicants and the need to harmonize them with other procedures already existing at the level of the Psycho-Sociology Centre of the Ministry of Internal Affairs; establishing the route of documents between specialists (psychologists - physicians) and the management of the centre, other external services; the use by IGI centres of psychological interview reports with components regarding the identification of torture victims, of aliens who were victims of traumas, torture in countries of origin or during their migration to Romania.

- *the supply of social assistance*, where the representatives of the General Inspectorate for Immigration have made mentions regarding the **elaboration of a Normative Draft on the amendment of Government Ordinance no. 44/2004 on the social integration of aliens who have achieved a form of international protection or a right of stay in Romania, as well as the citizens of European Union and European Economic Area member states**, with major clarifications to be provided regarding the social integration of aliens.

- *the opportunity of employing social workers in centres*, where the representatives of the General Inspectorate for Immigration have supported social assistance services covered by integration officers.

Still based on the provisions of art. 35 h) of Law no. 35/1997 on the organization and operation of the People's Advocate Institution, republished, **the representatives of the People's Advocate Institution undertook several dissemination activities in the regional centres of procedures and accommodation for asylum seekers and in the centres for the accommodation of aliens in public custody, with a view to preventing torture and cruel, inhuman or degrading punishment or treatment. Thus, on December 18, 2018, a workshop was organized at the head office of the Centre for accommodation and procedures for asylum applicants of Timisoara on the topic "The International Migrants Day".**

The event took place based on the approved Activity Plan for 2018 of the Field regarding prevention of torture in detention places and consisted in approaching topics such as: management of the issues of migrants, considering the huge flows of refugees and migrants, conclusions of the visits undertaken by the representatives of the People's Advocate Institution, dissemination of the 2017 Annual Report of the People's Advocate Institution, the Field regarding prevention of torture in detention places, the implementation of recommendations pursuant to the performed visits, etc. Discussions were held on the reasons making migrants leave their countries (poverty, the lack of a job, human rights infringement, armed conflicts, persecutions, exploitation, discrimination and xenophobia), as well as the fact that they also use illegal methods in the absence of normal opportunities for emigration.

Moreover, the following issues were approached within the first topic: **managing migration issues, which are soaring in several parts of the world, the methods to improve knowledge on forced migration, exploring subsequent opportunities to take part in international research and cooperation programmes, the refugees' rights and protection, centres for refugees and their integration, etc.**

► **During 2018, the representatives of the Field regarding prevention of torture performed 8 visits to the following units: the Regional Centre for accommodation and procedures for asylum applicants of Timisoara; the Regional Centre for accommodation and procedures for asylum applicants of Galati; the Regional Centre for accommodation and procedures for asylum**

applicants of Somcuta Mare, Maramures county; the Regional Centre for accommodation and procedures for asylum applicants of Bucharest; the Centre for accommodation of aliens in public custody of Otopeni; the Retention and Triage Centre of the Border Police Bors, Bihor county and the Retention and Triage Centre of the Border Police, Sculeni, Iasi county.

The purpose of the visits was to reinforce the protection of asylum seekers/migrants against torture and inhuman or degrading punishment and treatment, checking accommodation conditions, checking the observance of rights to: access to regional centres for accommodation and procedures for asylum applicants, the duration of the asylum procedure and the access to the asylum procedure, to medical assistance, to psychological assistance, to being assisted by a lawyer, access to an interpreter, children's protection, as well as checking other relevant issues for the activity of the National Mechanism for Prevention of Torture in detention places.

Some of the visits also aimed at checking the implementation of recommendations provided by the representatives of the People's Advocate Institution in the visits of the previous year (*the Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare, the Regional Centre for accommodation and procedures for asylum applicants of Galati, the Centre for accommodation of aliens in public custody of Otopeni, the Regional Centre for accommodation and procedures for asylum applicants of Bucharest*).

5 visit reports were drawn up and recommendations were provided to authorities pursuant to visits performed in 2018 (the Regional Centre for accommodation and procedures for asylum applicants of Timisoara; the Regional Centre for accommodation and procedures for asylum applicants of Galati; the Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare, Maramures county; the Retention and Triage Centre of the Border Police Bors, Bihor county and the Retention and Triage Centre of the Border Police, Sculeni, Iasi county), for visits performed to the Centre for accommodation of aliens in public custody of Otopeni, the Centre for accommodation of aliens in public

custody of Arad and the Regional Centre for accommodation and procedures for asylum applicants of Bucharest, the visit reports are pending.

We mention the **main positive aspects** notified within the monitoring activity undertaken in centres for asylum seekers/migrants, included in the visit reports drawn up during 2018:

► **ensuring hygiene and sanitary conditions:** ● the kitchen was located at the basement of the accommodation pavilion, equipped with 10 cooking positions, each with a cooker, a sink and a work area, the dining room (*the Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare*); ● the management of the centre implemented the recommendation resulting from the visit of the representatives of the People's Advocate Institution of October 3, 2017, regarding the identification of an area to serve as a club and its arrangement; an area was arranged as a club on the first floor of the pavilion (*the Regional Centre for accommodation and procedures for asylum applicants of Galati*); ● the pavilion where migrants were accommodated was equipped with access ramps and the centre had two wheelchairs for persons with disabilities, as well as crutches and metal frames for movement. There was a project in the phase of the Detailed Urban Planning, for building a new accommodation pavilion, with a capacity of 100 places. The new construction will be adapted and equipped for persons with locomotor disabilities, providing 20 accommodation places for this category of persons (*the Regional Centre for accommodation and procedures for asylum applicants of Galati*); ● cold water and electricity were distributed with no interruption in a central system. Heating during winter and hot water were provided by a heating plant (*the Retention and Triage Centre of the Border Police, Sculeni, Iasi county*); ● two triage rooms with proper hygiene and sanitation conditions, freshly painted and well maintained in terms of hygiene (*the Retention and Triage Centre of the Border Police, Sculeni, Iasi county*); ● two studios with an area of about 40 sqm were also arranged in the Sculeni border crossing point, including a bedroom with two beds, a bathroom and a hall, for the accommodation of asylum seekers. The visit team found that the two studios had a proper state of hygiene, beds had clean bed linen, the

temperature was suitable (*the Retention and Triage Centre of the Border Police, Sculeni, Iasi county*);

► **legal counselling and information:** ● if the person was retained during the working hours, the Iasi Bar had to be contacted, which would appoint a lawyer depending on certain case-specific criteria. For situations occurring outside the schedule, a list of lawyers appointed by the Bar of Iasi was used, updated on a regular basis (*the Retention and Triage Centre of the Border Police, Sculeni, Iasi county*); ● the North Association for Cooperation and Integration in Somcuta Mare supplies internet and TV services in Arabic language for the persons in custody (*the Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare*); ● presentation leaflets printed in several languages were available, and a monitor was installed in the waiting room located in the administrative pavilion, with information in several languages regarding asylum procedures in Romania. The centre had several points of information, that presented excerpts from the Internal Rules of the Centre, the rights and obligations of the persons accommodated in the centre, as well as information regarding the asylum procedure, in several languages. 23 contracts were entered with translators for various languages - Arabic, English, French, Urdu, Farsi, etc. (*the Regional Centre for accommodation and procedures for asylum applicants of Timisoara*)

► **assistance to minors:** ● the minors were assigned legal representatives by the General Directorate for Social Assistance and Child Protection of Maramures(*the Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare*); ● regarding the facilities supplied to children in the the Regional Centre for accommodation and procedures for asylum applicants of Galati, Save the Children Romania arranged two rooms, equipped with furniture, TV set, toys, colouring books, games, etc., where the employees of the organization undertook cultural and educational, entertainment and children accommodation activities. Furthermore, a room for mothers and children was located on the first floor, arranged by the same non-governmental organization; the equipment of the room satisfied the needs of a mother-child couple – furniture, microwave oven, sink, toys, etc. were available.

► **regarding healthcare supply:** • the operative staff of the unit took first aid courses, and the building was equipped with first aid kits (*the Retention and Triage Centre of the Border Police Bors*); • the centre had a medical practice equipped with furniture and devices, according to the minimal standards provided by the Order of the Minister of Health and Family no. 153/2002, and the state of cleanliness and hygiene was proper (*the Regional Centre for accommodation and procedures for asylum applicants of Timisoara, the Regional Centre for accommodation and procedures for asylum applicants of Galati*); • the centre had the services of a physician and a medical nurse employed by the unit (*the Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare*); • the centre had entered a services agreement with a physician (*the Regional Centre for accommodation and procedures for asylum applicants of Timisoara, the Regional Centre for accommodation and procedures for asylum applicants of Galati*); • medical reports were drawn up for each asylum seeker, mentioning the age (declared), height, weight, data of the general clinical examination, the examinations performed and the results of medical analyses (*the Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare, the Regional Centre for accommodation and procedures for asylum applicants of Galati, the Regional Centre for accommodation and procedures for asylum applicants of Timisoara*); • the medical department had a treatment room and an isolation room with its own sanitary facility for the temporary accommodation of persons diagnosed with infectious diseases (*the Regional Centre for accommodation and procedures for asylum applicants of Galati*); • asylum applicants benefitted from the services provided by physicians employed by non-governmental organizations, based on joint projects with the General Inspectorate for Immigration (*the Regional Centre for accommodation and procedures for asylum applicants of Timisoara, the Regional Centre for accommodation and procedures for asylum applicants of Galati, the Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare*); • persons under custody in the centre had the possibility to opt for a certain physician, man or woman, according to their religious beliefs (*the Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare*);

- pregnant asylum seekers accommodated in the centre were examined by the physician of the centre and monitored by the specialist on a monthly basis, being subject to regular controls and medical investigations (*the Regional Centre for accommodation and procedures for asylum applicants of Timisoara, the Regional Centre for accommodation and procedures for asylum applicants of Galati*);
- the aliens accommodated in the centres benefitted from medical examinations, additional paraclinical investigations and specialized medical examinations with public or private medical units, as well as free of charge medicine therapy based on the medical prescription issued by the physician of the centre or by other specialized physicians (*the Regional Centre for accommodation and procedures for asylum applicants of Timisoara, the Regional Centre for accommodation and procedures for asylum applicants of Galati*);
- the centre was equipped with its own ambulance, used to transport the aliens to medical units outside the centre (*the Regional Centre for accommodation and procedures for asylum applicants of Timisoara, the Regional Centre for accommodation and procedures for asylum applicants of Galati*);
- foreign children were immunized according to the National Immunization Programme (*the Regional Centre for accommodation and procedures for asylum applicants of Timisoara, the Regional Centre for accommodation and procedures for asylum applicants of Galati*).

► **psychological assistance:**

- the psychologist had drawn up a file with the activities performed every month, that included the Note of information on personal data protection, the Client monitoring file, the Individual Report on attendance to the psychological services of the project. The psychologist drew up an activity report (on a monthly basis), the list of participants and the topic approached within group-level psychological counselling, the Psychological assessment report (*the Regional Centre for accommodation and procedures for asylum applicants of Timisoara*);
- for the initial meeting of the asylum seeker, the psychologist provided him/her with the project implemented by the foundation and the main activities, filling in the Note of information on personal data protection. This was signed by asylum seekers who had reached the age of majority; for the minors, it was signed by the parent. The information note was drawn up in several languages (English, Arabic, Pashto, Urdu,

Kurd). The Client monitoring file was also drawn up during the initial meeting, including the asylum seeker's medical records, with a view to identifying his/her needs for psychological assistance (*the Regional Centre for accommodation and procedures for asylum applicants of Timișoara*); • depending on the identified needs, the psychologist established further necessary approaches: the psychological assessment of asylum applicants with a view to drawing up a psychological report to IGI and/or psychological counselling of the asylum seeker, with a view to improving psychological symptoms and preparing him/her for the interview. All the approaches were registered in the Individual Attendance Sheet for the psychological services of the project (the date when the asylum applicant was informed, the date when the Client monitoring file was filled in, counselling, psychological assessment) (*the Regional Centre for accommodation and procedures for asylum applicants of Timișoara*); • the psychologist organized group-level psychological assistance sessions on various topics (the Children's Day, the Refugee's Day, Easter holidays, etc.), workshops of therapy through art, game therapy, personal development, generally dedicated to minors. Since asylum seekers came from different environments and cultures, and communication between them was difficult, this therapeutic method facilitated the simultaneous expression of emotions through the act of creation and, implicitly, reduced tension, as well as interpersonal communication (*the Regional Centre for accommodation and procedures for asylum applicants of Timișoara*).

► **social and educational activities:** • a sports hall equipped with lockers and sanitary facilities, including showers, was arranged in a separate building in the yard of the centre (*the Regional Centre for accommodation and procedures for asylum applicants of Șomcuta Mare*); • the centre had an outdoor playground used for various sports activities (volleyball, basketball, football) and an indoor playground (*the Regional Centre for accommodation and procedures for asylum applicants of Timișoara*).

As for migrant centres visited in 2018, the following deficiencies were found:

► **ensuring hygiene and sanitary conditions:** ● some beds with metal structure and mattresses had an advanced wear state, the rooms were in an improper state of cleanliness and hygiene, with dirty and scratched walls, the linoleum on the pavement was worn in some places, sanitary facilities had damaged walls and worn technical and sanitary facilities (*the Regional Centre for accommodation and procedures for asylum applicants of Galați*). **The People's Advocate recommended** to improve accommodation conditions in the centre by: sanitizing the rooms and sanitary facilities where deficiencies were found, replacing beds and mattresses in an advanced wear state. The management of the Regional Centre for accommodation and procedures for asylum applicants of Galați will answer to the recommendations;

● the state of cleanliness and hygiene in one of the accommodation rooms and sanitary facilities was improper, beds had an advanced wear state, lockers-wardrobes for the storage of the asylum seekers' personal items were worn, sanitary facilities did not work. Bugs (cockroaches) were found in one of the visited rooms and in the kitchen of building B, though sanitization and disinfection had been performed (*the Regional Centre for accommodation and procedures for asylum applicants of Timișoara*). **The People's Advocate recommended** to perform sanitization in accommodation rooms and sanitary facilities, to replace worn furniture and beds, to enhance disinfection and use more efficient substances. The management of the Regional Centre for accommodation and procedures for asylum applicants of Timișoara will provide an answer to the recommendations;

● triage rooms were not provided with windows or a ventilation or air conditioning system, they were only ventilated by opening doors, so that natural lighting and proper ventilation were not ensured. The members of the visit team considered that, though the introduction of a person in the triage room may be decided for no more than 24 hours, based on G.E.O. No. 104/2001, art. 27 b), the minimum conditions regarding ventilation and natural light must be ensured (*the Retention and Triage Centres of Sculeni and Bors*). **The People's Advocate recommended** that the management of the Territorial Border Police Inspectorate of Iasi should ensure the minimum conditions

regarding ventilation and natural light in the triage room. The management of the Territorial Border Police Inspectorate of Iasi answered that the findings and recommendations were acknowledged and actions were taken at the level of the institution to identify areas corresponding to the recommendations. **The People's Advocate recommended** that the management of the Territorial Border Police Inspectorate of Oradea should arrange the triage room within the Border Crossing Point of Bors, Bihor county, so as to ensure proper lighting and ventilation based on the System procedure no. 44.3600/2016 on the organization and operation of the triage room, issued by the General Inspectorate of the Border Police, and rendering it accessible for persons with disabilities. The management of the Territorial Border Police Inspectorate of Oradea mentions, in its **answer**, that actions were taken to arrange the triage room so as to meet the recommendations of the People's Advocate Institution.

► **healthcare supply**

- the absence of a protocol entered with a medical unit or a services agreement with a general practitioner, on the performance of medical triage as provided by system procedure no. 940/2016 on the organization and operation of the triage room within the border police (*the Retention and Triage Centre of the Border Police Bors, Bihor county, the Retention and Triage Centre of the Border Police, Sculeni, Iasi county*). **The People's Advocate recommended** that the management of the Territorial Border Police Inspectorate of Oradea and the management of the Territorial Border Police Inspectorate of Iasi should take the required legal actions to examine the possibility of entering a cooperation protocol with a medical unit or a services agreement with a general practitioner so that, based on system procedure no. 940/2016 on the organization and operation of the triage room within the border police, medical triage can be performed for persons introduced to the triage room (general clinical examination, assessment of epidemiological risk, the declared state of health, the presence of violence signs or marks, self-inflicted wounds, signs or marks caused by the administration of injectable drugs, tattoos, abnormal behaviour, etc.). The management of the Territorial Border Police Inspectorate of Iasi did not

provide an answer regarding the examination of the possibility to enter a services agreement with a general practitioner, and the management of the Territorial Border Police Inspectorate of Oradea stipulated, in its answer, that the existence of the unit physician (of C.M.D.T.A.) covered the requirements, considering the low number of persons introduced to the triage room; • the absence of emergency medical kits to supply first aid in case of need (*the Retention and Triage Centre of the Border Police, Sculeni, Iasi county*). **The People's Advocate recommended** to purchase an emergency medical kit to supply first aid in case of need. • the absence of a medical practice arranged and equipped according to the legislation in force (Order of the Minister of Health no. 153/2003 on the approval of the Methodological Guidelines on the establishment, organization and operation of medical practices and the Order of the Minister of Health no. 1338/2007 on the approval of the Guidelines on the functional structure of medical and dental practices) (*the Regional Centre for accommodation and procedures for asylum applicants of Șomcuta Mare*). **The People's Advocate recommended** to identify a solution to arrange a medical practice with a therapy room, a waiting room and its own sanitary facility, to meet the requirements for authorization and registration, according to the legislation in force. The management of the visited unit answered that, pursuant to the actions taken by the General Inspectorate for Immigration, on 20.08.2019, the Medical Department of the Ministry of Internal Affairs issued the Sanitary Operating Permit for the facility "Medical Practice C.R.P.C.S.A. Maramureș", located in Șomcuta Mare, Maramureș county, including two medical practices, a therapy room and a sanitary facility, together with the Compliance Programme for the previously mentioned authorization; • the absence of an endorsement of the Sanitary Operating Permit for the current year (*the Regional Centre for accommodation and procedures for asylum applicants of Timisoara, the Regional Centre for accommodation and procedures for asylum applicants of Galați*). **The People's Advocate recommended** to accelerate the required actions to endorse the Sanitary Operating Permit for the current year; • medical vacancies (physicians and medical nurses) (*the Regional Centre for accommodation and procedures for asylum applicants of Timisoara, the Regional Centre for accommodation and procedures for asylum applicants of*

Galați). **The People's Advocate recommended** that the management of the General Inspectorate for Immigration should take the required legal actions to cover the vacancies with medical staff; • the activity was taking place at the medical practice in a single shift, in the morning, though the centre had two medical nurses employed (*the Regional Centre for accommodation and procedures for asylum applicants of Timisoara*). **The People's Advocate recommended** to analyse the possibility of allocating medium sanitary staff in two shifts, in the morning and in the afternoon, so that more time is allocated to the supply of medical services for asylum seekers. The management of the visited unit will answer the recommendation; • the absence of an isolation room for the temporary accommodation of persons diagnosed with infectious diseases (*the Regional Centre for accommodation and procedures for asylum applicants of Timisoara*). The People's Advocate **recommended** to take the required actions to arrange an isolation room within the centre.

► **the supply of psychological assistance:** • regarding the employment of a clinical psychologist covering the psychological assistance of beneficiaries, **the People's Advocate recommended** that the visited units (*the Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare, the Regional Centre for accommodation and procedures for asylum applicants of Galați, the Regional Centre for accommodation and procedures for asylum applicants of Timisoara*) to pursue approaches to employ a psychologist with a right to practice, specialized in psychological counselling, clinical psychology or psychotherapy. In the **answer** provided by the management of the Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare, the General Inspectorate for Immigration pursued the approaches with a view to amending the job descriptions for psychologists, since, pursuant to the publication of these positions, the applicants who attended did not meet the participation requirements, i.e. they did not hold the right of free practice in psychology for defence, public order and national safety issued by the College of Romanian Psychologists, a compulsory requirement to occupy these positions, according to art. 4 par. (2) b) of O.M.A.I. No. 23/2015. Considering this situation, pursuant to the consultations with the Centre of Psychosociology of the Ministry of Internal Affairs, it was agreed to reduce the

specialization level to the one of apprentice under supervision. The implementation of this solution implied the amendment of the Rules of Operation of the Regional Centres for Procedures and Accommodation of Asylum Applicants, exclusively in terms of psychological assistance, and the new form of regulations came into force on 13.11.2018. The other visited units did not provide an answer until the date of this report, but the visits showed that the vacancy of psychologist was published several times, but it was not occupied, due to the occupation requirements stipulated in the job description. Psychological assistance was provided by psychologists competent in the field of clinical psychology and psychotherapy, representatives of the I.C.A.R. Foundation (*the Regional Centre for accommodation and procedures for asylum applicants of Galați, the Regional Centre for accommodation and procedures for asylum applicants of Timisoara*).

Regarding psychological activities, **the People's Advocate recommended** that the General Inspectorate for Immigration should improve psychological activities regarding the visited unit (*the Regional Centre for accommodation and procedures for asylum applicants of Galați*) by drawing up initial assessment reports, based on which recommendations and psychological interventions are established.

► **other issues:**

- a metal rod was mounted on the walls of the two triage rooms, based on the information of staff and the previously mentioned internal procedure, used to handcuff violent persons or persons known to be dangerous. This safety measure is excessive and disproportional, where immobilization was made with handcuffs on the one hand, and the triage room had video surveillance on the other hand. Moreover, the use of the metal rod for the immobilization with handcuffs applied in the presence of other persons and in improper accommodation conditions, where natural lighting and ventilation were not enough, represents an infringement of human dignity (*the Centre for Retention and Triage of Sculeni*). **The People's Advocate recommended** that the management of the Territorial Border Police Inspectorate of Iasi should remove metal bars from triage rooms, as well as amend the System Procedure on the organization and operation of the Triage Room of the Border Police to this purpose. The **answer** provided by the management of the

Territorial Inspectorate of Border Police of Iasi mentions that, starting 10.08.2018, the system procedure had been amended according to the recommendations of the People's Advocate, by removing metal bars.

In the same context, pursuant to the visit at the *Retention and Triage Centre of Bors, Bihor county*, **the People's Advocate recommended** to amend the Decision of the General Inspector of the General Inspectorate of the Border Police no. 11.206/2016 and the System Procedure on the organization and operation of the triage room of the Border Police no. 44/3600/2016, **i.e. to remove provisions regarding metal rods in triage rooms, considering that this safety measure is excessive and disproportional, since violent persons or persons known as dangerous were immobilized with handcuffs.** Thus, it was considered that **video surveillance would represent a sufficient method of supervision that would no longer require immobilization with handcuffs against a metal rod.**

The General Inspectorate of the Border Police informed that the **recommendation on the removal of the handcuff rod from triage rooms was implemented through the amendment of the system procedure regarding the organization and operation of the triage room and the provision of the General Inspectorate on the location and equipment of this area.**

*** During 2018, 6 visit reports were drawn up pursuant to visits undertaken in 2017 to the following centres: the Centre for accommodation of aliens in public custody of Otopeni, the Regional Centre for accommodation and procedures for asylum applicants of Bucharest, the Regional Centre for accommodation and procedures for asylum applicants of Galati; the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu, the Centre for accommodation and procedures for asylum applicants of Timisoara and the Centre for accommodation of aliens in public custody of Arad.**

The reports drawn up after the visits were performed included the following **positive aspects:**

► **ensuring hygiene and sanitary conditions:** ● aliens who requested accommodation in the centres were allocated into rooms according to several criteria: family unity, belonging to various nationalities, ethnicities, religions (*the Regional Centre for accommodation and procedures for asylum applicants of Timisoara, the Regional Centre for accommodation and procedures for asylum applicants of Galati*); ● each floor in the accommodation pavilion included an office to prepare food, equipped with stainless steel tables, sinks and functional cookers (*the Regional Centre for accommodation and procedures for asylum applicants of Galati*); ● the kitchen was large, clean and sanitized, equipped with new furniture and dishware, as well as refrigerators, and the refrigerator for food samples was new, clean, with an up-to-date temperature chart, posted in a visible place (*the Centre for accommodation of aliens in public custody of Otopeni*); ● every floor had a room for the storage of food, equipped with refrigerators and a sink with running water, as well as areas for washing personal items, equipped with automated washing machines (*the Regional Centre for accommodation and procedures for asylum applicants of Galati*), a washing room equipped with three automated washing machines and a drying area (*the Regional Centre for accommodation and procedures for asylum applicants of Galati*); ● diets were established according to the physician's guidelines, based on the existing pathology, religious beliefs and dietary preferences and were included in the register of diets. As of the date of the visit, the following diets were provided: non-sodium – for persons with cardiovascular pathology – and Muslim – for Muslim beneficiaries (*the Centre for accommodation of aliens in public custody of Otopeni, the Centre for accommodation of aliens in public custody of Arad*); ● the pavilion for the accommodation of migrants was equipped with access ramps and the centre had two wheelchairs for persons with disabilities, as well as crutches and metal frames for movement (*the Regional Centre for accommodation and procedures for asylum applicants of Galati*); ● cold and hot water were provided on a permanent basis (*the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu, the Regional Centre for accommodation and procedures for asylum applicants of Bucharest*); ● each room had metal beds with mattresses, the rooms were provided with TV sets and enough

furniture to keep the aliens' personal goods (table and chairs, metal cupboard), all in a good state. Accommodation rooms had an antistatic and fireproof PVC carpet on the pavement. The sanitary facility of each room was clean and equipped with a shower and a single-block sanitary installation of stainless steel (vandal-proof), including a functional basin and toilet (*the Centre for accommodation of aliens in public custody of Arad*); • the centre had a mini-van (8 places) for the transportation of beneficiaries for special situations and an ambulance (*the Regional Centre for accommodation and procedures for asylum applicants of Bucharest*);

► **legal counselling and information:** • asylum applicants were notified on the phases of the asylum procedure in Romania, how the preliminary interview is performed after registering the international protection application, the interview with a view to establishing the reasons for requesting international protection, how the decision on granting the refugee status is made, how soon will the asylum application be solved, what are the rights and obligations of an asylum seeker in Romania and what are the implications of the waiver of the asylum application before it has been solved by the I.G.I. The information regarding asylum procedure was presented in the asylum seeker's mother tongue and was signed by him/her (*the Regional Centre for accommodation and procedures for asylum applicants of Timisoara, the Regional Centre for accommodation and procedures for asylum applicants of Bucharest*); • specialized legal assistance for asylum applicants was provided by a non-governmental organization based on a FAMI project. The general objective of the project is to ensure specialized and customized legal counselling and assistance to asylum applicants during the entire asylum procedure, as well as beneficiaries of international protection, whose situation is reanalysed or who have filed family reunification applications based on Law no. 122/2006, republished (*the Regional Centre for accommodation and procedures for asylum applicants of Timisoara*); • the visit room and the halls had posters on the rights, obligations, interdictions and disciplinary sanctions enforceable during the accommodation in the centre, the provisions of Romanian laws, the rules of the accommodation centre, translated into various foreign languages. Leaflets in several foreign languages with information on the rights of persons in public custody were placed on the tables (*the*

Centre for accommodation of aliens in public custody of Otopeni); • a functional TV set was located in the inside yard; posters on the rights and obligations of the persons under custody, prohibitions, various legal provisions applicable to aliens in Arabic, Turkish, Farsi, Urdu, Chinese, etc. were placed in the dining room and on the doors of the rooms. The centre had about 100 books in English and French, dictionaries, etc. (*the Centre for accommodation of aliens in public custody of Arad*);

► **assistance to minors:** • during temporary protection, the minors lived, as the case may be, with relatives, with the persons accompanying them or, when they agreed to, in a residential service of D.G.A.S.P.C. Giurgiu (*the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu*);

► **access to the asylum procedure:** • the legal procedure is enforced with no discrimination, irrespective of the race, nationality, ethnicity, language, religion, social category, beliefs, gender, sexual orientation, age, disability, non-contagious chronic disease, HIV infection or inclusion in a materially disadvantaged category, birth status or achieved status or any other distinction. Moreover, the law is enforced considering the special needs of vulnerable persons, non-return, family unity, the better interest of the child, confidentiality (*the Regional Centre for accommodation and procedures for asylum applicants of Galati*);

► **regarding healthcare supply:**

• the centre had employed physicians and physical staff (*the Centre for accommodation of aliens in public custody of Otopeni, the Centre for accommodation of aliens in public custody of Arad, the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu, the Regional Centre for accommodation and procedures for asylum applicants of Bucharest*); • keeping psychotropic medicines in a separate and secured cupboard, according to the legal provisions in force (*the Centre for accommodation of aliens in public custody of Otopeni, the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu, the Regional Centre for accommodation and procedures for asylum applicants of Bucharest*); • the aliens accommodated in the centre benefitted from medical examinations, additional paraclinical investigations and specialized medical examinations in public medical units, as well as medicines on a free of

charge basis, according to the medical prescription issued by the physician of the centre (*the Centre for accommodation of aliens in public custody of Otopeni, the Centre for accommodation of aliens in public custody of Arad, the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu, the Regional Centre for accommodation and procedures for asylum applicants of Bucharest*); • keeping the medical sheets and documents of asylum applicants in secure and confidential conditions, based on the provisions of legislation in force on the confidentiality of medical data and access to a person's medical file (*the Regional Centre for accommodation and procedures for asylum applicants of Timisoara, the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu, the Centre for accommodation of aliens in public custody of Otopeni, the Regional Centre for accommodation and procedures for asylum applicants of Galati*); • equipping the centre with its own ambulance (*the Centre for accommodation of aliens in public custody of Otopeni, the Regional Centre for accommodation and procedures for asylum applicants of Galati, the Regional Centre for accommodation and procedures for asylum applicants of Timisoara*); • free of charge testing of aliens for B and C viral hepatitis and HIV, with quick tests of the medical practice (*the Centre for accommodation of aliens in public custody of Otopeni, the Regional Centre for accommodation and procedures for asylum applicants of Galati, Centrul de Cazare și Proceduri pentru Solicitanții de Azil București*); • supplying medical services on a permanent basis (*the Centre for accommodation of aliens in public custody of Otopeni, the Centre for accommodation of aliens in public custody of Arad*); • emergency facilities were equipped according to the standards and were permanently accessible to the employed staff (*the Centre for accommodation of aliens in public custody of Otopeni*).

► **psychological assistance:** • the employed psychologist was registered with the College of Romanian Psychologists, in the specialization Clinical Psychology and took part in various continuous training classes, in compliance with art. 17 par. d) of Law no. 213/2004 on the exercise of the profession of psychologist with right of free practice, the establishment, organization and operation of the College of

Romanian Psychologists “psychologists with right of free practice must focus on improving their professional qualification” (*the Centre for accommodation of aliens in public custody of Arad*); ● the psychological practice was properly equipped for the performance of psychological activities and requirements were met on the confidentiality of the professional act and the emotional safety of beneficiaries, according to the provisions of art. 4 par. (2) of the previously mentioned law, “The confidentiality of the psychological act is protected by the law and is an obligation of any psychologist” (*the Regional Centre for accommodation and procedures for asylum applicants of Timișoara*); ● psychological assistance was written in the Register of psychological assistance to aliens accommodated in the centre (psychological assessments and counselling were registered) and in the Individual Observation Reports (*the Centre for accommodation of aliens in public custody of Arad*).

► **social and educational activities:** ● the centre also had a sports room with fitness bicycles, a tennis table, trellis, tennis racquets, balls, etc. Furthermore, 3 sports grounds were arranged in the yard of the centre, as well as a playground for children (*the Centre for accommodation and procedures for asylum applicants of Galati*); ● the centre had two external yards for the performance of sports activities, entertainment, cultural and educational activities, with an area of 120 sqm each, with both green areas and concrete areas, football, handball, basketball areas and tables with benches (single installation of metal, secured to the concrete area). A sports hall was arranged with 3 mattresses, a treadmill, a trellis, a medical bicycle, a multifunctional force device. Access to the sports room was performed upon request of the person in custody (*the Centre for accommodation of aliens in public custody of Arad*));

► **other issues:** ● the recommendation provided by the People’s Advocate pursuant to a previous visit performed in 2015, to set up special rooms on each floor for breastfeeding mothers and mothers with sucklings, with bathtubs for them and suitable tables for weighing, swaddling, possibly preparation of food in sterile conditions, was implemented, and the visit team found, upon the 2017 visit, that a room for mothers and children had been arranged in the accommodation pavilion,

equipped with a crib, chairs, changing table, kitchen appliances, sink, dishware, etc. (*the Regional Centre for accommodation and procedures for asylum applicants of Galati*).

A range of deficiencies resulted from the visits performed in 2017 to the above mentioned centres, and, in order to solve them, the People's Advocate made recommendations and the visited units took actions that were notified to the People's Advocate institution.

* The reports drawn up during 2018 pursuant to visits performed during 2017 at the following units were also considered: the Centre for accommodation of aliens in public custody of Otopeni, the Regional Centre for accommodation and procedures for asylum applicants of Bucharest, the Regional Centre for accommodation and procedures for asylum applicants of Galati, the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu, the Centre for accommodation and procedures for asylum applicants of Timisoara and the Centre for accommodation of aliens in public custody of Arad.

Regarding accommodation conditions: ● the absence of proper hygiene in accommodation areas and sanitary facilities, furniture and worn equipment, the sanitary facilities had damaged walls and worn installations, and the halls had dirty walls (*the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu, the Regional Centre for accommodation and procedures for asylum applicants of Bucharest*). Air conditioning was not ensured during the warm season, and the rooms were not equipped with air conditioning devices (*the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu*). The centre did not have specific equipment for persons with disabilities or immobilized in wheelchairs (access ramp, supporting and movement rods, sanitary facilities without special equipment (*the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu, the Regional Centre for accommodation and procedures for asylum applicants of Bucharest, the Regional Centre for accommodation and procedures for asylum applicants of Timisoara*)). The yard of the centre was not arranged as a walking or entertainment area, the classroom for

Romanian language learning was set up in a room where half of the area was used for the storage of mattresses and beds (*the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu*). The library and religious room were removed with a view to increasing the capacity of the centre, which resulted in a limitation of the beneficiaries' rights to entertainment and socialization activities, as well as to manifestation of religion. The centre did not have a dedicated room/area where the children could spend their spare time, and a playground for children was not arranged outdoors (*the Regional Centre for accommodation and procedures for asylum applicants of Bucharest*).

The People's Advocate recommended that *the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu* should repair, sanitize and equip the accommodation areas for asylum applicants according to their specificities, including additional arrangements of areas for social, educational and entertainment activities (indoors and outdoors), to build access ramps to the centres and mount supporting rods for movement on the halls and to the sanitary facilities in compliance with the regulations in force regarding assistance for persons with disabilities. The management of the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu **answered** that the areas for the accommodation of aliens had been sanitized. At the same time, it was mentioned that the centre would be completely rearranged/refurbished within the project "Improvement of the asylum and migration system in Romania", financed through the Norwegian Financial Mechanism 2014-2021. In this context, the General Inspectorate for Immigration included an investment component in the project sheet dedicated to the improvement of accommodation conditions through works for the rearrangement/rehabilitation of the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu (equipment, outdoor playground, re-separation, refurbishment). The concerned component included: improving accommodation conditions by re-separating the rooms with a view to accommodating special cases - single parent families, persons with disabilities, unaccompanied minors, elderly persons or torture victims; the possibility to accommodate families; avoiding the accommodation of asylum seekers and

beneficiaries of some form of protection in Romania (who come from countries in an armed or religious conflict) in the same room, as well as building an access ramp in the centre and assembling supporting rods/movement bars on the halls and in sanitary facilities in compliance with the guidelines in force on assistance for persons with disabilities. The project would enter the implementation phase in September 2018.

The People's Advocate recommended that *the Regional Centre for accommodation and procedures for asylum applicants of Bucharest* should repair and equip the areas for asylum applicants according to their specificities (rooms, common areas - stairs and hallways, kitchens, visit rooms), including the arrangement of areas for social, educational and entertainment activities (indoors and outdoors). The management of I.G.I. **answered** that, within FAMI monopolistic projects, I.G.I. implemented, during 23.12.2016 - 22.11.2017, the project with the title "Improving acceptance conditions in regional IGI centres", with the general purpose of ensuring the capacity to accept asylum seekers by supplying material goods at the level of the 6 regional accommodation centres of IGI. To this purpose, accommodation rooms for asylum seekers were upgraded at the level of the Regional Centre for accommodation and procedures for asylum applicants of Bucharest, they were equipped with new mattresses and beds, and rooms dedicated to clubs were rearranged and properly supplied. At the end of 2017, with the support of the Save the Children non-governmental organization, the "Mother and child" room was arranged, and a playground for children was created in the inside yard, with slides, slings, gazebo, etc. As for the investment facility of the Regional Centre for accommodation and procedures for asylum applicants of Bucharest, from the perspective of project management, IGI submitted a project proposal for financing within the Regional Operational Programme 2014-2020 regarding the refurbishment and upgrade of facilities at the level of the Regional Centre for accommodation and procedures for asylum applicants of Bucharest by improving the thermal insulation, rehabilitation and upgrade of the installation for the heating, ventilation and air conditioning system, for the implementation of energy management systems.

The People's Advocate recommended that *the Regional Centre for accommodation and procedures for asylum applicants of Timisoara* should analyse the possibility of building access ramps in all areas with a common destination and the special equipment of accommodation rooms and sanitary facilities for persons with locomotor disabilities. The management of the Regional Centre for accommodation and procedures for asylum applicants of Timisoara **answered** that the arrangement of areas specially dedicated to persons with disabilities represents a priority for the management of the Regional Centre for accommodation and procedures for asylum applicants of Timisoara, which was considered in the arrangement works that would be performed during 2018, through projects undertaken with European financing. The new extension project would provide modern areas for persons with disabilities.

● *some accommodation rooms were in an improper state of cleanliness and hygiene, with dirty pavement and walls, without ventilation, with a persistent unpleasant smell, some beds with a metal structure were highly worn, the furniture was partially worn and insufficient for the number of accommodated persons, the cleanliness of sanitary facilities, of the kitchens and of some accommodation rooms was improper (the Regional Centre for accommodation and procedures for asylum applicants of Timisoara).* **The People's Advocate recommended** that the Regional Centre for accommodation and procedures for asylum applicants of Timisoara should perform a full sanitization of the accommodation rooms, sanitary facilities and kitchens of the centre, as well as identify solutions to permanently maintain cleanliness in these areas, analyse the possibility to supplement and repair/replace the furniture in accommodation rooms needed to serve meals and store the personal items of asylum applicants. The management of the Regional Centre for accommodation and procedures for asylum applicants of Timisoara **answered** that the sanitization of the accommodation rooms, sanitary facilities, kitchens and halls of the centre was performed during December 2017, and such activities would be performed on a regular basis. Counselling sessions to maintain the state of cleanliness and the cleaning schedule are organized on a weekly basis, every Wednesday and whenever needed, based on the provisions of art. 21 of the Order of

the Minister of Internal Affairs no. 130/2016 on the approval of the Internal Rules of regional centres for procedures and accommodation of asylum applicants, and the accommodated persons had the obligation to perform cleaning in living rooms and common areas. An internal work procedure on the organization, operation and check of cleanliness in the centre was drawn up, and a chart of activities to be performed both by the employees of the centre and by asylum applicants was established. The withdrawal of old furniture is performed based on the provisions of the Order of the Minister of Internal Affairs no. 269 of August 13, 2007 on the supply of material assistance for persons accommodated in centres subordinated to the Romanian Office for Immigration, as subsequently amended and supplemented. The duration of use of the goods provided to persons accommodated in the centres was reduced by Order of the Minister of Internal Affairs no. 113/2017; • the visit team considered that hygiene and sanitary conditions in the rooms and in sanitary facilities, which required repairs and sanitization, were improper (*the Centre for accommodation of aliens in public custody of Otopeni*). **The People's Advocate recommended** that the *Centre for accommodation of aliens in public custody of Otopeni* should repair and equip the areas of the centre in accordance with their specificities (accommodation rooms, bathrooms, club, entertainment room, visit room). The management of I.G.I. answered that the Technical project for the thermal rehabilitation of existing constructions and for the repair of sanitary facilities and equipment of areas was drawn up, so as to identify the required funds to contract execution works.

► **healthcare supply**

• the absence of emergency equipment in the medical practice (*the Centre for accommodation and procedures for asylum applicants of Somcuta Mare*). **The People's Advocate recommended** to establish emergency equipment, properly furnished and with a secured cabinet, to be used by the specialized staff in case of need. The management of the visited unit **answered** that, within the Regional Centre of Maramures, the Medical Department currently works with specialized staff, i.e. physician and medical nurse. After the employment of a physician on 05.05.2017 and after the signature of the collaboration contract with the ICAR Foundation of

Bucharest and the physician, emergency medical products were purchased. Thus, ICAR employees and the medical staff employed by the centre drew up a list with the required medical products, which were purchased from the pharmacy and provided to the physician, so as to be used; • vacant positions of physicians and medical nurses(*the Regional Centre for accommodation and procedures for asylum applicants of Timișoara*). **The People's Advocate recommended** to resume actions to employ medical staff for the vacancies, considering the high inflow of asylum applicants and the high number of activities undertaken to fulfil asylum procedures, the need to ensure continuity in the supply of medical services. The **answer** of the visited unit stipulates that two positions of medical nurse are covered in the Regional Centre for accommodation and procedures for asylum applicants of Timișoara, but a physician is not employed; medical services can be supplied on a permanent basis after the vacancies in the Medical Department are covered. Furthermore, the centre stipulates that a services agreement for the supply of medical services was entered; • the medical staff had not taken courses for the supply of first aid in case of emergency during 2016-2017 (*the Centre for accommodation of aliens in public custody of Arad*). **The People's Advocate recommended** to analyse the possibility that the medical staff of the centre could take courses to provide first aid in case of emergency. The management of the visited unit **answered** that support was requested to I.S.U. Arad so that the medical staff could take part in such courses, along with other workers of the unit, and a planning would be drawn up to this purpose. This activity was included in the Work Plan of the unit for the second quarter of 2018; • no protocols were signed between the Centre for the accommodation of aliens in public custody and medical units belonging to the Ministry of Health, so that easier access would be provided to specialized medical services for aliens accommodated in the centre. (*the Centre for accommodation of aliens in public custody of Arad*). **The People's Advocate recommended** that the Centre for accommodation of aliens in public custody and medical units belonging to the Ministry of Health of Arad should enter protocols so as to ensure easier access to specialized medical services for aliens accommodated in the centre. The **answer** of the management of the visited unit stipulates that, regarding the conclusion of

protocols between the Centre of Arad and medical units belonging to the Ministry of Health of Arad, the institution took actions to this purpose and several requests were submitted to the secondary and the tertiary credit awarding entity ; • the physician position was vacant (*the Regional Centre for accommodation and procedures for asylum applicants of Galati*). **The People's Advocate recommended** that the management of the General Inspectorate for Immigration should take the required legal actions for the employment of medical staff (especially the physician) required for the performance of activities in the Regional Centre for accommodation and procedures for asylum applicants of Galati, since medical assistance was provided by a specialist physician based on a services agreement as of the date of the visit. The management of the General Inspectorate for Immigration **answered** that service agreements were identified as a temporary solution until a physician was employed. The position of physician was published and an applicant was admitted, who eventually gave up the position. The position will be covered by transfer for work-related purposes. At the same time, through the project undertaken by the ICAR Foundation, asylum applicants benefit from medical assistance, depending on the needs; • the centre did not have medium-level medical employees, as the physician covered their activity as well (*the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu*). **The People's Advocate recommended** to examine the possibility to employ medium-level medical employees. The management of the visited unit answered that the medical assistance to accommodated persons was provided on a complementary basis at the level of the 6 regional centres for procedures and accommodation of asylum applicants, through the implementation of the project "Adapted and accessible health services for Romanian asylum applicants", funded by FAMI, developed by the ICAR Foundation; • partial deficit of medium-level medical staff, as some night shifts (especially on Saturdays and Sundays) were not covered (*the Centre for accommodation of aliens in public custody of Otopeni*). **The People's Advocate recommended** that the vacant position should be covered, especially by employing a medium-level medical staff member, in order to fully cover the shifts, even on holidays. The management of the centre **stated**, in their answer, that the vacant

position of medical nurse was covered; ● the visited centre did not have a pharmacy (*the Centre for accommodation of aliens in public custody of Otopeni*). **The People's Advocate recommended** that a pharmacy core should be created. **In the answer** submitted by the mentioned unit, it is stipulated that a stock of medicines is available at the level of the centre for the permanent use of the aliens under the responsibility of the physician of the unit; ● the absence of the employed physician (*the Regional Centre for accommodation and procedures for asylum applicants of Radauti*). **The People's Advocate recommended** to perform the legal actions to employ the medical staff needed for the performance of activities in the Regional Centre for accommodation and procedures for asylum applicants of Radauti. The visited unit **answered** that the position of physician was published, but was not covered; ● asylum seekers were not covered by health insurance within the Health Insurance System, but for medical and surgery emergency situations, as beneficiaries of a minimum package of health services, and were not included on the list of a general practitioner (*the Regional Centre for accommodation and procedures for asylum applicants of Radauti*). **The People's Advocate recommended** to initiate the procedures for the amendment of Law no. 122/2006 on asylum, i.e. adding the provision that asylum seekers should benefit from health insurance within the Health Insurance System, with the possibility of being registered with a general practitioner before obtaining a form of protection. **The answer** received by the management of the General Inspectorate for Immigration mentions that the negotiation of the entire SECA package will entail amendments to national legislation, including aspects regarding the supply of medical assistance to asylum seekers.

► **the supply of psychological assistance:**

● regarding the employment of a psychologist, **the People's Advocate recommended** that the visited unit (*the Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare, the Regional Centre for accommodation and procedures for asylum applicants of Timisoara , the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu, the Centre for accommodation of aliens in public custody of Otopeni, the Regional Centre for accommodation and procedures for asylum applicants of Radauti*) should

employ a psychologist with a right to free practice, specialized in clinical psychological counselling or psychotherapy who would strictly manage the issue of psychological assistance. The General Inspectorate for Immigration **informed** that the position of psychologist was published with recruitment from both internal and external source. The Centre of Psycho-Sociology of the Ministry of Internal Affairs (CPSMAI) was approached in order to reanalyse the tasks and duties in the job descriptions of psychologists in the centres subordinated to the General Inspectorate for Immigration, and copies of the job descriptions of psychologists were submitted to CPSMAI with a view to analysing and identifying a solution for the coverage of these positions with specialists. The Human Resources Service of the General Inspectorate for Immigration had several campaigns publishing the position of psychologist, but the registered applicants did not meet the participation requirements, i.e. they did not hold the free practice license on “Applied psychology in the field of national security”, issued by the College of Romanian Psychologists, that would allow them to perform relevant activities, a compulsory condition to cover such a position, based on art. 4 of the MAI Order no. 23/2015. At the same time, the applicants for a form of protection benefit from psychological assistance through the project “Adapted and accessible health services for asylum seekers in Romania”, Ref. No. FAMI 16.03.03, implemented by the ICAR Foundation. The Regional Centre for accommodation and procedures for asylum applicants of Giurgiu informed that a psychologist was identified from the central body of the General Inspectorate for Immigration - Department for Psychological Assistance, who meets the required conditions to cover the position and who will be transferred to CRPCSA Giurgiu for work purposes; the transfer is currently in progress. The vacant position of psychologist in the Centre for accommodation of aliens in public custody of Otopeni was occupied; • **regarding psychological assessments, the People’s Advocate recommended** that the visited unit (*the Regional Centre for accommodation and procedures for asylum applicants of Galați*) should perform the psychological assessment and an Individual Intervention Plan for the recovery of the minor with autism and cooperation with a centre specialized in the recovery of children with autistic spectrum disorders. Pursuant to the **recommendation**, the

General Inspectorate for Immigration informed that the minor was assessed by a specialist physician from the Psychiatry Hospital of Galati, where she was diagnosed with infantile autism receiving suitable therapy; then, on a monthly basis, she was subject to medical examination at the Centre for Mental Health and Infantile Neuropsychiatry of Galati and received suitable therapy. At the beginning of 2018, she had an appointment with the psychologist and the neuropsychiatrist physician for the required assessments (psychological and medical) with a view to obtaining the reports requested by the commission for child protection of DGASPC Galati with a view to issuing the certificate for the classification of children with disabilities in a disability category. The application for the public allowance for children was granted immediately thereafter. Subsequently, the certificate for the classification of children with disabilities in a serious disability category - with personal assistant - was issued. The application was submitted to the Municipality of Galati, for the companion's insurance. The County Centre for Resources and Educational Assistance of Galati (CJRAE) submitted the Complex Assessment Report for the minor to IGI, and the Recommendation regarding the child's registration in the preparatory class for special education, speech therapy and specific compensatory therapies should be discussed in the meeting of the Commission for school and professional orientation of CJRAE. The Vocational School Orientation Certificate was issued at the beginning of 2018; • regarding the fact that the requested information and documents were not supplied, **the People's Advocate recommended** that the visited unit (*the Regional Centre for accommodation and procedures for asylum applicants of Timișoara*) should regulate the situation and provide the requested information on psychological assistance (psychological assessments, identification of psychological needs, identification of vulnerable persons, psychological intervention plans, performed psychological counselling). **The answer** was that the visited unit did not have a "worker employed as psychologist, and the psychological assistance of asylum applicants is covered by the representative of the ICAR Foundation. Considering the confidentiality of the requested documents, the representative of the ICAR Foundation informed that they are willing to provide the above-mentioned documents based on a direct request from the psychologist of the People's Advocate

Institution, asking for a notice to this purpose”. We mention that, based on the provisions of art. 4 and art. 40 par. (1) of Law no. 35/1997 on the organization and operation of the People’s Advocate institution, republished – “Public authorities have the obligation to provide the People’s Advocate institution, according to the law, with the information, documents or acts regarding the petitions to the People’s Advocate, as well as those regarding notifications ex officio and announced or spontaneous visits s/he may perform with a view to fulfilling the specific attributions of the National Mechanism for Prevention of Torture in detention places, so that it may exert his/her attributions. The visited institutions have the obligation to provide the representatives of the visit team, according to the law, before, during or after the visit, any documents or information that they possess or could obtain, requested by them in order to fulfil their legal attributions.” **The People’s Advocate Institution asked** the management of the General Inspectorate for Immigration to clarify the issues mentioned in this recommendation of the Report and provide us with its point of view. The management of the General Inspectorate for Immigration **informed** the People’s Advocate Institution that “the data for 2017 is as follows: 510 asylum seekers who received psychological counselling, 305 asylum seekers identified as vulnerable, 528 psychological counselling sessions performed, 5 psychological assessment reports drawn up for the lawyer - court”.

At the same time, the management of the General Inspectorate for Immigration **informed** that “the requested documents may be provided by the representatives of the ICAR Foundation, in compliance with the relevant legal provisions, respectively Decision no. 788 of July 14, 2005 on the approval of the Methodological guidelines for the enforcement of Law no. 213/2004 on the exercise of the office of freelance psychologist, the establishment, organization and operation of the College of Romanian Psychologist and Regulation (EU) no. 679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).”

● regarding the fulfilment of the attributions stipulated in the job description, **the People’s Advocate recommended** that the visited unit (*the Centre for*

accommodation of aliens in public custody of Arad) should perform the required actions to cover vacancies, especially the vacancy of agent in the secretariat department, so that the psychologist has the legal time needed to cover his/her work duties. The visited unit **answered** that a daily decision per centre was sent, based on which the psychologist officer does not perform secretarial duties; ● regarding the Register of psychological assistance, **the People's Advocate recommended** that the visited unit (*the Centre for accommodation of aliens in public custody of Arad*) should keep the Register of psychological assistance provided to aliens accommodated in the centre up to date. The visited unit **informed** that, since the psychologist officer no longer performed secretarial duties, he could keep the Register of psychological assistance provided to aliens accommodated in the centre up to date, which was done every day by the psychologist officer according to his activity report; ● regarding the beneficiaries' functional recovery, the People's Advocate **recommended** that the visited unit (*the Regional Centre for accommodation and procedures for asylum applicants of Galați*) should integrate persons with various functional deficiencies, especially children, in suitable therapy programmes, with a view to recovering and reinforcing their functional capacities, as well as to observe the national legislation on persons with disabilities. The visited unit **answered** that they had made contact with DGASPC Galati, which provided a Decision of the Committee for Child Protection of Galati, as well as the Certificate of disability and the Recovery plan for children with disabilities/individual protection plan; ● regarding the psychological assessment, the **People's Advocate recommended** that the visited unit (*the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu*) should perform emergency psychiatric and psychological assessment and provide psychological and psychiatric assistance to persons with symptoms of vulnerability pursuant to traumas undergone in their country of origin or in the countries they crossed. The visited unit **informed** that the psychological assessment and counselling of all asylum applicants, especially vulnerable persons, was covered by the ICAR psychologists who implement the grant project funded by FAMI "Accessible and adapted health services for Romanian asylum seekers". The psychiatric reassessments of persons who already have a

psychiatric diagnostic, the specialized assessment of persons with psychological or psychiatric symptoms are usually performed with emergency by accompanying the concerned person and taking him/her to the “Prof. Dr.AlexandruObregia” Clinical Psychiatry Hospital of Bucharest, for psychiatric assessment; release is only made after the symptoms decrease; • as for psychological assessment, **the People’s Advocate recommended** that the visited unit (*the Regional Centre for accommodation and procedures for asylum applicants of Bucharest*) should perform a psychological assessment on aliens who arrived to the centre in order to identify vulnerabilities, including torture and trauma, inhuman and degrading treatment suffered in countries of origin or during their refuge until arrival to Romania and the implementation of suitable plans of measures for their medical, psychiatric and psycho-therapeutic treatment. The visited unit **informed** that the psychological assessment and counselling of all asylum applicants who need such assistance, especially vulnerable persons, was covered by the psychologist of the centre, as well as ICAR psychologists who implement the grant project funded by FAMI “Accessible and adapted health services for Romanian asylum seekers”. As for psychiatric medical assistance, this is provided at the head office of the centre by the psychiatrist of ICAR in cooperation with the physician of the centre. In serious cases, both the medical staff of the centre and ICAR staff accompany asylum seekers for examinations in the “Prof. Dr.AlexandruObregia” Psychiatry Hospital; • regarding the supply of documents, **the People’s Advocate recommended** to observe the provisions of art. 4 and art. 298 par. (1) of Law no. 35/1997 on the organization and operation of the People’s Advocate institution, republished, as subsequently amended and supplemented, based on which the visited institutions have the obligation to provide the representatives of the visit team, according to the law, before, during or after the visit, any documents or information that they possess or could obtain, requested by them in order to fulfil their legal attributions. The visited unit **informed** that the staff of the sector was informed on the obligation to provide the representatives of the visit team with the documents requested by them with a view to fulfilling their work duties, according to the law; • regarding the migrants’ accommodation and integration, **the People’s Advocate recommended**

that the visited unit (*the Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare*) should ensure a sustained informative campaign performed by the staff of the centre and collaborators, on the benefits of psychological assistance services in the social and cultural accommodation and integration of migrants in general and those coming from the Middle East and Near East in particular. The institution **informed** that, at the level of the Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare, the ICAR Foundation undertook the project “Adapted and accessible health services for asylum seekers in Romania”, financed through FAMI. In its framework, asylum applicants receive medical and psychological assistance. Psychological services consist of:

The staff of IGI, ICAR and other NGOs interacting with asylum seekers, identifying vulnerable persons and referring them to ICAR specialists. Depending on the identified needs, an assistance plan is drawn up that may include individual psychological counselling, group counselling or psychotherapy. Individual psychological counselling only takes place between the psychologist/beneficiary and possibly a translator. Group counselling is performed by age categories (children and adults), using occupational therapy methods, brainstorming, art therapy, as well as photo education sessions (healthy lifestyle, children’s education, elements of interculturality, etc.).

Within the Centre, the integration officer and the staff of NGOs perform informative activities on the rights, obligations of asylum seekers and activities developed to their benefit on a permanent basis. Furthermore, informative materials are translated to the beneficiaries’ main languages, including both specific and general information on the contact details of the staff supplying such services.

► **the supply of social assistance:** • no social workers were employed in the Integration and Assistance Department; social assistance activities were covered by the reintegration officer, who used operational procedures for accommodation and supply of material aid in his specific activity without being involved in the assessment of the beneficiaries’ needs, in the determination of intervention plans and in the permanent monitoring of the beneficiaries’ status (*the Regional Centre for*

accommodation and procedures for asylum applicants of Giurgiu, the Regional Centre for accommodation and procedures for asylum applicants of Bucharest, the Regional Centre for accommodation and procedures for asylum applicants of Galati) **the People's Advocate recommended** that the management of the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu should take the required action to add at least a position of social worker to the organizational chart of the centre and ensure its coverage, mentioning that the exercise of some attributions of the social worker by reintegration officers could not replace the role of social workers. The People's Advocate **recommended** that the management of the Regional Centre for accommodation and procedures for asylum applicants of Bucharest should add a position of social worker in their job chart, in compliance with the legal provisions in the field of social assistance regarding the performance of social counselling and the elaboration of social assistance-specific documents, as well as the implementation and monitoring of the objectives set out in their content. **The People's Advocate recommended** that the management of General Inspectorate for Immigration should complete the position chart with a social worker position and to employ a social worker who would provide specialized services to the beneficiaries of the Regional Centre for accommodation and procedures for asylum applicants of Galati.

The management of I.G.I., as a central structure, drew up **an answer**, stipulating how this recommendation could be implemented in the visited centres: Art. 4 of Law no. 292/2011 stipulates that all Romanian citizens who are located on the Romanian territory, have their address or residence in Romania, citizens of European Union member states, of the European Economic Area and citizens of the Swiss Confederation, as well as aliens and stateless persons who have their address or residence in Romania are entitled to social assistance according to Romanian legislation, as well as regulations of the European Union and of the agreements and treaties Romania is a part of. The right to social assistance is granted upon request or *ex officio*, as the case may be, in compliance with legal provisions; the responsibility to provide this assistance belongs to the relevant institutions. Attributions related to social assistance regarding the integration of beneficiaries of a

form of protection are covered by the staff of the Assistance and Integration Department of the accommodation centre; complementary services on this line are provided by social workers within non-governmental AIDRom organizations, through the project “Assistance and services for Romanian asylum applicants” and OIM, through the project “INTERACT-Integrated services for migrants, social and multicultural dialogue”. It was mentioned that the recommendation would be considered and analysed in the following institutional reorganization; • the representatives of the centre did not assist vulnerable persons in their relation with the relevant authorities and institutions in order to provide the required assistance, and allowed non-governmental organizations to submit the required documents for obtaining social benefits (state allowance for children, non-reimbursable aid), as well as for registration as a job seeker. *(the Regional Centre for accommodation and procedures for asylum applicants of Bucharest).* **The People’s Advocate recommended** that the management of (the Regional Centre for accommodation and procedures for asylum applicants of Bucharest should ensure permanent access to social counselling activities, social and educational activities, cultural accommodation sessions, Romanian language courses. The primary responsible for these activities is the centre; non-governmental organizations cooperate to supplement the services provided by centres. The management of I.G.I. **answered** that, based on the provisions of Law no. 122/2016 on asylum in Romania, as subsequently amended and supplemented, and Government Ordinance no. 44/2004 on the social integration of aliens who have achieved international protection or a right to stay in Romania, as well as the citizens of European Union and European Economic Area member states, as subsequently amended and supplemented, I.G.I. provides specific assistance to asylum applicants and integration of beneficiaries of international protection. The answer to the recommendation also **stipulates** that, for a proper coordination of activities and for the management of all situations that may arise, I.G.I. organizes work meetings, on a regular basis or whenever needed, to check the fulfilment of indicators in the projects and to identify and solve all difficulties found in the assistance and integration of asylum applicants and of the

beneficiaries of a form of protection in Romania. Representatives of the UN High Commission for Refugees are also invited to attend these meetings.

► **social and educational activities and assistance to minors:** ● the centre had a playground in its yard, with slides, slings, tennis table and benches, but with a shabby appearance (*the Regional Centre for accommodation and procedures for asylum applicants of Timisoara*). **The People's Advocate recommended** to identify the financial resources for the refurbishment and upgrade of the playground for the children. The management of the Regional Centre for accommodation and procedures for asylum applicants of Timisoara answered that the playground was not managed by the Centre; this was arranged by the UN High Commission for Refugees, which also took care of maintaining it. In the following period, the management of the centre will contact the UN High Commission for Refugees, to present the situation and find valid solutions to upgrade and refurbish the children's playground. Cooperation with the Save the Children organization is also envisaged from this point of view;

● the centre did not have a properly arranged playground for children inside or in its yard (*the Centre for accommodation of aliens in public custody of Arad*). **The People's Advocate recommended** to properly arrange and equip a playground for children. The management of the centre answered that, regarding the proper arrangement of a playground for children, this was in progress with the support of the non-governmental organization Romanian National Council for Refugees Foundation (CNRR); the activity was planned on 02.04.2018 together with the coordinator of the project FAMI 17.04.02 and the CNRR representative in the centre;

● the assistance and care supplied to minors was faulty in the Centre for the accommodation of aliens in public custody of Otopeni, as the provisions of art. 23 on minors of Directive 2013/33/EU were infringed ("The best interests of the child shall be a primary consideration for Member States when implementing the provisions of this Directive that involve minors. Member States shall ensure a standard of living adequate for the minor's physical, mental, spiritual, moral and social development.") (the children had to stay in confined spaces at all times and could not go outside; they were only supervised and taken care of by their parents, without involving

specialized staff, an initiative to employ a teacher was never taken, children did not receive other food than adults). **The People's Advocate recommended** that the management of the *Centre for the accommodation of aliens in public custody of Otopeni* should provide suitable food to the children, according to their age and degree of development, as well as supply the children area with objects, specific toys and customized arrangements creating a welcoming and warm climate for the minors; the development of ludic, educational activities for the children, so that living in unknown places with their families would not result into a trauma. The management of I.G.I. **answered** that the guidelines in force were observed, i.e. the amount of calories to be supplied to an alien while accommodated in the centre. As for the equipment of the area for children with objects, specific toys and customized arrangements creating a welcoming and warm climate for the minors, the Centre for the accommodation of aliens in public custody of Otopeni held a space arranged according to the description, designed as a children's playground; • the centre had no sports materials and items to be provided to the beneficiaries. The room where entertainment and socialization activities took place (the club) was turned into an accommodation room, so that the centre did not have a suitable area for the performance of these activities at the moment of the visit. (*the Regional Centre for accommodation and procedures for asylum applicants of Galați*) **The People's Advocate recommended** to identify an area that could serve as a club and arrange it so as to meet the needs to perform joint activities, for the residents to be able to socialize and entertain themselves, as well as provide for sports activities by supplying sports materials and items to be provided to the beneficiaries. The management of the centre answered that the centre hosted a properly arranged club, whose destination had been changed temporarily on the date of the visit. The space was rearranged and provided for the use of the accommodated aliens, based on its initial destination. Furthermore, a range of sports items and installations were proposed to be discarded and would be replaced in the following period.

► **legal counselling and information:** • the centre did not provide an interpreter, the representatives of the centre or non-governmental organizations asked for the support of beneficiaries who knew an international language or

Romanian, the supply of information in a known language was not ensured (*the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu, the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu, the Centre for accommodation of aliens in public custody of Otopeni*). **The People's Advocate recommended** that the management of the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu should identify a solution to provide information to migrants in a language they know, that the management of the Regional Centre for accommodation and procedures for asylum applicants of Bucharest and the management of the Centre for accommodation of aliens in public custody of Otopeni should identify a solution to communicate with the persons in custody with a view to removing language barriers that might affect the exercise of some rights. The management of the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu **answered** that service agreements had been entered with interpreters ensuring communication with asylum seekers and the beneficiaries of a form of protection in a language they understand. The management of the Regional Centre for accommodation and procedures for asylum applicants of Bucharest **answered** that, within the project implemented by I.G.I. – “Interact - Integrated services for migrants, social and intercultural dialogue”, the Non-Governmental Organization AIDRom, partner of the International Organization for Migration (IOM) - as the beneficiary, employed an interpreter working at the head office of the Regional Centre for accommodation and procedures for asylum applicants of Bucharest and covering translation needs for both the staff of the centre and the staff of non-governmental organizations working in this location. Furthermore, in September 2017, within the same project, IOM employed an intercultural mediator/translator from among international protection beneficiaries accommodated in the centre, who was always present. The management of the Centre for accommodation of aliens in public custody of Otopeni **answered** that solutions are being sought, since authorized interpreters for some languages/dialects are not even available at the level of courts of law.

► **other issues:**

● based on its statute of organization and operation, the *Centre for accommodation of aliens in public custody of Arad* had a total of 62 positions, of which 15 were vacant. **The People's Advocate recommended** that the Centre for accommodation of aliens in public custody of Arad should perform the required actions to cover vacancies, especially the vacancy of agent in the secretariat department, so that the psychologist has the legal time needed to cover his/her work duties. The management of the Centre for accommodation of aliens in public custody of Arad **answered** that, regarding the occupation of vacant positions, especially the one of agent with the Secretarial Department, 10 vacancies were occupied by police officers from an external source and, starting January 2018, based on the Daily Decision at the level of the centre, the psychologist officer no longer performed secretarial activities; ● *the Centre for accommodation of aliens in public custody of Arad* had a single working telephone with a phone card that could be used by the persons in custody. **The People's Advocate recommended** that the Centre for accommodation of aliens in public custody of Arad should analyse the possibility to increase the number of fixed phones in the centre, considering the inflow of aliens. The management of the centre **answered** that another fixed line telephone was commissioned; two fixed phones were currently available and the tertiary credit awarding authority was requested to add two more subscriptions; the procedure was pending analysis; ● the centre did not have a supply of books or a library (*the Regional Centre for accommodation and procedures for asylum applicants of Galați*). **The People's Advocate recommended** that the management of the centre should supply books or publications in the languages spoken by the residents of the centre and/or international languages. The management of the centre answered that actions will be taken to request purchase funds, and associations/foundations will be identified to support them to this purpose.

► **assistance to minors**

● Pursuant to the visit undertaken in October 2017 at the *Regional Centre for accommodation and procedures for asylum applicants of Giurgiu*, aspects regarding

the assistance supplied to minors were also included in the visit report. Thus, of the 15 minors present in the centre on the date of the visit, some were accommodated for more than 6 months, and others were about to be sent to the countries where their families were residing. However, in this latter case, the procedure was extremely long; for instance, the visit team found that an unaccompanied minor had also been hosted in the centre at the previous visit, waiting for family reunification. Based on art. 6 par. (4) of Regulation (EU) No 604/2013 of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast), “the Member State where the unaccompanied minor lodged an application for international protection shall, as soon as possible, take appropriate action to identify the family members, siblings or relatives of the unaccompanied minor on the territory of Member States, whilst protecting the best interests of the child.”

At the same time, except for assisting the legal representative in the preliminary interview, the representatives of D.G.A.S.P.C. Giurgiu did not perform any other activities in the best interest of minors. However, based on the 1989 UN Convention on children’s rights and the Charter of Fundamental Rights of the European Union, the child’s best interests should be primary in the enforcement of this regulation by member states. In the assessment of the child’s best interest, member states should especially consider the minor’s social development and welfare, aspects related to his/her safety and security, the minor’s opinion in accordance with his/her age and maturity, including his/her history. Furthermore, specific procedure guarantees should be established for unaccompanied minors, considering their high vulnerability. The European Court of Justice - in case C648/11 (2012) on unaccompanied minors - decided that the minor’s interest is considered in the state where s/he is present. Furthermore, Law no. 272/2004 on the protection and promotion of children’s rights, republished, art. 3 d), stipulates as follows: children requesting or benefitting from a form of protection according to legal rules on the status of refugees in Romania benefit from the provisions of this law (as any Romanian child). Foreign children are entitled to protection and assistance in the full

achievement and exercise of their rights. Art. 37 of the same law stipulates that: “Children are entitled to be reared in conditions allowing for their physical, mental, spiritual, moral and social development. The absence of a play area, of an entertainment space, of the performance of supportive activities and psychological counselling infringes these rights.”

Considering the above mentioned provisions, the visit team found that the unaccompanied minors in the centre were not provided with special care. There was no difference between them and the other persons in the centre.

Based on art. 24 par. (3) of Law no. 35/1997 on the organization and operation of the People’s Advocate Institution, republished, **the People’s Advocate recommended** that the management should take the required legal action for: observing the rights of unaccompanied minors and supporting them to benefit from all rights that any child in Romania has, especially the right to education and health, the right to take part in cultural adaptation activities, the right to be informed and improvement of accommodation possibilities, according to their interests, with a balanced and healthy psycho-emotional environment in the centres belonging to D.G.A.S.P.C. Giurgiu. The management of the General Directorate for Social Assistance and Child Protection of Giurgiu did not answer the recommendation by the date of this report.

Legislative proposals:

- classifying asylum seekers in an insured category, so that they would benefit from the package of basic medical services.
- legislative change with a view to facilitating cooperation between centres for the accommodation of asylum applicants and general social assistance directorates regarding the takeover of unaccompanied minors and their admission to residential centres for children.
- identifying solutions for the cooperation of the representatives of non-governmental organizations performing activities in centres for asylum seekers, with the members of NPM visit teams.
- increasing the staff of the centres, both in some asylum centres and in public custody centres.

5. Preventive Detention and Arrest Centres

Preventive detention and arrest centres are organized and operate under the subordination of the Ministry of Internal Affairs, based on the provisions of art. 107 of Law no. 254/2013 on the execution of punishments and freedom-depriving measures decided by legal bodies during a criminal trial, as subsequently amended and supplemented, representing the specialized structure of the Romanian police that ensures the admission, registration, guard, supervision, escort, release and enforcement of the rights and freedoms of persons deprived from freedom in compliance with constitutional provisions, laws, orders and provisions of higher authorities, with the enforcement of the legal framework regarding the execution of punishment and freedom-depriving measures decided by legal bodies within the criminal trial.

The measure of preventive detention and arrest is enforced in preventive detention and arrest centres during criminal prosecution or within the preliminary chamber procedure, until the preliminary chamber judge checks the lawfulness and substance of preventive arrest based on the provisions of the Criminal Procedure Code. The sentenced persons can be kept in custody in centres on a temporary basis, only upon request of legal bodies.

In February 2018, Order no. 14/2018 was issued on the approval of the Rules on the organization and operation of preventive detention and arrest centres, as well as the required measures for their safety, based on which freedom-depriving preventive measures are executed so as to ensure respect for human dignity, prohibit torture, inhuman or degrading treatment or other ill-treatment, as well as prohibit discrimination in compliance with the provisions of the Criminal Code, the Criminal Procedure Code, Law no. 254/2013, Law no. 254/2013, the Rules for the enforcement of .

Based on the Guidelines of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), three rights of persons detained by the police are considered by CPT as having a special

importance: the right of the concerned person to notifying detention to a third party chosen by it (a family member, a friend, the consultant), the right of having access to a lawyer and the right to request medical examination by a physician chosen by him/her (additionally to any medical examination performed by a physician called by police authorities). *In the CPT's opinion, these rights are three fundamental guarantees against ill treatment against prisoners, which should be applied from the beginning of deprivation from freedom, irrespective of how it is described in the concerned legal system (arrest, etc.).*

The access to a lawyer for persons in police custody must include both the right to contact and be visited by a lawyer (the confidentiality of discussions must be guaranteed in both cases) and, in principle, the right of the individual to having his/her lawyer present during the interrogation.

Pursuant to its experience, CPT would like to emphasize that the highest risk of intimidation and enforcement of ill physical treatment against prisoners is found in the period immediately following the deprivation from freedom. Therefore, the possibility for the persons in police custody to have access to a lawyer during this period is a fundamental guarantee against ill treatment.

Persons in police custody should enjoy the formally recognized right of access to a physician. In other words, a physician must always be called immediately if a person asks for a medical examination. All the medical examinations of persons in police custody must take place without being heard by members of forces of order, unless this is requested by the physician working a specific case and without the supervision of forces of order.

The rights of persons deprived from freedom have no value if they are not acknowledged by them. Hence, persons in police custody must be explicitly and promptly informed of their rights language that they understand.

On a legislative level, preventive detention and arrest centres are mainly governed by the following legal provisions:

- Law no. 254/2013 on the execution of punishments and freedom-depriving measures decided by judicial bodies within the criminal trial .
- Romanian

Government Decision no. 157/2016 on the approval of the Rules for the enforcement of Law no. 254/2013 on the execution of punishments and freedom-depriving measures decided by the legal bodies during the criminal trial. • Law no. 169 of 14.07.2017 on the amendment and supplementation of Law no. 254/2013 on the execution of punishments and freedom-depriving measures decided by judicial bodies during a criminal trial. • Order no. 14/2018 of the Ministry of Internal Affairs on the approval of the Regulation on the organization and operation of preventive detention and arrest centres, as well as the required measures for their safety. • Activity-specific procedures (Procedure on medical activities in preventive detention and arrest centres, Procedure on the psychological assistance of persons in the custody of the preventive detention and arrest bodies of the Romanian Police, Procedure on the integrated assistance of persons deprived from freedom who use drugs and are located in preventive detention and arrest centres, etc.). • The recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). • The internal rules drawn up by the management of each detention place, based on the executorial criminal law framework. • Internal decisions drawn up by the General Inspectorate of Romanian Police, regulating certain rights of persons deprived from freedom.

During 2018, the field regarding prevention of torture in detention places - the central and territorial structure, pursued the monitoring of detention conditions and treatment applied to persons in preventive detention and arrest centres and undertook **13 visits** to preventive detention and arrest centres (Romanian abbreviation: C.R.A.P.), i.e.: the Preventive Detention and Arrest Centre no. 5 of Bucharest (*a visit to check the implementation of the recommendations resulting from the 2016 visit*); the Preventive Detention and Arrest Centre of Teleorman (*a visit to check the implementation of the recommendations resulting from the 2017 visit*); the Preventive Detention and Arrest Centre no. 1 of Bucharest; the Preventive Detention and Arrest Centre of Olt; the Preventive Detention and Arrest Centre of Constanta; the Preventive Detention and Arrest Centre of Bacau; the Preventive Detention and Arrest Centre of Ialomita; the Preventive Detention and Arrest Centre of Covasna; the Preventive Detention and Arrest Centre of Calarasi; the Preventive Detention and

Arrest Centre of Bihor; Police Department no. 26 of Bucharest and the Preventive Detention and Arrest Centre of Giurgiu.

The purpose of the visits was to reinforce the protection of the persons in custody against torture and inhuman or degrading punishment and treatment, to check the observance of the rights of persons preventively detained and arrested (the right to legal assistance, the right to information, the right to medical assistance, treatment and care, etc.), as well as check other relevant issues for the activity of the National Mechanism for Prevention of Torture in detention places.

Aspects monitored within visits referred to: accommodation, hygiene and sanitation conditions, food, duration of the arrest, access to a lawyer and an interpreter, psychological assistance, medical assistance, treatment and care, how preventively detained persons are transferred, the right of a person deprived from freedom to have a third person informed on his/her arrest, the right to request medical examination by a chosen physician, the status of the incidents and complaints filed by the persons in custody, as well as how they were solved, checking the enforcement of isolation-based disciplinary sanctions.

Some of the performed visits also aimed at checking the enforcement of the recommendations provided by the representatives of the People's Advocate Institution in visits performed in previous years (*C.R.A.P. no. 5 Bucharest, C.R.A.P. Teleorman*).

8 visit reports were drawn up and recommendations were provided to the authorities pursuant to visits performed in 2018 (*C.R.A.P. no. 1 Bucharest, C.R.A.P. no. 5 Bucharest, C.R.A.P. Bacău, C.R.A.P. Constanța, C.R.A.P. Covasna, C.R.A.P. Ialomița, C.R.A.P. Olt and C.R.A.P. Teleorman*); *visit reports are pending elaboration for the other 5 preventive detention and arrest centres.*

We mention the main aspects notified within the monitoring activity undertaken in preventive detention and arrest centres, included in the visit reports

* The reports drawn up during 2018 pursuant to visits performed during 2017 at the following units were also considered: the Preventive Detention and Arrest Centre

no. 3 Bucharest, the Preventive Detention and Arrest Centre Vrancea and the Preventive Detention and Arrest Centre Cluj.

► *Positive aspects were found during the visits, such as;*

Regarding accommodation conditions:

- the refurbished rooms were clean, arranged as a bedroom, with beds with a storage drawer and new (“memory”) mattresses, on two levels, with simple furniture for serving meals (table and chairs), TV set, windows with termopane glass, air conditioning device, their own sanitary facility (with Turkish-style toilet), vandal-proof shower (single volume)) (*C.R.A.P. no. 1 Bucharest, C.R.A.P. no. 3 Bucharest*);
- three rooms were located on the ground floor to be used as: special room for refrigerators, where the persons in custody could store perishable food, room for the storage of personal items and library, where, besides books, one could find an informative folder with relevant laws (e.g. Law no. 254/2013 and the Rules for the enforcement of its provisions, excerpts of the Criminal Code and Criminal Procedure Code with provisions regarding the execution of freedom-depriving punishments, Law no. 544/2001 on free access to information of public interest, etc.). The informative folder was translated into several international languages (English, German, French, etc.) (*C.R.A.P. no. 1 Bucharest*);
- the activity programme was posted in each detention room and the rights, obligations and prohibitions of the persons in custody were available for reading in the club of the centre (in Romanian, French, English and German), including excerpts of the legislative acts in force with relevance for the field (*C.R.A.P. Ialomița*);
- hot water was provided on a permanent basis (*C.R.A.P. no. 1 Bucharest, C.R.A.P. Cluj*);
- rooms had good natural lighting, as they were located on the upper floors of the building, windows had termopane glass, were secured with bars and could be opened from the inside (*C.R.A.P. Bacău*);
- detention rooms had PVC windows with termopane glass and non-break-in foil, providing proper natural lighting. Artificial illumination was provided by an electrical illumination system equipped with variable potentiometer switches, which helped adjust light intensity from dim

light to optimal level (*C.R.A.P. Olt*); • walking yards were partially covered (*C.R.A.P. no. 1 Bucharest, C.R.A.P. Bacău, C.R.A.P. Constanța*), equipped with trellis for physical exercise, treadmill and medical bicycle (*C.R.A.P. no. 1 Bucharest*); • TV sets (*C.R.A.P. Constanța, C.R.A.P. Bacău, C.R.A.P. Vrancea*) or LCD TV sets were installed in all accommodation rooms (*C.R.A.P. Olt*), connected to cable TV and operating according to the schedule set out in the Internal Rules of the centre (*C.R.A.P. Constanța, C.R.A.P. Bacău, C.R.A.P. Olt*); • the centre was not overcrowded (*C.R.A.P. no. 5 Bucharest, C.R.A.P. Constanța, C.R.A.P. Bacău, C.R.A.P. Covasna, C.R.A.P. Olt, C.R.A.P. Teleorman*); • inside equipment, furniture, beds, mattresses were improved through new purchases in 2017 pursuant to a programme with Norwegian funds (*C.R.A.P. nr. 5 București*); • each detention room had two beds secured to the floor, with clean new mattresses, air conditioning devices, holder for items (*C.R.A.P. Covasna*); • all detention rooms had their own sanitary facilities properly equipped and clean, the pavement and walls with non-slid sandstone, easy to sanitize (*C.R.A.P. Olt*); • each room had bunk beds with mattresses of wear and fire-resistant materials, table and chairs, shelves for the luggage, TV set, air conditioning device, speaker with potentiometer for the radio broadcast system, illumination system and dim lighting (*C.R.A.P. Cluj*); • the accommodation of prisoners was differentiated by gender and age groups, women were accommodated separately from men, with access to separate toilets and minors were also accommodated separately from adults (*C.R.A.P. Vrancea*); • persons deprived from freedom could have access to showers whenever they needed, in any day of the week, depending on their daily activity schedule (*C.R.A.P. Vrancea*); • food was transported with the van of the centre, which had sanitary-veterinary license, in special stainless steel containers, in a very good hygiene state, with a tightening system, ensuring the maintenance of suitable temperature for serving (*C.R.A.P. Vrancea*);

Regarding legal assistance:

- the meetings with lawyers, elected or assigned *ex officio*, observed the confidentiality of the visit (which was undertaken under visual supervision) (*C.R.A.P. Ialomița, C.R.A.P. Olt*);
- the room for visiting rights, presents from home and discussions with the defence and the interpreter was properly equipped (a separating device including a PVC separating wall with a transfer drawer with indirect takeover and a blocking system that allowed the transmission of documents, secured door and window, interphone communication system, etc.) (*C.R.A.P. Olt*);

Other issues:

- protocols were drawn up regarding the notices provided by the management of the centre to the family, indicating the name and status, phone number, date and whether other special needs were registered or not (*C.R.A.P. Constanța*);
- for the arrest of a Hungarian-speaking person who did not speak Romanian, an authorized interpreter of Hungarian language was used, which was shown in the protocol for informing the suspect on his rights and obligations, as signed by the detained person and by the interpreter (*C.R.A.P. Covasna*);
- during 2018, persons of foreign nationality were in custody at the centre who, based on the provided documents, did not request support or consulate assistance; the management of the centre informed the General Inspectorate for Immigration on the status of these persons (*C.R.A.P. Covasna*);
- the centre supplied materials for correspondence (paper, envelopes, seals) and the right to correspondence, phone calls, gifts from home, visits or shopping was not infringed (*C.R.A.P. Ialomița*);
- transfer from the centre to various places (penitentiary-hospital, judge's office, prosecutor's office) was made with the mini-van of the centre, which was clean and provided normal conditions of transportation (*C.R.A.P. Olt*);
- when more time was needed for the transfer of persons deprived from freedom from the centre to the penitentiary, to penitentiaries-hospitals or other institution (more than 3-4 hours), they received a meal and water with the nutritional value equal to the sum of the calories of the lunch and dinner of that day (*C.R.A.P. Olt*);
- the centre had a visit room with a separator and another room for visits, with no separating device (*C.R.A.P. Vrancea*);

Regarding healthcare, positive aspects were found during visits performed in 2018, such as:

- medical practices were equipped and arranged according to Order no. 14/2018 issued by the Ministry of Internal Affairs on the approval of the Rules for the organization and operation of preventive detention and arrest centres (*C.R.A.P. Bacău, C.R.A.P. Constanța, C.R.A.P. no. 1 Bucharest*);
- the medical practice was equipped with devices and furniture (*C.R.A.P. Bacău, C.R.A.P. no. 1 Bucharest*);
- an area was arranged so that the medical visit could be performed when the persons were introduced to the centre and for covering medical examinations for the arrested persons (*C.R.A.P. Olt*);
- medical reports were drawn up for all persons deprived from freedom, and medical examinations were reported in sheets and in the examinations register. The treatments for persons deprived from freedom were properly recorded in the treatment register (*C.R.A.P. Olt, C.R.A.P. Teleorman, C.R.A.P. Constanța, C.R.A.P. Covasna, C.R.A.P. Ialomița, C.R.A.P. Bacău, C.R.A.P. no. 1 Bucharest*);
- specialized medical examinations, medical analyses and the recommended investigations were ensured through the referral of persons deprived from freedom to medical units nearby (*C.R.A.P. Olt, C.R.A.P. Teleorman, C.R.A.P. Constanța, C.R.A.P. Covasna, C.R.A.P. Ialomița, C.R.A.P. Bacău*);
- standard sheets were provided for the establishment and registration of traumatic marks, enclosed to the medical report of the person deprived from freedom (*C.R.A.P. Olt, C.R.A.P. Teleorman, C.R.A.P. no. 5 Bucharest, C.R.A.P. no. 1 Bucharest, C.R.A.P. Bacău, C.R.A.P. Constanța, C.R.A.P. Ialomița, C.R.A.P. Covasna*);
- the medicines recommended by the specialist physician were distributed to persons deprived from freedom only the medical staff, according to the provisions of the System Procedure PS-01-DM no. 4117408/14.01.2015 drawn up by the Medical Department of the Ministry of Internal Affairs (*C.R.A.P. Teleorman, C.R.A.P. no. 1 Bucharest*);
- the supply of a van for the transportation of persons deprived from freedom to medical units nearby (*C.R.A.P. Teleorman*);
- the medical practice had a valid Sanitary Operating License, so as to provide general medical assistance (*C.R.A.P. Teleorman, C.R.A.P. Bacău*);
- the centre had a room equipped with medical bicycle and trellis, where persons deprived from freedom could perform physical exercise (*C.R.A.P. no.*

5 Bucharest). Based on the answer received from the Prosecutor's Office attached to the Court of Bucharest, its records included no causes corresponding to the submitted data. Measures will be taken in order to identify the submission of notes finding traumatic marks by the preventive detention and arrest centre, as well as the solution decided on this by criminal prosecution bodies.

Positive aspects were found during the 2017 visits where the answer from the visited institutions was received in 2018, such as:

- the supply of a first aid kit and the training of the staff employed for the enforcement of manoeuvres to provide vital support in case of emergency (C.R.A.P. no. 3 Bucharest);
- the medical reports of persons deprived from freedom were kept in sealed envelopes, according to the legislation in force on medical secrecy and the confidentiality of personal medical data (C.R.A.P. no. 3 Bucharest);
- a room was set up for the medical practice, where the medical examination of the persons brought to the centre was performed (C.R.A.P. Cluj);
- the medical practice had a Sanitary Operating License issued by the Medical Department of the Ministry of Administration and Internal Affairs and was equipped with medical devices and furniture (sofa for examinations, desk for the physician, chairs, a cabinet with lock to keep medical documents, a cabinet for keeping documents, portable electrocardiograph, blood pressure meter, stethoscope) (C.R.A.P. Vrancea);
- the Register of examinations, Register of treatments and medical reports were drawn up for all the persons deprived from freedom under custody at the centre. The medical examinations were recorded both in these reports and in the Register of consultations (C.R.A.P. Vrancea);
- the informed consent form was duly filled in, enclosed to the medical report of the person deprived from freedom and signed by him/her (C.R.A.P. Vrancea);
- the medicines recommended by physicians to persons deprived from freedom were purchased from a pharmacy that had a serves agreement with the Vrancea County Police Inspectorate (C.R.A.P. Vrancea).

Regarding psychological assistance, positive aspects were found during visits performed in 2018, such as:

- psychological assistance for the persons under custody was provided by psychologists members of the College of Romanian Psychologists, with right of free practice, who took part in continuous professional

training courses (*C.R.A.P. Olt, C.R.A.P. Ialomița*); • from a methodological point of view, specialized activities took place according to the Procedure on the psychological assistance of persons in the custody of preventive detention and arrest structures of the Romanian Police (PRO-PS-04-IGPR/BPS) and its appendixes, thus meeting the minimum requirements for the supply of a suitable professional act (*C.R.A.P. Olt*); • the psychological assistance services provided to persons who explicitly requested them were provided after a consent declaration was signed, according to the Procedure on the psychological assistance to persons in the custody of preventive detention and arrest structures of the Romanian Police (PRO-PS-04-IGPR/BPS), in force as of January 30, 2012 (*C.R.A.P. Olt*).

Positive aspects were found during the 2017 visits where the answer from the visited institutions was received in 2018 as:

- psychological assistance for the persons under custody was provided by psychologists members of the College of Romanian Psychologists, with right of free practice (*C.R.A.P. Cluj, C.R.A.P. Vrancea*);
- psychologists took part in continuous professional training courses on a regular basis (*C.R.A.P. Vrancea*);
- psychological activities were mentioned in the Register of professional acts (*C.R.A.P. Vrancea*).

► The deficiencies found within the monitoring activity undertaken in preventive detention and arrest included in the visit reports are presented in the following.

* The reports drawn up during 2018 pursuant to visits performed during 2017 at the following units were also considered: the Preventive Detention and Arrest Centre no. 3 Bucharest, the Preventive Detention and Arrest Centre Vrancea and the Preventive Detention and Arrest Centre Cluj.

Regarding accommodation conditions:

- with all the improvements/refurbishments made by the management of *C.R.A.P. nr. 1 Bucharest*, some prisoners were kept in degrading conditions in five non-refurbished rooms (insufficient natural lighting, insufficient air and, hence, improperly ventilated rooms due to small windows, improper artificial lighting with bulbs with filament or neon tubes with a low diffuse light, which is why current daily

activities (writing, reading) could not be extended by the end of the day; damaged, dirty walls with traces of mould; old, worn and faulty sanitary facilities; improper cleanliness and hygiene of the rooms). *The People's Advocate recommended* that C.R.A.P. no. 1 Bucharest should perform the actions required to complete the refurbishment and upgrade of all spaces of the centre, especially in the detention sector for the accommodation of male persons deprived from freedom, since this was not fully upgraded and refurbished on the date of the visit; • most persons in custody declared to the visit team that they had not received hygiene and sanitary products from the management of the centre, neither upon imprisonment, as consumable items, nor on a monthly or regular basis, which was also found by the members of the visit team during the visit; the management of the centres informed that special funds had not been allocated in 2018. (C.R.A.P. no. 1 Bucharest, C.R.A.P. no. 5 Bucharest) *The People's Advocate recommended* that C.R.A.P. no. 1 Bucharest should take actions with the relevant hierarchical authority, with a view to allocating the required funding for the supply of hygiene and sanitary products for the personal and collective hygiene of the persons in custody, based on legal provisions – art. 169 par. (1) of the Regulation approved by OMAI no. 14/2018. *The People's Advocate recommended* that the General Police Directorate of Bucharest should supply hygiene and sanitary products upon imprisonment and on a regular basis for persons deprived from freedom. The management of the General Police Directorate of Bucharest *informed* that personal hygiene products, as well as cleaning items were provided to persons deprived from freedom in all preventive detention and arrest centres. Regarding the same issue, based on the provisions of art. 101 par. (2) and art. 245 par. (4) of the Rules for the enforcement of Law no. 254/2013 on the execution of punishments and freedom-depriving measures decided within the criminal trial, by decision of the General Inspector of Romanian Police, the content of the set of hygiene and sanitary products provided to persons deprived from freedom was regulated, as they were admitted to the preventive detention and arrest centres subordinated to the General Inspectorate of Romanian Police; • one of the detention rooms was in an improper state of cleanliness and hygiene, with dirty walls, improper natural light as the centre was located at the basement, the sanitary facility was not

isolated from the room and ventilation was not ensured. (C.R.A.P. no. 5 Bucharest). **The People's Advocate recommended** that the General Police Directorate of Bucharest should allocate the required funding for the performance of repair, painting and sanitization works in detention rooms where needed, the modification of the sanitary facilities of rooms in order to isolate them from the rest of the room, observe hygiene and sanitary rules and ensure the privacy of persons deprived from freedom, improve ventilation. The management of the General Police Directorate of Bucharest **informed** that upgrade/refurbishment works for the accommodation areas of persons deprived from freedom were performed during 2018 at the level of the preventive detention and arrest centres subordinated to the Capital Police; works on the basement of C.R.A.P. no. 1 (18 accommodation rooms) have been completed so far. Works for the refurbishment of accommodation areas in C.R.A.P. no. 2 (the centre where minor male persons are under custody), no. 8 (of Police Department 13) and no. 9 (of Police Department 15). Depending on budget allocations, works will be pursued in the other preventive detention and arrest centres, and the improvement of the conditions for the custody of persons deprived from freedom is a priority. At the same time, several buildings where police departments operate (including C.R.A.P. no. 5 of Police Department 6) were included in a refurbishment programme, through funding from the International Bank for Reconstruction and Development (IBRD); to this purpose, the General Inspectorate of Romanian Police will start the required procedures for the performance of the investment; • the absence of proper conditions to ensure the rights of persons deprived from freedom (access to the toilet, the impossibility to provide natural lighting, improper conditions for accommodation and serving meals, etc.), which implied a quicker relocation of arrest to another building (C.R.A.P. Vrancea). **The People's Advocate recommended** that the management of C.R.A.P. Vrancea should take the required legal actions with the relevant hierarchical authorities in order to complete the purchase of a new building ensuring the proper conditions for the observance of the rights of arrested persons and employed staff. The management of CRAP Vrancea stipulated in its answer that, since the beginning of 2017, actions were taken for relocation, since the current head office cannot provide proper accommodation conditions for the persons deprived from freedom.

●detention rooms were not properly ventilated and provided with natural light; the dim light was strong and was always on, some of the persons in custody had covered the bulbs with paper, towels or pullover so that it should not bother them, the areas were not properly sanitized, some rooms were dirty and non-sanitized, the prisoners stored the items and the food on the pavement, and the rooms were not orderly (*C.R.A.P. Constanța county*). ***The People’s Advocate recommended***that the management of C.R.A.P. Constanta should improve accommodation conditions by providing proper lighting in detention rooms both during daytime and night time; to continue painting and sanitization works for detention rooms; to examine the opportunity of relocating persons deprived from freedom until the completion of repair works in the room. The visited unit **answered** that proper lighting was ensured in detention rooms. Painting and sanitization works for detention rooms were completed, including for sanitary facilities.● the sanitary facilities were in an improper state (Turkish-style toilets, old and damaged technical and sanitary facilities, unpleasant smell, precarious hygiene) (*C.R.A.P. Covasna and C.R.A.P. Constanța*), did not ensure privacy in the showers, the bathrooms were not adapted for use by persons with locomotor disabilities (*C.R.A.P. Covasna*). Even though they were properly equipped, the hygiene of certain sanitary facilities was faulty, toilets were dirty, and the smell was unpleasant (*C.R.A.P. Bacău*). Cleanliness in rooms was provided by persons deprived from freedom. The centre did not have a washing machine and space for drying clothes; it was found during the visit that the persons in custody washed their clothes manually and dried them on the stoves of rooms and common areas. The visit team found that chairs were not available in the rooms (*C.R.A.P. Covasna*). ***The People’s Advocate recommended***that the management of C.R.A.P. Covasna should equip rooms with chairs, purchase a washing machine and a hanger to dry clothes, so as to observe the provisions of the regulation, which stipulate that the management of the centre provides facilities to wash, dry, as the case may be, iron and distribute clothes and items, in compliance with the relevant guidelines, or to contract this type of services by means of specialized economic operators, as well as sanitize toilets and observe privacy in the showers, that the ***management of C.R.A.P. Bacău*** should improve accommodation conditions by

sanitizing sanitary facilities, and that the *management of C.R.A.P. Constanța* should sanitize and arrange the sanitary facilities where non-compliances were found. *The management of C.R.A.P. Covasna informed* that actions were taken with the Logistics Service, so as to immediately take actions to equip the rooms with means to rest, i.e. 22 secured chairs, based on the report approved by the management of the inspectorate. The centre was equipped with a washing machine and two hangers to dry clothes, for the persons deprived from freedom. Actions were taken with the Logistics Service, so as to immediately take action to refurbish sanitary facilities and ensure privacy. *The management of the Bacau County Police Inspectorate informed* that actions will be taken to monitor the sanitization thereof by the persons deprived from freedom and to provide sanitization materials and products on a regular basis. *The management of C.R.A.P. Constanța informed* that the works for the painting and sanitization of sanitary facilities were completed; • in discussions of the visit team members with the persons in custody, they mentioned that food had an improper quality, and, during the performance of the visit, it was found that the food provided from the Bucharest Rahova Penitentiary was very **late (15.00 hours)** and the management of the centre had not received the weekly menu (*C.R.A.P. nr. 5 București*). On the day of the visit to C.R.A.P. Bacau, the daily meal serving hours (13.00-14.00 hours) were not observed, and the interviews with the persons under custody at the centre showed that the hour for serving the meal was exceeded on other days as well. Based on art. 167 par. (3) of the Order of the Minister of Internal Affairs no. 14/2018 on the organization and operation of preventive detention and arrest centres, as well as the required measures for their safety, “*meal serving hours, the method and place to serve them are established in the daily programme, approved through the Internal Rules*” (*C.R.A.P. Bacău*). *The People’s Advocate recommended* that the management of C.R.A.P. no. 5 Bucharest should take the required actions to improve the food distributed to the persons in custody, since this aspect was notified by most persons deprived from freedom, and to receive the weekly menu in due time, to change the method to provide food, so as to avoid delays in the distribution of food, and that the management of C.R.A.P. Bacau should observe the meal serving hours. The management of the General Police Directorate

of Bucharest *informed* that the directorate did not have a food preparing facility for the persons subject to preventive detention/arrest in their subordinated centres; this was provided by the Rahova Penitentiary, based on the convention entered with the Police of the Capital; the quantity and quality of food were exclusively attributable to the provider. Based on the provisions of the Master Convention on feeding persons deprived from freedom located in preventive detention and arrest centres subordinated to the Ministry of Internal Affairs through units in the system of prison administration, signed by the Ministry of Justice and the Ministry of Internal Affairs, entered in 2018 between the Bucharest Rahova Penitentiary and the General Police Directorate of Bucharest, the food is taken from the penitentiary once a day, at 11.30 hours. In order to transport and distribute food in preventive detention and arrest centres subordinated to D.G.P.M.B., the Independent Preventive Detention and Arrest Service has mini-vans authorized from a sanitary-veterinary point of view. In order to implement the recommendation regarding the quality and method of distribution of food, a meeting with the provider's representatives was organized on 05.09.2018, when a range of measures designed to improve activity from this point of view was established, such as: the Rahova Penitentiary had to send the menu on a 10-day basis, so that it would be notified to preventive detention and arrest centres in due time; to reduce the waiting time when taking the food from the Rahova Penitentiary; to distribute food at least 45 minutes earlier from the Rahova Penitentiary, so that the food can be checked and transported in due time, in proper conditions, from a qualitative and organoleptic point of view. The management of the Bacau County Police Inspectorate *informed* that the fault found by the visit team regarding the failure to observe the hours to serve lunch on 29.06.2018 was due to an unpredicted situation, since a person deprived from freedom had to be escorted to the Bacau County Hospital, which is why human and material resources were redirected to fulfil this activity. The management of the inspectorate informed that the deficiency was an isolated case and will be solved by better organizing the activity of the centre; •rooms could not be ventilated from within, as termopane windows could only be opened by external supervisors, upon request of the prisoners (*C.R.A.P. Olt*). *The People's Advocate recommended* that C.R.A.P. Olt should provide the

possibility to ventilate detention areas by opening windows from the inside, providing the persons in custody with the possibility to ventilate whenever needed. The management of C.R.A.P. Olt informed that on 16.01.2018 the Romanian Government approved, by Memorandum no. 2331, the re-update of the “Calendar of measures 2018-2024 on solving the overcrowding of prisons and detention conditions, in the execution of the pilot decision Rezmives and others against Romania”, and the detailed Investment Plan, the Human Resources Plan of M.A.I. and their financial impact helped set the measure “to build new overground arrest” with an updated value of the objective “2,000,000 RON” and a completion deadline for “2023”, so this recommendation will be implemented by building this new objective;

- a person with a serious degree of disability, with a locomotor disability, was under custody in the centre on the date of the visit. The discussions with this person deprived from freedom showed that he had many difficulties in using the sanitary facility, as the centre had no rooms with sanitary facilities arranged for persons with disabilities (supporting rods, adapted toilet seat, non-slid mats, etc.)(C.R.A.P. Teleorman). ***The People’s Advocate recommended*** that C.R.A.P. Teleorman should equip the existing sanitary facilities with special devices for persons deprived from freedom who have disabilities. The management of C.R.A.P. Teleorman informed that the procedure to purchase a toilet seat for persons with disabilities was initiated; the seat had the following characteristics: resistant aluminium frame, easy to carry, equipped with toilet container and padded cover, with non-slid cups;
- the yard within the visited unit was very small, segmented by metal bars, which made it seem like a cage, it had no cover providing protection for unfavourable weather conditions (C.R.A.P. nr. 3 Bucharest). ***The People’s Advocate recommended*** that C.R.A.P. no. 3 Bucharest should take action to ensure a more generous space for the walking and physical exercise yard, as well as properly equip it for physical exercise, rest (benches) and covered areas against bad weather. Since ***the management of C.R.A.P. no. 3 Bucharest did not provide an answer to the recommendation, the relevant hierarchical authority (the Ministry of Internal Affairs) was notified. The management of the General Inspectorate of Romanian Police (I.G.P.R.) informed*** that the Norwegian mechanism helped distribute a

foldable medical bicycle in 2017, as well as a gymnastics trellis, which are still stored in the sports room of Police Department 4, as a technical solution to assemble it has not been identified yet, due to the insufficient height of the walking yard, but also to the impossibility of intervention on the device due to how it was obtained.

As for healthcare in the preventive detention and arrest centres visited in 2018, the following deficiencies were found:

- the Sanitary Operating License of the Preventive Detention and Arrest Centre had not been renewed on the date of the visit, and the unit took actions with the Medical Department of the Ministry of Internal Affairs to this purpose (*C.R.A.P. Olt*). ***The People's Advocate recommended*** to accelerate actions with a view to renewing the Sanitary Operating License. The visited institution answered that the required documentation was completed with a view to renewing the Sanitary Operating License of the Preventive Detention and Arrest Centre, and the supporting technical memorandum, together with the annexes provided by the law, were submitted to the Olt County Medical Centre, with a view to checking and requesting the issue of the Sanitary Operating License;
- the medicines recommended by the specialist physician were distributed to persons deprived from freedom both by the medical staff and the operative staff (agents), so that the provisions of the system procedure PS-01-DM no. 4117408/14.01.2015, drawn up by the Medical Department of the Minister of Internal Affairs were not observed (*C.R.A.P. Olt, C.R.A.P. Constanța, C.R.A.P. Covasna*). ***The People's Advocate recommended*** that the treatment of persons deprived from freedom should only be issued by the medical staff, according to the provisions of Procedure System PS-01-DM no. 4117408/14.01.2015. The visited institutions ***answered*** that, pursuant to the recommendation of the People's Advocate and based on O.M.A.I. no. 14/08.03.2018 on the approval of the Regulation on the organization and operation of preventive detention and arrest centres, as well as the required measures for their safety, the therapy of persons deprived from freedom is exclusively distributed by medical staff, according to the provisions of the system procedure PS-01-DM no. 4117408/14.01.2015 (*C.R.A.P. Olt, C.R.A.P. Constanța*) or that attempts were made

to identify solutions to publish and recruit staff for medical positions dedicated to the Preventive Detention and Arrest Centre or to enter service agreements with freelance medical staff to cover services outside working hours and holidays, so as to observe the provisions of art. 158 par. (4) of O.M.A.I. no. 14/2018 (*C.R.A.P. Covasna*); • the centre did not have a proper area to provide medical examinations (*C.R.A.P. Teleorman*). **The People's Advocate recommended** to arrange an area and properly equip it for the performance of medical examinations to persons deprived from freedom. The visited unit **answered** that an area was arranged and equipped as a medical practice inside the centre, so that medical examinations could be provided to persons deprived from freedom; • the medical assistance of persons in custody at this centre could be provided by the medical staff of C.R.A.P. no. 1 Bucharest, upon request. Based on the showed documents, the last visit of a medical professional to this centre was recorded in 2010; the reason of the management was the absence of requests (*C.R.A.P. no. 5 Bucharest*). **The People's Advocate recommended** that the management of the General Police Directorate of Bucharest should take the required legal actions to examine the possibility that a medical professional went to the centre on a regular basis, with a view to checking the health of the persons in custody, since the last attendance of a medical professional was recorded in 2010. The visited unit **answered** that, regarding the findings and recommendations provided in terms of healthcare, according to the provisions of art. 136 par. (4) of the Rules on the organization and operation of preventive detention and arrest centres, as well as the required measures for their safety, the healthcare of persons deprived from freedom is ensured by medical and sanitary staff with relevant attributions within the medical unit of the Minister of Internal Affairs. In this context, a copy of the Report on the visit undertaken at the Preventive Detention and Arrest Centre no. 5 of Police Department 6 was sent to the “Dr. Nicolae Kretzulescu” Medical Centre for Diagnostic and Outpatient Therapy, a unit that would submit an answer according to the provisions of Law no. 35/1997; • the centre was not equipped with a first aid kit (*C.R.A.P. no. 5 Bucharest*). **The People's Advocate recommended** that the management of the General Police Directorate of Bucharest should take the required legal actions in order to purchase a first aid kit. The visited institution **answered** that,

after the visit of the representatives of the People's Advocate Institution, the Preventive Detention and Arrest Centre no. 5 was equipped with two first aid emergency kits; • the physician position and a position of medical nurse included in the staff scheme for the supply of medical assistance to persons deprived from freedom in custody at the level of the centre were vacant (*C.R.A.P. Bacău*). ***The People's Advocate recommended*** to improve medical assistance to arrested persons by employing medical staff (physician, medical nurses) for the vacancies. The visited institution ***answered*** that the aspects regarding the improvement of medical assistance to persons deprived from freedom by employing medical staff falls within the competence of the Bacau County Medical Centre, and the centre submitted a copy of the visit report to this body, so that it may become aware of the comission's findings and recommendations, as well as decide measures; • the existence of vacant positions of physicians, the absence of containers for the collection of cutting-pricking waste, the identification of expired medicines, the improper filling in of medical reports and informed consent forms of persons deprived from freedom, the failure to post the physician's examination schedule, the distribution of medicines to persons deprived from freedom by medium-level sanitary staff with no recommendation from the physician in the medical report (*C.R.A.P. Ialomița*). ***The People's Advocate recommended*** that the required actions should be taken to occupy the vacant positions of physician existing at the level of the Ialomita County Police Inspectorate, to publish the physician's examination programme and inform the persons in custody to this purpose, to purchase containers for the collection of cutting-pricking waste, to check the expiry term of medicines and sanitary materials in the medical practice on a regular basis and properly discard the expired ones, to properly fill in medical reports and informed consent reports of persons deprived from freedom, to ensure the distribution of medicines to persons deprived from freedom by medical staff, only upon the physician's recommendation. The visited institution ***answered*** that the Police Inspectorate of Ialomita - Preventive Detention and Arrest Centre acknowledges the recommendations in the Visit Report, based on the legal provisions in the Rules of organization and operation of preventive detention and arrest centres, as well as the required measures for their safety; • the

centre had a Sanitary Operating License, but this was not endorsed for the current year. Since the unit was undergoing remodelling, actions had been taken for the annual re-endorsement by the Medical Department of the Ministry of Internal Affairs (C.R.A.P. Constanța). **The People's Advocate recommended** to accelerate actions with a view to providing the annual endorsement of the Sanitary Operating License. The visited institution **answered** that the annual endorsement of the Sanitary Operating License of the centre will be obtained after the land registration of the police inspectorate is performed; • as of the date of the visit, works for the construction and arrangement of a therapy room were performed within the centre, with a view to extending the area dedicated to healthcare supply (C.R.A.P. Constanța). **The People's Advocate recommended** to complete construction works and arrange the treatment room so as to extend the area for healthcare supply. The visited institution **answered** that the arrangement of the therapy room had been completed; • supplying medical assistance in the centre only for requests of persons deprived from freedom (C.R.A.P. Constanța). **The People's Advocate recommended** to analyse the possibility to supply medical assistance within the Preventive Detention and Arrest Centre of Constanta, by delegating medical staff from the County Medical Centre. The visited institution **answered** that the possibility to supply medical assistance within the centre by increasing the number of positions of physician and medical nurse was analysed • the existence of certain difficulties in the supply of dental medicine services (lack of staff, insufficient means of transport, etc.) (C.R.A.P. Constanța). **The People's Advocate recommended** to identify solutions to properly supply dental medicine services. The visited institution **answered** that two dental medicine practices operate within the Constanta County Medical Centre, accessible to both MAI professionals in the responsibility area, and persons in the custody of C.R.A.P. Constanța; • the Register of persons refusing to eat and the Register of patients admitted in hospital units were not drawn up. Thus, aspects regarding the records of persons subject to preventive detention/arrest who refused to eat or were admitted in a hospital during 2017-2018 could not be checked (C.R.A.P. no. 1 Bucharest). **The People's Advocate recommended** to draw up the Register of persons refusing to eat and the Register of patients admitted to hospital units; • the existence

of difficulties regarding the admission to penitentiary hospitals of persons in custody diagnosed with psychological disorders. Thus, a person deprived from freedom was in custody at the centre who had been diagnosed with psychological disorders, with previous suicide attempts, where the physician of the centre had requested admission to a penitentiary hospital with a relevant department, but the approach was unsuccessful as of the date of the visit (*C.R.A.P. no. 1 Bucharest*). ***The People's Advocate recommended*** to establish cooperation protocols with penitentiary hospitals, so as to ensure optimal specialized therapy for persons deprived from freedom, especially those diagnosed with psychological disorders; •the failure to observe the legal provisions regarding the immediate submission of notes finding traumatic marks to the relevant prosecutors' offices was mentioned, as stipulated in art. 32 par. (2) of O.M.A.I. No. 14/2018 on the approval of the Rules of organization and operation of preventive detention and arrest centres, as well as the required measures for their safety; it was found that the submission time ranged from 5 hours to approx. 3 months. **The Prosecutor's Office attached to the Court of Bucharest was notified by NPM to this purpose.***The People's Advocate recommended* that C.R.A.P. no. 1 Bucharest should comply with the provisions of art. 32 par. (2) of O.M.A.I. no. 14/2018 on the approval of the Rules of organization and operation of preventive detention and arrest centres, as well as the required measures for their safety, i.e. to immediately submit the notes finding traumatic marks to the relevant prosecutor's office.

A range of deficiencies were found during the 2017 visits where the answer from the visited institutions was received in 2018: • no medical practice was available in the centre, and the establishment of a medical practice would be needed so that the persons held in custody at the centre could benefit from constant and specific medical assistance for the detention period; this solution had been proposed 2 years before, in 2015, through the Special Report of the People's Advocate institution (*C.R.A.P. no. 3 Bucharest*).***The People's Advocate recommended***that the management of the Ministry of Administration and Internal Affairs and the General Inspectorate of Romanian Police should take the required legal actions to set up their own medical practice. The answer provided by the General Inspectorate of Romanian

Police **mentioned** that, for the General Police Directorate of Bucharest, the Medical Practice for Arrests within CMDTA “Dr. Nicolae Kretzulescu” operated in a single location, i.e. at the head office of SIRAP (the Independent Preventive Detention and Arrest Centre), and all persons in custody at the level of the police unit are referred for medical examination upon admission, respectively for epidemiological triage, and are subsequently imprisoned in one of the centres. ● the position of physician provided in the staff chart for the supply of medical assistance to persons deprived from freedom under custody in the centre was vacant, and the medicines prescribed by the physician to persons deprived from freedom were distributed based on the physician’s recommendations, by the medical staff or the staff on duty (policemen), which infringed the provisions of Procedure PS-01-DM drawn up by the Medical Department of the Ministry of Internal Affairs (*C.R.A.P. Vrancea*). ***The People’s Advocate recommended*** to take the required actions to improve the medical assistance to arrested persons by employing medical staff (physician, medical nurses) for the vacancies, as well as by ensuring that treatment to persons deprived from freedom is only issued by the medical staff, according to the provisions of Procedure PS-01-DM drawn up by the Medical Department of the Ministry of Internal Affairs.

As for psychological assistance in the preventive detention and arrest centres visited in 2018, the following deficiencies were found: ● **regarding the supply of psychological assistance, the People’s Advocate recommended** that the management of the centre (C.R.A.P. no. 5 Bucharest) should inform on a regular basis and encourage persons deprived from freedom to request psychological assistance and counselling services during the custody, considering that some of these persons received counselling for a long period of time. The visited unit ***informed*** the People’s Advocate Institution that a folder was provided in each detention room, including all the required information for persons deprived from freedom, regarding their rights and obligations, including the contact details and attributions of the People’s Advocate institution, as well as data and information on the right to psychological and religious assistance. *The visit to check the enforcement of recommendations* in 2018 found that: the rooms of the centre had informative

folders on the regulation and rights of arrested persons. At the same time, the address of the People's Advocate Institution and the possibility to request psychological and religious counselling were posted inside the rooms and on the walls of the hallways of the centre, so the recommendation was implemented;● **regarding the absence of a counselling register, the People's Advocate recommended** that the management of the centre should draw up a counselling register, separated from the extraction register, mentioning psychological activities, the psychologist's presence in the centre (*C.R.A.P. no. 5 Bucharest*).The visited unit **informed** the People's Advocate Institution that, upon recommendation of the People's Advocate Institution, a special register was established in the centre, recording psychological counselling and religious counselling activities; the register includes headings regarding the type of activity (psychological or religious counselling), the date and hours of the activity, the name, surname and signature of the person deprived from freedom who benefitted from this right, as well as a heading including the name, surname and signature of the person performing the concerned activity; ● **regarding the employment of psychologists with competences in Clinical Psychology, the People's Advocate recommended** (*C.R.A.P. no. 5 Bucharest, C.R.A.P. no. 1 Bucharest, C.R.A.P. Constanța*)to follow procedures to employ or contract psychologists specialized in clinical psychology (or psychotherapy), depending on the number of requests and the needs of the preventive detention and arrest centre, supplying psychological counselling and psychotherapy to persons subject to preventive detention and arrest, since psychologist officers were certified as psychologists in the field of national security and safety as of the date of the visit and were not competent in providing psychological counselling to the prisoner, but only primary psychological assistance.The visited unit(*C.R.A.P. no. 5 Bucharest*) **informed** the People's Advocate Institution thatthe Psychology Office of the General Police Directorate of Bucharest developed its activities based on Law no. 213/2004 and the Order of the Ministry of Internal Affairs no. 23/2015. Psychological assistance to persons in the custody of preventive detention and arrest centres is performed based on Procedure PRO-PS-04 1.G.P.R/BPS, the Rules for the enforcement of Law no. 254/2013 on the execution of punishments and freedom-

depriving preventive measures decided within a criminal trial, as well as the Decision of the General Director of D.G.P.M.B. no. 863/20.09.2017. The activity implies providing primary psychological assistance to persons subject to preventive detention or arrest and supplying psychological support for adaptation to the arrest/detention environment, by identifying and improving dysfunctional states when noticed. The activity observes the legal guidelines stipulated by the College of Psychologists (the normative acts in force and the deontological code of the psychologist profession). An area exclusively dedicated to psychological assistance was arranged in the General Police Directorate of Bucharest, complying with the stipulated guidelines (an area of 10 sqm, armchairs for relaxation, sofa, a relaxing environment, etc.). The Psychology Office is endorsed as a working facility of the Psychosociology Centre of the Ministry of Internal Affairs in the specialisation of clinical psychology, but it does not have specialists to supply psychological counselling or psychotherapy to persons subject to preventive arrest; to this purpose, actions will be taken to increase the number of psychologist officers in the Psychology Office; to train psychologist officers in the field of counselling and/or psychotherapy in compliance with the guidelines of the College of Romanian Psychologists - Master's programmes/trainings accredited by the College of Romanian Psychologists; external recruitment of specialists already trained on counselling/psychotherapy; the management of DGPMB mentioned that they were involved in training a psychologist of the office in the field of clinical psychology, that he obtained the certificate of clinical psychologist, which is to be issued by the College of Romanian Psychologists (C.R.A.P. 1). C.R.A.P. Constanta ***informed*** that the possibility to establish positions of psychologist at the level of C.R.A.P. was analysed, with the employment of specialists with competences in the field of clinical psychology, such as the arrangement of a psychological practice at the level of C.R.A.P. that would provide both logistic support for the performance of this activity and safety elements for the psychologist; • **regarding the mental health of the persons in custody**(C.R.A.P. no. 5 Bucharest), ***the People's Advocate recommended*** that the management of the centre should monitor the state of mental health and the psycho-emotional status of persons under psychiatric treatment or with identified

psychological risks. The visited unit **informed** the People's Advocate institution that the report on the visit performed to the Preventive Detention and Arrest Centre no. 5 was notified to all policemen within Police Department 6 - C.R.A.P. no. 5, with a view to observing the recommendations; • **regarding the medical practice, the People's Advocate recommended** that the management of the centre should set up a special space for the performance of psychological assistance, based on the Procedure of psychological assistance to persons in the custody of preventive detention and arrest bodies of the Romanian Police (*C.R.A.P. no. 1 Bucharest, C.R.A.P. Olt, C.R.A.P. Bacău, C.R.A.P. Ialomița*). The visited unit **informed** (*C.R.A.P. Olt*) that, based on the Procedure of psychological assistance to persons in the custody of preventive detention and arrest bodies of the Romanian Police (PRO-PS-04-IGPR/BPS), **"The exercise of the psychological act is conditioned by the compliance with professional competence requirements, as well as space, technical and methodological equipment, based on the normative acts in force.** The same procedure also stipulates **"With a view to ensuring the proper development of psychological assistance, the organization of a psychological practice is compulsory in each arrest unit, so as to guarantee the applicants' access to this kind of service. The legal requirements on this matter refer to the observance of quality standards on furniture, protection against disturbing environmental factors, as well as ensuring proper hygiene and sanitation conditions"**. Based on the Order no. 14/2018 of the Ministry of Internal Affairs on the approval of the Regulation on the organization and operation of preventive detention and arrest centres, as well as the required measures for their safety. art. 87 par. (2) **"The psychological act is exercised in specially designed areas, by psychologists with a free practice right employed as specialists by the Ministry of Internal Affairs"**. The head of C.R.A.P. and the head of I.P.J. Olt previously informed the General Inspectorate of Romanian Police that "there is no specially designed area and no other area was identified for the performance of psychological assistance to persons deprived from freedom found in custody", also informing on the need to equip the medical practice with suitable furniture and accessories for the performance of the psychological act, information technology, surveillance cameras,

arrangement of the room, psychological tests and instruments, with a view to improving the existing material requirements. The visited unit(*C.R.A.P. Olt*)**informed** that on 16.01.2018 the Romanian Government approved, by Memorandum no. 2331, the re-update of the “Calendar of measures 2018-2024 on solving the overcrowding of prisons and detention conditions, in the execution of the pilot decision Rezmives and others against Romania”, and the detailed Investment Plan, the Human Resources Plan of M.A.I. and their financial impact helped set the measure “to build new overground arrest” with an updated value of the objective “2,000,000 RON” and a completion deadline for “2023”, so this recommendation will be solved by building this new objective. Until a new centre is built, psychological counselling in the Preventive Detention and Arrest Centre of Olt will take place in the area where the library and a phone line are operating. The records of activities and the relevant documents are drawn up by the psychologist officer in his/her office. The management of C.R.A.P. Bacău**informed** that, in order to arrange a psychological practice, an area must be identified within the centre whose destination can be changed and which is suitable for such an activity; the action will be implemented as soon as possible. The management of C.R.A.P. 1 will provide an answer to this recommendation; • **regarding the vulnerable persons in custody, the People’s Advocate recommended** that the management of the centre(*C.R.A.P. Constanța*)should provide psychological assistance to the persons in custody, especially to vulnerable persons, primarily minors, women, persons with disabilities, with psychological disorders, with a special social and family situation, drug users or aliens, through a constant and consistent activity of psychologist officers while in detention, as well as disseminate this psychological activity by posting information in the rooms and common areas. *The visited unitanswered* that the activity took place according to O.M.A.I. no. 23/2015 on psychology activities in M.A.I., as subsequently amended and supplemented, Procedure PRO-PS-04-IGPR/BPS on psychological assistance to persons in the custody of preventive detention and arrest bodies of the Romanian Police and the Rules of March 10, 2061 on the enforcement of Law no. 254/2013 on the execution of punishments and freedom-depriving measures. The activity implies providing primary psychological assistance to persons

subject to preventive detention or arrest and supplying psychological support for adaptation to the arrest/detention environment, by identifying and improving dysfunctional states when noticed. Regarding the existence of a delay between the moment when the person in custody submits the application and the psychological assistance session itself, they are based on the circuit of documents provided by the acts regulating the activity, on the one hand, i.e. the Centre draws up the notice for the submission of the assistance request, which is then taken over and registered by the Psychology Department and the activity is performed as soon as possible, in relation to the existing activities. In the case of under age persons, the legal guardian's consent is a compulsory requirement for the supply of medical assistance. In some cases, imprisoned minors are not visited by their parents for a long time, and cannot receive psychological support from their introduction to the Centre. This situation required legal regulations, i.e. waive the need to obtain the guardian's consent; possibly, the guardian will be informed on the psychological assistance provided to the minor, as the activity is in the child's best interest. Another issue that creates difficulties for this document path is due to the fact that the psychological practice is not actually located in the same building as the centre, as shown in the report, but in a head office of IPJ Constanta located more than 7 km away. The psychologist does not go to the head office of IPJ Constanta on a daily basis, both for temporal issues and due to the programme of activities or the involved logistics. Furthermore, the visited unit mentioned that the unit psychologist had limited competence in the activity undertaken in the detention centres, as shown by the certificate in applied psychology in national security; competences of clinical psychopathology psychology are needed, properly certified by the relevant bodies. The attributions in the job description of a unit psychologist do not focus exclusively on the persons in custody at the level of C.R.A.P., but, on the contrary, activities with a significant share and consuming a lot of time refer to the active staff of I.P.J. Constanta, SRPT Constanta, SPTM Constanta, BCOO Constanta and SCCOPM Constanta, as well as their families and the staff in reserve, by providing prophylactic primary psychological assistance, etc., which does not allow the constant, consistent and proactive presence of psychologist officers at the level of C.R.A.P., so that

activities are strictly performed upon written request of the detained person and/or the staff of the Centre, according to the procedures in force ; • **regarding counselling reports, the People's Advocate recommended** that the management of the centre (*C.R.A.P. Constanța*) should record in a single register the psychological counselling sessions provided to persons deprived from freedom, indicating their names, as well as draw up psychological counselling reports pursuant to each psychological counselling session including headings on the approached topics, the intervention methods and techniques, the findings, results, recommendations/conclusions of the psychologist. *The visited unit informed* that, at the level of IPJ Constanta, based on OMAI 23/2015, as subsequently amended and supplemented, there is a Register of Professional Acts, unique for every psychologist, individually mentioning all the activities undertaken by the concerned psychologist. Thus, this unique register includes all psychological acts performed and all beneficiaries of services: staff in employment, members of their families, staff in reserve, as well as staff in the custody of C.R.A.P., who benefitted from psychological assistance. The register found at the level of the Department may be consulted in reference to the previously mentioned legal basis; • **regarding the proper supply of psychological assistance, the People's Advocate recommended** that the management of the centre (*C.R.A.P. Bacău*) should improve the psychological assistance of arrested persons by filling in the staff scheme with a position of psychologist with competence in clinical psychology, covering the needs of the Preventive Detention and Arrest Centre. *The visited unit informed* that the addition to a psychologist position to the staff scheme was notified to the management of the inspectorate and will be decided based on an analysis to this purpose; • **regarding the management of aggressive behaviour in the centre, the People's Advocate recommended that the management of the centre (C.R.A.P. Bacău)** should enhance the supervision of the persons in custody at the centre, known for their aggressive behaviour, by increasing the number of activities by detention sections. The visited unit informed that, in order to prevent such aggressive events in the future, the workers of the centre were trained to responsibly perform the supervision of persons deprived from freedom, especially those with aggressive behaviour, and specific

activities will be developed depending on the specificities of each particular case; • **regarding minors, *the People's Advocate recommended that the management of the centre*(C.R.A.P. Ialomita)**should provide psychological assistance to all minors in custody at the centre, based on the provisions of art. 117 (2) of Law no. 254/2013 on the execution of punishments and freedom-depriving measures decided by judicial bodies during a criminal trial. The visited unit ***informed*** that the report on the visit to the Preventive Detention and Arrest Centre of Ialomita was disseminated to all the workers of this structure, when the relevant legislation was also reminded, with a focus on guidelines regarding the supply of psychological assistance to all minors in custody at the centre, so as to adapt to the conditions imposed by the freedom-depriving environment; • **regarding the incentives for the persons in custody to access psychological services**, with a view to preventing the appearance of disadaptive behaviour and facilitating adaptation to the prison environment, ***the People's Advocate recommended*** that the management of the centre(C.R.A.P. Ialomita, C.R.A.P. Covasna)should provide proper psychological support to improve dysfunctional states when they are shown and to solve the psychological issues of the persons in custody according to legal provisions, as well as encourage the persons in custody to request psychological assistance services for the imprisonment period. The visited unit ***informed*** that the report on the visit performed at the Preventive Detention and Arrest Centre of Ialomita was disseminated to all the workers of this structure, when the relevant legislation was also reminded; furthermore, the Plan of measures no. 43088/5.11.2018 was drawn up, in order to implement the recommendations of the People's Advocate Institution pursuant to the visit of 9 July 2018. In order to assist persons deprived from freedom who cannot speak Romanian, C.R.A.P. Covasnaproposes that psychological counselling should be provided by means of an authorized interpreter, as long as there is an informed consent of the person regarding the presence of such interpreter during the entire psychological counselling activity; C.R.A.P. Covasna informed that specific posters, designed at the level of the psychological department, were posted in visible places (rooms, documentary folder, hallway, visit room), with a view to encouraging persons deprived from freedom to request psychological assistance actions; • **regarding the**

refusal to eat, the Internal Rules (*C.R.A.P. Covasna*) do not stipulate the aspect regarding the notification to the psychologist of the unit. Thus, based on the Rules on the organization and operation of preventive detention and arrest centres, as well as the required measures for their safety, approved by Order of the Ministry of Internal Affairs no. 14 of February 9, 2018: *Art. 88 (4) The head of the centre informs the unit psychologist on the fact that the person deprived from freedom has started to refuse eating. The unit psychologist provides individual counselling for the entire period of the refusal to eat, informing the person deprived from freedom on the risks of continuing this form of protest. The People's Advocate recommended* that the management of the centre (*C.R.A.P. Covasna*) should fill in the section on the refusal to eat within the Internal Rules on notifying the unit psychologist and providing individual counselling for the entire period of the form of protest. The institution answered that the Internal Rules no. 78971 of 5.09.2018, chapter XVIII – Refusal to eat was supplemented with mentions regarding the notice to the unit psychologist and the supply of individual counselling for the entire duration of the form of protest;

● **regarding cooperation with CPECA**, *the People's Advocate recommended* that the management of the centre (*C.R.A.P. Covasna*) should accelerate cooperation with CPECA by contacting them by phone/in writing, so that the supply of assessment and counselling services to detained persons by specialists of CPECA Covasna is not delayed. The institution *informed* that cooperation with the Anti-drug Prevention, Assessment and Counselling Centre of Covasna will be accelerated, by contacting them by phone/in writing, so that no delays are experienced in the supply of assessment and counselling services, in order to prevent the creation of difficulties for the psycho-emotional balance of the person deprived from freedom who uses drugs.

A range of deficiencies regarding psychological assistance were found during the 2017 visits where the answer from the visited institutions was received in 2018, such as:

- **an area for the psychological practice was not arranged**, as provided by the Procedure on psychological assistance to persons in the custody of the preventive

detention and arrest structures of the Romanian Police (PRO-PS-04-IGPR/BPS), under art. IV, par. 4.1, letters a, b “For the proper performance of psychological activities, the arrangement of a psychological practice is compulsory in each arrest unit...” (C.R.A.P. Cluj, C.R.A.P. Vrancea). *The People’s Advocate recommended* that the management of the centres should provide a psychological practice, in compliance with the provisions of the Procedure on the psychological assistance of persons in the custody of preventive detention and arrest structures of the Romanian Police

.The visited unit answered that tasks had been established and the report was sent to the Psychology Department in order to solve the deficiencies (C.R.A.P. Vrancea);● the information on the **possibility to access psychological assistance services was not clearly formulated in the protocol informing on rights and obligations** (chapter 1 RIGHTS included the main rights the detained/arrested persons could benefit from, and the right to psychological assistance was not included), entered by the management of the centre and the detained/arrested person, immediately after it was arrested, based on the provisions of Law 254/2013, art. 111 par. (2) “Persons in preventive detention and arrest centres are usually accommodated together, can provide work on demand to the centre’s benefit and may benefit from psychological and moral-religious assistance within the centre, under guard and supervision, as established in the rules of enforcement of this law.”(C.R.A.P. Cluj). *The People’s Advocate recommended* that the management of the centre should include information regarding the possibility to access psychological assistance services in the protocol informing on rights and freedoms entered by the management of the centre and the prisoner/arrested person immediately after such arrest. The visited unit will provide an answer to this recommendation;●**none of the under age persons in custody had benefitted from psychological assistance**, in compliance with the provisions of art. 117 (2) of Law no. 254 of July 19, 2013 on the execution of punishments and freedom-depriving measures decided by legal bodies during a criminal trial. “During preventive arrest, under age persons are provided with psychological assistance, with a view to reducing the negative effects of freedom deprivation on their physical, psychological or moral development.” (C.R.A.P. Cluj,

C.R.A.P. Vrancea). *The People's Advocate recommended* that the management of the centre should provide psychological assistance to all under age persons in custody in the centre, according to the law; (C.R.A.P. Cluj, C.R.A.P. Vrancea); The Management of the centres will provide an answer to the recommendation; • **no documents certifying the exercise of psychological assistance to persons in the custody of the centre were provided**, invoking the right to the confidentiality of information and professional acts, based on the legal provisions of the profession of psychologist with free right to practice - Law no. 213/2004 of the Deontological Code of the profession of psychologist with free right to practice, as well as the aspects from the description of the procedure PRO-PS-04-IGPR/BPS; the psychologists' attitude showed that they **did not hold information on the attributions of the People's Advocate Institution and of the Field regarding prevention of torture; they did not want to provide information on the developed activities or show registers proving the quality of the supplied services** (C.R.A.P. Vrancea). *The People's Advocate recommended* that the management of the centre should undertake continuous staff training, since, as of the date of the visit, the psychologists with which discussions were held had no knowledge on the attributions of the People's Advocate Institution - Field regarding prevention of torture in detention places.

• **Other issues:** • a check of the documents on accommodation in the centre showed that **5 minors** of the 7 that were held in custody in 2018 **were accommodated in the same room as persons having reached the age of majority** for a shorter or longer time. (C.R.A.P. Ialomița). *The People's Advocate recommended* that the management of C.R.A.P. Ialomița should take the required legal actions to observe the provisions of art. 256 par. (1) of the Rules for the enforcement of Law no. 254/2013 on the execution of punishments and freedom-depriving measures taken by legal bodies during the criminal trial, based on which "Persons deprived from freedom are usually accommodated together, with strict respect for the principle of separating women from men and young people from the other persons having reached the age of majority". The visited unit **informed** that the Report on the visit to C.R.A.P. Ialomița was disseminated to all the workers of this

structure and the relevant legislation was reminded, with a focus on guidelines regarding the accommodation of private persons, with strict respect for the principle of separating women from men and young people from the other persons having reached the age of majority, based on the provisions of art. 256 par. (1) of Decision no. 157/2016 on the approval of the Rules for the enforcement of Law no. 254/2013 and a plan of measures was drawn up to implement the recommendations of the People's Advocate; • a random check of the registers showed that some were improperly filled in (the register of searches of detention rooms did not show the purpose of each search, the table of searches undertaken in 2018 did not stipulate the hours of the action, the observations/conclusions heading was not filled in and the signature of the official in charge was sometimes ignored, no records were available on summary searches at the entry and exit of persons deprived from freedom and on the search of their luggage, no petitions and requests for hearings were registered, the correspondence received/sent by persons deprived from freedom and the use of means of immobilization was not recorded). The following registers were also incomplete and without supporting annexes: the register of visits/presents/sums of money, the register of walks in the yard, the register of entries to/exits from the centre, the register of admission and release/transfer, the alphabetical register of persons deprived from freedom. ***The People's Advocate recommended*** that the management of C.R.A.P. Ialomița should properly fill in all the registers drawn up at the level of the centre (including the register of searches of detention rooms and the table of searches undertaken in 2018), showing all summary searches at the entry and exit of persons deprived from freedom and on the search of their luggage, to fully record petitions and requests for hearings and the correspondence received/sent by persons deprived from freedom, as well as register the use of means of immobilization. The management of C.R.A.P. Ialomița ***informed*** that the Report on the visit to C.R.A.P. Ialomița was disseminated to all the workers of this structure and the relevant legislation was reminded, with a focus on filling in the registers of the centre, based on the provisions of art. 70 par. (3) of the Rules on the organization and operation of preventive detention and arrest centres, as well as the required measures for their safety; • thorough body searches took place in the room of the

head of shift (a room provided with a video surveillance system) (*C.R.A.P. Constanța*), and the provisions of art. 35 of the Rules on the organization and operation of preventive detention and arrest centres, as well as the required measures for their safety, approved by Order no. 14/2018, were not enforced (*“thorough body searches are performed in specially arranged areas, with video supervision, by a police officer of the same sex as the searched person, in conditions that do not affect the dignity of the person deprived from freedom and respecting his/her right to private life”*). ***The People’s Advocate recommended*** that the management of C.R.A.P. Constanta should perform detailed body searches in conditions that respect the right to privacy of the persons in custody, in spaces arranged so that the staff not involved in the search cannot observe the search and so that it cannot be recorded on video cameras. The management of C.R.A.P. Constanta ***answered*** that detailed body searches were performed with the observance of the right to privacy of the persons under custody, in the changing room, as the area was delimited by a matte curtain; • the centre visibly displayed the phone number of the Bucharest Bar and the name of the judge for the supervision of deprivation from freedom, but no other contact details (name, phone number, address, etc.) were mentioned for other public authorities, public institutions, legal bodies, etc., that could be needed by the persons in custody if they had wanted to file requests, complaints and notices to defend their rights, based on the right to petition. Furthermore, the room folders of the persons in the custody of the visited police unit failed to include a list of contact details of other public authorities, public institutions, legal bodies, etc. (*C.R.A.P. no. 3 Bucharest*). ***The People’s Advocate recommended*** that the management of C.R.A.P. no. 3 Bucharest should post at the board of C.R.A.P. no. 3 Bucharest the contact details - name, phone number, address, etc. - of other public authorities, public institutions, judicial bodies, etc. Since ***the management of C.R.A.P. no. 3 Bucharest did not provide an answer to the recommendation, the relevant hierarchical authority (the Ministry of Internal Affairs) was notified***. ***The management of the General Inspectorate of Romanian Police (I.G.P.) informed*** that the contact details of other public institutions/judicial bodies were also posted at the centre, to ensure the proper access of persons deprived from freedom to public bodies/institutions, as well as

ensure petition rights; • C.R.A.P. no. 3 Bucharest had a mailbox on the hall, outside the detention sector, which prevented persons deprived from freedom to freely exercise their right to petition and correspondence, being somehow “dependent” on the employees of the police unit, who could submit their mail/petition to the mailbox or not (*C.R.A.P. no. 3 Bucharest*). ***The People’s Advocate recommended*** that the management of C.R.A.P. no. 3 Bucharest should place the mailbox inside the detention sector, so that persons deprived from freedom could freely exercise their petition right and correspondence right, since it was located on the hall, outside the detention sector, on the date of the visit. Since ***the management of C.R.A.P. no. 3 Bucharest did not provide an answer to the recommendation, the relevant hierarchical authority (the Ministry of Internal Affairs) was notified. The management of the General Inspectorate of Romanian Police (I.G.P.) informed*** that a mailbox was located inside the detention sector.

► Furthermore, during 2018, **based on art. 47 of Law no. 35/1997 on the organization and operation of the People’s Advocate Institution, republished**, based on which “*the People’s Advocate has the obligation to immediately notify judicial bodies when establishing the existence of signs regarding the perpetration of facts provided by criminal law, when exercising its attributions*”, it informed criminal prosecution bodies on cases in the visited detention places.

• pursuant to the visit performed at ***C.R.A.P. Teleorman***, the visit team of the Field regarding prevention of torture took note of the fact that, during 2017, the presence of signs of body violence was seen in **8 cases**, and in 2018, until the performance of the visit, **in 5 cases**. They were included in the medical records and in the protocols drawn up upon imprisonment, under the signature of the person deprived from freedom. In 5 cases, the persons stated that they had been assaulted by police bodies during their arrest. In two cases, the persons did not show traces of violence, according to the provided protocols. **For the other 3 cases, based on bodily search protocols upon introduction to the preventive detention and arrest centres, the persons stated that they had been assaulted by police bodies.** According to the mentions of these protocols, signs of violence were found (ecchymoses - eyes, nose, shoulder, lower back area, knee; excoriations - elbow,

foot; petechiae - arms, the thorax area; contusion). According to the information provided by persons subject to preventive arrest, the signs of violence came: in one case, from hits with fists, palms and rubber bats by policemen; in another case, from police workers when placing handcuffs; in another situation, from police workers. After finding signs of violence, the Prosecutor's Office attached to the Court of Bucharest was notified. The discussions with the medical staff of the visited unit and the submitted documents showed that the signs of violence were included in medical records and in the protocols drawn up upon imprisonment, under signature of the person deprived from freedom, "with the legal action being taken, and a copy of the protocol drawn up upon incarceration being submitted to the Prosecutor's Office".

The People's Advocate Institution approached the Prosecutor's Office attached to the Court of Teleorman, requesting information regarding the solutions decided on persons deprived from freedom who claimed they had been physically assaulted by police bodies. **The Prosecutor's Office attached to the Court of Teleorman answered** the request, stating that criminal files on crimes of abusive behaviour, abusive investigation, subjection to ill treatment and torture have not been registered against police agents by persons deprived from freedom, based on arrest mandates issued by the judge according to the law. Measures will be taken in order to identify the submission of notes finding traumatic marks by the preventive detention and arrest centre, as well as the solution decided on this by criminal prosecution bodies.

- The field regarding prevention of torture in detention places performed a visit to the Preventive Detention and Arrest Centre of I.P.J. Constanta, when it was found that ten persons deprived from freedom showed traumatic injuries (excoriations, ecchymoses, haematoma, tumefactions, plagues), occurring prior to the imprisonment process, with the finding notes drawn up by the medical staff being sent to criminal prosecution bodies, i.e. the Prosecutor's Office attached to the Court of Constanta and the Prosecutor's Office attached to the Judge's Office of Constanta.

Pursuant to the visit, the People's Advocate Institution asked the Prosecutor's Office attached to the Court of Constanta and the Prosecutor's Office attached to the Judge's Office of Constanta to provide information on the solutions decided in these

cases. In one case, the Prosecutor's Office attached to the Court of Constanta informed that, based on their checks, no notes regarding traumatic marks were submitted to the prosecutor units. The person deprived from freedom was prosecuted for the crime of murder stipulated under art. 188 par. (1) of the Criminal Code, and the injury was considered in order to solve the case, since the person deprived from freedom declared, during the criminal prosecution, that it had been stabbed by the victim of the murder; the same prosecution notice decided to dismiss the cause for the crime of hitting or other violent acts stipulated by art. 193 par. (2) of the Criminal Code. In another case, the Prosecutor's Office attached to the Court of Constanta informed that the note regarding the finding of traumatic marks was communicated on 07.05.2018 to the prosecutor unit regarding the criminal case where investigations were performed concerning the person deprived from freedom for the perpetration of murder as stipulated by art. 32 par. (1) of the Criminal Code corroborated with art. 188 of the Criminal Code. During the investigations, the person deprived from freedom constantly claimed that the injuries were caused by the injured person, who had physically assaulted him; the evidence showed that his claims were not supported. An indictment was drawn up in the case, mentioning that the person deprived from freedom did not file a criminal complaint for the crime of hitting or other violent acts stipulated by art. 193 of the Criminal Code. Regarding the other cases, the Prosecutor's Office attached to the Judge's Office of Constanta asked for additional information with a view to identifying criminal files.

► ***Regarding notices to relevant hierarchical authorities:***

● ***Regarding the fact that an answer was not provided to the recommendations to the Ministry of Internal Affairs and the Preventive Detention and Arrest Centre no. 3 of Police Department 4 Bucharest, the representatives of the People's Advocate Institution informed the Ministry of Internal Affairs on the situation.***

The management of the General Inspectorate of Romanian Police provided an answer to the Recommendations in the visit report of the People's Advocate Institution, by means of a notice registered with the People's Advocate Institution.

Regarding the answers provided by the General Inspectorate of Romanian Police for two recommendations, the People's Advocate Institution again

approached the Ministry of Internal Affairs, asking them to review the situation and inform the People's Advocate Institution.

*The answer of the management of I.G.P.R. to the first Recommendation of the People's Advocate Institution regarding approaches to set up their own medical practice (as in penitentiaries): "(...) for the General Police Directorate of Bucharest (D.G.P.M.B.), the Medical Practice for Arrests within CMDTA "Dr. Nicolae Kretzulescu" **operated in a single location**, i.e. at the head office of the Independent Preventive Detention and Arrest Centre), and all persons in custody at the level of the police unit are referred (...) for medical examination upon admission, respectively for epidemiological triage, and are subsequently imprisoned in one of the centres (...) If the person deprived from freedom has an epidemiological risk or uses drugs or is classified in a degree of disability, the situation is notified to the officer on duty by the medical staff, and the person is imprisoned in C.R.A.P. no. 1, where the Medical practice for arrests operated within CMDTA "Dr. Nicolae Kretzulescu" . **The management of I.G.P. also mentioned** that "preventive detention and arrest centres no. 2-11 subordinated to D.G.P.M.B. do not currently meet the requirements of the legislation in force on the arrangement and sanitary operating license of a medical practice, since medical assistance (...) in conditions of confidentiality and respect for the rights of persons deprived from freedom can only be done in a specially arranged area, based on the relevant legislation". In support of the above, the general inspector of IGP also referred to the provisions regarding the organization of preventive detention and arrest centres, the organization of the sector for the accommodation of persons deprived from freedom and the framework for medical assistance, treatment and care, as provided by art. 231 par. (3), art. 232 par. (2) and art. 232 par. (7) of the Rules of enforcement of Law no. 254/2013 on the execution of punishments and freedom depriving measures decided by judicial bodies during the criminal trial of 10.03.2016, **concluding that "the legislation does not require the existence of an area designed as "medical practice" at the level of each preventive detention and arrest centre"**.*

*Thus, based on art. 71 par. (1) and (2) of Law no. 254/2013, **"the right to medical assistance, treatment and care for the convicted persons is guaranteed"**.*

*The right to medical assistance **includes** medical intervention, primary medical assistance, emergency medical assistance and specialized medical assistance”. **Medical assistance, treatment and care in penitentiaries are covered by qualified staff on a free of charge basis, according to the law, upon request or whenever required.** Art. 71 par. (1) and par. (2) of Law no. 254/2013 **is found under Title III, Chapter V of the Law, and is also applicable to preventive detention and arrest centres!** Therefore, the previously mentioned legal provisions undoubtedly emphasize **the obligation of the management of preventive detention and arrest centres to provide persons deprived from freedom with primary medical assistance, emergency medical assistance and specialized medical assistance, upon request or whenever required.***

Upon the date of the visit, (primary, emergency and specialized) medical assistance could not be provided to persons deprived from freedom, upon request or whenever needed, since the Preventive Detention and Arrest Centre no. 3 of Police Department 4 Bucharest did not have a medical practice.

Law no. 254/2013 is a normative act prevailing upon the Regulation, which is a subsequent act. **Furthermore, the right to protection of health is also guaranteed by the Romanian Constitution, under art. 34.**

***The answer of the management of I.G.P.R. to the second Recommendation of the People’s Advocate Institution** regarding the part-time employment of an interpreter according to the linguistic needs of persons with foreign citizenship in the custody of the visited centre: “...the relevant legislation does not provide for the obligation to ensure an interpreter during the custody of persons deprived from freedom ... the obligation to provide an interpreter is stipulated under the provisions of art. 105² of the Criminal Procedure Code, but this refers to the hearing of persons within the criminal trial”. Within this answer, the management of I.G.P.R. also referred to the new provisions of Order no. 14/2018, i.e. art. 26 par. (5) and art. 38 par. (4), stipulating that “I.G.P. has taken actions to translate the brochures informing persons deprived from freedom on their rights, obligations and prohibitions while they are under custody at the centre, so that a document including this information, drawn up in a language they know or in an international language,*

as the case may be, can be handed to the person upon admission to the preventive detention and arrest centre”.

For accuracy, we reproduce the above mentioned articles below:

► **Art. 26 par. (5)** of the Rules approved by Order no. 14/2018 is found under **Section 2, The medical examination of persons deprived from freedom upon admission to the centre** and stipulates as follows: *“If the person deprived from freedom does not speak or understand Romanian, the information shall be provided in his/her mother tongue or in an international language, **by means of a person who can communicate with the person or by handing him/her a document including this information**, drawn up in a language they know or in an international language, as the case may be, including the affidavit on his/her state of health and informed consent”.*

► **Art. 38 par. (4)** of the same legislative act is found under **Section 4 – Confirmation of communication on presence in the centre, initial information on rights, obligations and prohibitions, rewards, deviations and disciplinary sanctions and interviews to the person**, and stipulates as follows: *“For persons deprived from freedom who do not speak or understand Romanian, cannot express themselves or have difficulties to communicate, **the information shall be provided by means of a person who can communicate with the person or by handing him/her a document including this information**, drawn up in a language they know or in an international language, as the case may be”.*

The interpretation of the previously mentioned legal provisions shows that persons who do not speak or understand Romanian, cannot express themselves or have difficulties to communicate **are informed in more situations than the ones stipulated by the management of I.G.P.R. in their answer** (i.e. only medical examination upon admission to the centre and information on their rights, obligations and prohibitions)! For instance: • informing a third party on the detention/arrest of the concerned person, • rewards, infringements and disciplinary sanctions, as well as • interviews to the person in custody.

The notice sent to the Ministry of Internal Affairs also mentioned that we stand by our point of view regarding the two Recommendations of the People’s

Advocate Institution and, at the same time, we asked for a review of the aspects, from the point of view of legislative changes on the organization and operation of preventive detention and arrest centres, to provide medical assistance to persons deprived from freedom and to provide an interpreter depending on the language needs of persons deprived from freedom with foreign citizenship.

Legislative proposals:

- to provide medical assistance by establishing own practices in preventive detention and arrest centres;
- to provide an interpreter according to the language needs of persons deprived from freedom with foreign citizenship;
- to analyse and supplement art. 247 of Government Decision no. 157/2016 on the approval of the Rules of enforcement of Law no. 254/2013 on the execution of punishments and freedom depriving measures decided by judicial bodies during the criminal trial, i.e. to increase the number of visits for women who have and breastfeed minor children and who execute a freedom depriving measure in the preventive detention and arrest centres subordinated to the Ministry of Internal Affairs;
- to enter cooperation protocols with penitentiary-hospitals, so as to ensure specialized therapeutic intervention in optimal conditions for persons deprived from freedom, especially those diagnosed with psychological disorders;
- to employ or contract psychologists competent in clinical psychology (or psychotherapy), providing psychological counselling and psychotherapy services to persons subject to preventive detention and arrest.

6. PENITENTIARIES

Penitentiaries are specialized public services whose main attributions are the custody of persons deprived from freedom during the execution of punishments and developing a suitable social attitude for adaptation and integration in a normal life in society, after release.

Freedom deprivation should be done ensuring the respect for human dignity, the protection of health, the development of useful abilities for reintegration in society, without exceeding the level of detention-related suffering. Prisoners lose their freedom, but they must not lose their dignity.

The respect for the prisoners' dignity as human persons must be the basic ethical value for persons in charge with detention places and those working therein, as well as for the bodies performing visits and having supervision attributions. This basic principle is clearly stipulated under art. 10 of the International Covenant on civil and political rights **“Any person deprived from freedom shall be treated with humanity and with respect for the inherent dignity of a human person”***(The Association for the Prevention of Torture, a Practical Guide, Monitoring detention places)*.

Freedom-depriving measures imply certain inconveniences for the prisoners. However, **deprivation from freedom does not result in losing the rights awarded by the European Convention on Human Rights**. In this context, art. 3 of the Convention, stipulating that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment” imposes upon the authorities the obligation to provide prisoners with conditions respecting human dignity, as well as make sure that the execution does not subject the person to sufferings or trials of an intensity that would exceed the reasonable level inherent to detention. At the same time, the health of prisoners must be properly ensured.

The legislative acts regulating the activity of this detention place are as follows: • Law no. 254/2013 on the execution of punishments and freedom-depriving measures decided by judicial bodies during a criminal trial, as subsequently amended and supplemented; • Law no.169/2017 on the amendment and

supplementation of Law no. 254/2013 on the execution of punishments and freedom-depriving measures decided by judicial bodies within the criminal process; • Government Decision no. 157/2016 on the Rules for the enforcement of Law no. 254/2013; • Government Decision no. 756/2016 on the organization, operation and attributions of the National Administration of Penitentiaries and for the amendment of Government Decision no. 652/2009 on the organization and operation of the Ministry of Justice; • Order of the Minister of Justice no. 160/C/2018 of January 8, 2018 on the approval of the rules of organization and operation of the National Administration of Penitentiaries; • Order of the Minister of Justice no. 2724/C/2018 of July 10, 2018 on the approval of the Rules of organization and operation of penitentiaries, Order no. 1676/C/2010 of the Ministry of Justice on the approval of the Rules for the safety of detention places subordinated to the National Administration of Penitentiaries amended by Order of the Minister of Justice no. 2772/C/2017 • Decisions no. 550/2011 and 507/2012 of the General Director of the National Administration of Penitentiaries on the approval of the Rules of organization and operation of penitentiaries and penitentiary-hospitals, as subsequently amended and supplemented; • Order of the Ministry of Justice no. 3936/2017 on the approval of the Regulation on the organization of educational centres and detention centres subordinated to the National Administration of Penitentiaries; • Order no. 2890/C of October 27, 2017 of the Ministry of Justice on the approval of the Equipment guidelines and the duration of use of the outfit provided by the management of the place of detention of persons deprived from freedom; • Order no. 2772/C of October 17, 2017 of the Ministry of Justice on the approval of the Minimum Compulsory guidelines on the accommodation of persons deprived from freedom; • Order no. 3146/C of August 8, 2018 of the Ministry of Justice on the approval of the financial values of food allocations to persons deprived from freedom; ; • Order no. 1322/C of April 25, 2017 of the Ministry of Justice on the approval of the Rules of organization and operation of educational activities and programmes, psychological assistance and social assistance in detention places subordinated to the national Administration of Penitentiaries; • Order no.

429/C/2012 of the Ministry of Justice on the supply of healthcare to persons deprived from freedom in the custody of the national Administration of Penitentiaries;

The penitentiary system in Romania is facing difficulties such as overcrowding, improper accommodation conditions or deficit of staff. **Improvements of detention conditions, as well as measures to increase and upgrade accommodation capacities were witnessed in the last years.**

Thus, in 2018, the Ministry of Justice published the *Calendar of measures 2018-2024 to solve prison overcrowding and detention conditions in the execution of the pilot decision Rezmiives and others against Romania pronounced by ECHR on April 25, 2017*, with measures to be envisaged for the execution of the pilot decision. Based on the pilot decision of April 25, 2017, the measures expected from Romania will be structured along two levels, as follows:

- i. administrative measures to reduce overcrowding and improve material detention conditions*
- ii. legislative measures providing efficient recourse for the damage, such as preventive recourse and specific compensatory recourse.*

According to the Ministry of Justice, administrative measures are meant to reduce overcrowding by creating 439 new accommodation places and build two new penitentiaries, to be completed by 2021 and to include new accommodation places, as follows: 875 places during 2016-2017, 7520 places during 2018-2020 and 2500 places during 2021-2023.

Legislative measures referred to: drawing up the Government Decision on the transfer of real estate in the public domain of the state, from the administration of the Ministry of National Defence to the administration of the National Administration of Penitentiaries, to be used as accommodation areas for prisoners; publishing Law no. 169/2017 on the amendment and supplementation of Law no. 254/2013 stipulating a compensating mechanism for prisoners in improper detention conditions, i.e. reducing their punishment as a general measure of relieving penitentiaries; investments in penitentiary infrastructure within the “Justice” Programme financed through the 2014-2021 Norwegian Financial Mechanism, creating at least 1420 new accommodation places.

It should be emphasized that **the Calendar published by the Ministry of Justice mentioned the visits of the Field regarding prevention of torture in detention places and the Special Report on detention conditions in penitentiaries and preventive detention and arrest centres, as determining factors in the respect for human dignity and the rights of persons deprived from freedom (2015).**

At the same time, regarding the occupation of vacant positions, the General Director of the National Administration of Penitentiaries informed the People's Advocate Institution that, by Government Decision no. 893 of 14.12.2017 on the amendment of Government Decision no. 652/2009 on the organization and operation of the Ministry of Justice, **positions in the penitentiary administration system were increased by 1000.** Additional positions were objectively distributed based on the difference between the current organization chart and the optimal organization chart resulting from the implementation of staff standards, to units with the highest deficit of positions, being raised to 78% of the optimal needed amount. **Regarding investments, the National Administration of Penitentiaries allocated funds in 2018 to upgrade several penitentiary units, for instance for 486 accommodation places in the Constanta Poarta Alba Penitentiary.**

a) In order to fulfil its specific attributions as a National Mechanism for Prevention of Torture in detention places, in the meaning of Law no. 109/2009 by which Romania ratified the optional protocol adopted in New York on December 18, 2002, to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on December 10, 1984 in New York, **the Field regarding prevention of torture in detention places kept performing visits and investigations to penitentiary units in 2018.**

9 spot visits were undertaken in 2018 to the following detention places: the Educational Centre of Buzias, Timis county, the DrobetaTurnu-Severin Penitentiary - Vanjulet External Section, Mehedinti county, the Slobozia Penitentiary, Ialomita county the Margineni Penitentiary, Dambovit county, the Bucharest-Rahova Penitentiary, the Cluj-Napoca External Section of the Gherla Penitentiary, Cluj

county, the Focsani Penitentiary, Focsani county, the Craiova Penitentiary - Isalnita External Section, Dolj county and the Botosani Penitentiary, Botosani county. Of all the performed visits, the following two visits aimed at checking the implementation of recommendations resulting from 2017 visits: the Margineni Penitentiary, the Focsani Penitentiary.

We mention the main aspects notified within the monitoring activity undertaken in penitentiaries, included in the visit reports drawn up during 2018.

* The reports drawn up during 2018 pursuant to visits performed during 2017 at the following units were also considered: the Jilava Penitentiary, the Craiova Penitentiary.

At the same time, a range of actions performed pursuant to 2017 visits was completed in 2018. To this purpose, answers were received from the following 8 penitentiary units, as follows: the Craiova Penitentiary, the Mărgineni Penitentiary (thematic visit), the Bucharest-Rahova Penitentiary Hospital (thematic visit), the Oradea Penitentiary, the Bucharest-Jilava (thematic visit), the Iasi Penitentiary, the Bacau Penitentiary and the Focsani Penitentiary.

For some visited penitentiaries, notices with recommendations were sent to the relevant hierarchical authority, i.e. the National Administration of Penitentiaries and the Ministry of Justice. Criminal prosecution bodies were notified in other situations (i.e. the Prosecution Office attached to the Judge's Office of Iași).

Positive aspects were found during the visits to penitentiaries, such as:

- arrangement of the “Father and child” room for meetings between fathers and children less than 12 years old, with armchairs, toys for the children, small chairs, small table, wall paintings (*the Margineni Penitentiary*);
- providing permission to come out of the penitentiary for humanitarian reasons (death) in 12 cases (2017) and 6 cases during 2018 until the date of the visit (*the DrobetaTurnu-Severin Penitentiary, Vanjulet External Section*);
- observing the circuits for the sterilization and destruction of contaminated materials, as well as for securing and storing cutting-pricking materials
- the medical service of the penitentiary had its own ambulance
-

the medical practice had a register for the existence of traumatic marks or physical signs of ill treatment/abuse or torture (*the Bucharest-Jilava Penitentiary*); • persons deprived from freedom who were addicted to drugs benefitted from substitution therapy with methadone, and 19 former drug users were beneficiaries of the “Therapeutic Community” project, being accommodated separately; none of them had received disciplinary sanctions (*the Bucharest-Jilava Penitentiary*); • with the approval of the management of the centre, the medical staff notified criminal prosecution bodies in 10 cases (7 in 2017 and 3 in 2018) regarding possible hits, violences and sexual aggressions (rape). In 9 cases, the injured persons requested and were referred to medico-legal examination (*the Educational Centre of Buzias*); • the decisions of the discipline commission on the enforcement of isolation had been notified to the sanctioned persons on a signature basis, by the secretary of the discipline commission, mentioning the available way of appeal and the deadline for its exercise. None of the persons deprived from freedom subjected to disciplinary sanctions with isolation filed a complaint against the decision of the discipline commission enforcing this sanction. (*the Margineni Penitentiary*).

Visit teams of the Field regarding prevention of torture found a range of **failures** during the performance of their monitoring activities. In order to solve them, the People’s Advocate made recommendations to the management of the visited units, by means of a visit report.

The following visited units had submitted answers by the date of this report: the Educational Centre of Buzias, the Margineni Penitentiary, the Jilava Penitentiary, the DrobetaTurnu-Severin Penitentiary - Vanjulet External Section, the Gherla Penitentiary - Cluj-Napoca External Section.

In the following we present some of the *failures, recommendations and answers*:

Regarding legal aspects: • there were no special rules on searches in the case of persons with disabilities or LGBT persons, who can be particularly affected by the search procedure (*the Bucharest Jilava Penitentiary*). Regarding the **recommendation** to decide the required actions for the performance of body search

for persons with disabilities, respecting human dignity, *the management of the Bucharest Jilava Penitentiary answered* that the opportunity to create a procedure regarding this activity will be analysed at the level of A.N.P.; • Based on art. 226 par. (5) of the Rules for the enforcement of Law no. 245/2013, the prisoners' right to receive goods, **to receive visits**, except for the visits of the defence lawyers, official authorities or diplomatic representatives, to make phone calls and to go shopping, except for items required for petitioning, correspondence, smoking and individual hygiene, during the execution of the disciplinary sanction with isolation . **Recommendation:** to use, as much as possible, prevention of conflicts, mediation or any other alternative mechanisms to solve litigations in order to prevent disciplinary infringements or to solve conflicts. **Answer:** alternative techniques and mechanisms to prevent conflicts are used in the Jilava Penitentiary, which is confirmed by the low number of disciplinary sanctions enforced, compared to the number of rewards granted. Changes to the Internal Rules will only be operated if they are included in the execution-criminal legislation.

Regarding healthcare: • an emergency medical system was available, but it was not properly equipped according to the standards in annex 1 to Order no. 429/C-125/2012 on healthcare provided to persons deprived from freedom in the custody of the National Administration of Penitentiaries, as some medicines were missing or were not available in a sufficient amount); **Recommendation:** to provide the emergency system with medicines and sanitary materials according to the standards provided by the legislative acts in force. **Answer:** the management of the Margineni Penitentiary asked for support from the Bucharest-Rahova Penitentiary-Hospital to purchase medicines for the emergency system. • not all persons diagnosed with psychological disorders had been reassessed in due time, as some difficulties were found in scheduling them for admission (*the DrobetaTurnu-Severin Penitentiary, Vanjulet External Section*). **Recommendation:** to reassess persons deprived from freedom diagnosed with chronic diseases on a regular basis and establish the suitable therapeutic conduct. • healthcare was not provided on a permanent basis (*the DrobetaTurnu-Severin Penitentiary, Vanjulet External Section*) • there were failures in the supply of dental healthcare (*Craiova Penitentiary*) • the medical emergency

system was not properly equipped (*the Margineni Penitentiary*) • the infirmary was not working/improper conditions (*the Oradea Penitentiary*) • there were bottlenecks in the supply of medicines, due to excessive bureaucracy related to current legislation in the field • if traces/allegations of violence are found, physicians would record the findings and the prisoner's statements in the medical report, mentioned the signs of aggression in the special register and informed the head of the department or of the shift. The penitentiary unit informed the prosecutor's office and the judge who supervised the deprivation from freedom (*the Bucharest Jilava Penitentiary*). **Recommendations:** to take the required actions in order to improve the quality of healthcare services provided to persons deprived from freedom. • the absence of the sanitary-veterinary license for the food preparing facility (the Educational Centre of Buzias). **Recommendation:** to perform the required actions in order to obtain the Sanitary-Veterinary License and for food safety in the food preparing facility; **Answer:** the Gherla Penitentiary - Cluj-Napoca External Section **mentioned** regarding the staff: one position of medical nurse and two positions of head of the controlling position were occupied by change of position; the position of primary physician was published for recent graduates, so it cannot be occupied until assignment. The institution **informed** that an area for the meetings between mothers and minor children cannot be arranged in the Visiting Sector of the Cluj Napoca External Section, due to the small dimensions of the building.

Regarding psycho-social assistance:

• the efficiency of educational and psycho-social assistance programmes and activities was not proven, considering the behavioural issues of some admitted persons and the multiple incidents of physical and sexual aggression. (*the Educational Centre of Buzias*). **Recommendation:** to identify solutions to increase the efficiency of intervention programmes, with a view to reducing the behavioural issues of admitted persons and discarding physical and sexual aggression incidents in the centre. **Answer:** the "Programme for persons with an aggressive conduct", delivered by the psychologist and the "Emotion management" programme delivered by the educator were implemented at the level of the unit, for all admitted persons with an aggressive

conduct; the persons who perpetrated sexual aggressions will take part in psychological counselling sessions and individual talks with the educators responsible for the case. ● the visit room did not provide an optimal environment for the development of mother-child relations. The visit team considered that a special room with a favourable environment for such meetings had to be arranged for mother-child visits. (*the Gherla Penitentiary - Cluj-Napoca External Section, Cluj county*). **Recommendation:** to arrange a visit room for mothers and minor children. **Answer:** the institution informed that an area for the meetings between mothers and minor children cannot be arranged in the Visiting Sector of the Cluj Napoca External Section, due to the small dimensions of the building. The Ministry of Justice, Court of Appeal of Cluj, the Court of Cluj and the National Administration of Penitentiaries - Gherla Penitentiary will pursue in 2019 as well actions to clarify the legal issues of buildings, with a view to identifying and arranging areas in the existing building complex, providing the possibility to grant all rights to women deprived from freedom who are accommodated in the Cluj Napoca Section; ● persons with various specific crimes (sex crimes, aggressiveness, substance use) had no recommendation and were not included in any specific group-level psychological activity, though they had been in custody of the penitentiary system for 4-6 years (*the Jilava Penitentiary*) ● psycho-educational assistance files not filled in and not signed (*the Bucharest Jilava Penitentiary*); ● absence of the social assistance practice (*the Craiova Penitentiary*) ● the insufficiency of areas for the proper performance of psychological, educational or social group-level activities ensuring the confidentiality of the professional act and the beneficiaries' emotional safety (*the Jilava Penitentiary*); ● improper areas for the performance of visits, phone calls and online calls (*the Margineni Penitentiary*); ● the absence of the confidentiality of visits (*the Margineni Penitentiary*); ● the impossibility to ensure schooling for persons deprived from freedom (*the Bucharest Jilava Penitentiary*); ● the failure to provide the right to phone calls. Pursuant to the visit undertaken at the Margineni Penitentiary, a request was sent to the Ministry of Justice to amend and supplement Law no. 254/2013 on the execution of punishments and freedom-depriving persons decided by judicial bodies within the criminal trial and the Rules for the enforcement of Law no. 254/2013, i.e.: a) amend and supplement art. 65 par. (3) of Law no. 254/2013 so as to introduce similar

provisions to those of art. 64 par. (5) of the same normative act, which would modify the above mentioned paragraph as follows: If the convicted persons do not have the required financial resources, expenses for phone calls shall be borne by the management of the penitentiary; b) amend and supplement art. 133 par. (1) of the Rules for the enforcement of Law no. 254/2013 so as to introduce the above mentioned additions, under letter (a); c) amend art. 134 par. (5) of the Rules for the enforcement of Law no. 254/2013 so as to increase the number and duration of online calls, depending on the execution system of the convicted persons. Thus, the previously mentioned changes refer to the expenses for phone calls, as well as the number and duration of online calls; such measures are required for the family reintegration and social reinsertion of persons deprived from freedom, by ensuring the maintenance of relations with the family and close ones.

Regarding the incidents:● an increased number of self-aggressions and hetero-aggressions, the minors and young people were victims of physical and sexual aggressions perpetrated by other young people in custody at the centre, a high number of Incident Reports (386 drawn up in 2017 and 143 in 2018 until the date of the visit) (the Educational Centre of Buzias)**Recommendation:** the management of the centre should take the required actions to ensure the physical and psychological integrity of all persons admitted to the centre; their suitable supervision is very important in this context;**Answer:** a training programme for the staff in the operative service was drawn up, as well as the performance of training activities before the work of the staff of each shift; the measure had to be completed by 15.09.2018. Moreover, a monitor was mounted in the office of the supervising agent, where s/he could see all the images recorded by the electronic surveillance system in the accommodation pavilion. Direct supervision of the admitted persons will be enhanced when activities are performed in larger groups (when having meals, in the shower, in instructive, sportive, cultural activities). For the same purpose, current repairs will be completed and another accommodation pavilion for admitted persons will be commissioned, so that the supervising agent may ensure a more efficient supervision of a lower number of admitted persons.

Regarding accommodation conditions: • the overcrowding of some detention rooms (*the Bucharest-Jilava Penitentiary - an occupation percentage of 198%, the DrobetaTurnu-Severin Penitentiary, the Margineni Penitentiary*). **Recommendation:** to pursue actions with a view to reducing overcrowding in the penitentiary unit, since the legal capacity of accommodation was exceeded at the moment of the visit. **Answer:** according to the answer provided by the management of the Margineni Penitentiary, the management of the penitentiary is always concerned about the management of this problematic issue and has constantly initiated actions to transfer eligible prisoners, so as to reduce overcrowding. Furthermore, the management of the Educational Centre of Buzias informed that another accommodation pavilion will be opened, in order to reduce the number of persons accommodated in the other rooms, as soon as new staff is employed (and 5 supervisors can be assigned to perform supervision in the concerned pavilion). **Deadline for the completion:** 01.06.2019 according to the financial allocations for current repairs and the recruitment of supervising staff; • old and worn mattresses (*the Educational Centre of Buzias*) **Recommendation:** Replacing old and worn mattresses, as well as old and worn items; **Answer:** the worn mattresses and items were discarded and replaced, by distributing items from the warehouse within the limits of the available stocks, as well as by purchasing such items that the unit does not possess.

• the visited detention rooms were equipped with **insufficient furniture for the storage of personal items; the luggage was stored under the beds and some cupboards had damaged doors, which was against the provisions of art. 4 par. (1) of the Annex to the Order of the Ministry of Justice no. 2772/C/2017; some areas needed repairs in the carpentry of windows and in the sanitary facilities of shared bathrooms** (*the DrobetaTurnu-Severin Penitentiary, Vanjulet External Section*); **Recommendation:** to properly provide furniture to detention rooms, repair the existing furniture where required, replacing worn beds, providing conditions for the storage of personal goods and items; performing repair and sanitization works in detention rooms and shared sanitary facilities; • the food of persons deprived from freedom was kept in improper conditions, hanging on the window of the detention room, with hazard of food intoxication, as outdoor temperatures were high on the date of the visit (*the DrobetaTurnu-Severin Penitentiary, Vanjulet External Section*).

Recommendation: providing conditions for the proper storage of perishable products improperly stored in detention rooms; • the arrangement of beds on three levels (*the DrobetaTurnu-Severin Penitentiary, Vanjulet External Section*); • showers with no separators/screens to provide for privacy (*the Educational Centre of Buzias, the Gherla Penitentiary, Cluj-Napoca External Section, the DrobetaTurnu-Severin Penitentiary, Vanjulet External Section*). **Recommendation:** to properly arrange shower rooms by mounting plastic curtains or separators, with a view to ensuring the privacy of persons deprived from freedom. **Answer:** the management of the Educational Centre of Buzias informed that actions were taken to separate the shared bathrooms on the ground floor of accommodation pavilions with separating walls of PVC and panel. Deadline for the completion: 31.09.2018; • the absence of a room for intimate visits (*the Gherla Penitentiary, Cluj-Napoca External Section*); **Recommendation:** to identify a solution to arrange a room for intimate visits in the Cluj-Napoca External Section for women and properly arrange and equip the bathroom on Section 1 (ground floor) with full shower systems and separating screens; **Answer:** we were informed that, within the Visit Sector of the Cluj-Napoca External Section, the right to intimate visits of women deprived from freedom cannot be currently ensured, for the small size of the building. The completion deadline envisaged by the institution is December 2019.

Regarding the staff: • the medical and supervising staff was not enough compared to the amount of activity (*the DrobetaTurnu-Severin Penitentiary, Vanjulet External Section*); (*the Margineni Penitentiary, the Gherla Penitentiary, Cluj-Napoca External Section*) (*the Craiova Penitentiary, the Educational Centre of Buzias*) • **Recommendation:** to accelerate actions with a view to covering the vacancies with medical staff. • **Answers:** the management of the Margineni Penitentiary and of the Educational Centre of Buzias submitted a request to the National Administration of Penitentiaries regarding the publication of vacancies in the medical structure of the penitentiary. Furthermore, actions were taken to enter a services agreement from funds allocated by the O.P.S.N.A.J. Insurance House. • the management of *the Gherla Penitentiary, Cluj-Napoca External Section* **answered** that: a position of medical nurse and two positions of head of the controlling position were occupied by transfer; a position of principal technical agent II (audio-video operator) was submitted to transfer

by Notice no. U/109624 of 24.05.2018, but it was not occupied since the person who applied for transfer withdrew the application during the procedure. At the same time, this position was published in session IV of movement of public officers with a special status subordinated to the National Administration of Penitentiaries, and no applications were registered. As for the occupation of the audio-video operator technical agent position, the Gherla Penitentiary will include this position within future occupation procedures (transfer/movement/publication); the position of physician was published for recent graduates, so that it cannot be published until assignment; the job chart of the Penitentiary of Gherla includes 2 positions of plumbing technical agent. Both positions were submitted for publication to the National Administration of Penitentiaries, together with other positions in the economic-administrative sector. To this purpose, only one position of technical agent (plumbing) was approved for publication within the Gherla Penitentiary.

► *Answers from penitentiaries visited by the teams of the People's Advocate Institution in 2017 were received during 2018 as follows:*

The Craiova Penitentiary sent the following motivated answer: ● on 03.03.2018, by Order of the Ministry of Justice, the job chart of the Craiova Penitentiary was extended. After this date, the National Administration of Penitentiaries took actions to occupy the vacant positions, which depends on their budgeting, and the time for the completion of the job chart cannot be estimated; ● regarding the reassessment of persons deprived from freedom diagnosed with viral liver disorders with a view to establishing the suitable therapy. Notes of admission to penitentiary or civil hospitals shall be drawn up, with a view to establishing a precise diagnostic. In some cases, the patients arrive late to penitentiary hospitals, due to compulsory attendance to courts of law; ● the configuration and functionality of the Craiova Penitentiary do not allow to rearrange areas in other places than current ones. If the decrease of penitentiary population allows for the rearrangement of areas, a social assistance practice may be arranged; ● a primary dentist, a medical nurse and a dental technician work in the dental practice, having a free right to practice. The working hours of the dentist are 8.00-15.00 every day and the working hours of the

medical nurse and technician are 7.30-15.30. Dental healthcare is supplied both upon request and with an appointment. Actions were taken with CNCAN Bucharest to commission the radiological facility of the dental practice. The improvement of the quality of dental medicine services depends on the dentist's promptness in solving all cases - emergencies and chronic disorders in due time. There are some delays related to the failures of the devices of the dental laboratory, as well as the implementation of the radiology programme; • starting February 2018, as the penitentiary population has decreased, a process to reduce overcrowding in detention rooms was initiated in the Craiova Penitentiary; this process is dynamic, depending on the decrease in the number of persons in custody. Thus, if 1251 beds were installed in the detention rooms of the Craiova Penitentiary at the beginning of 2018, 863 are installed now.

► *The Oradea Penitentiary* answered the following pursuant to the visit: • the upgrade of the penitentiary infirmary was completed and actual access to medical services within the medical practice of the unit takes place according to the standards in force; • upgrade works in pavilion III will be completed by the end of 2018; • applications to approve the publication of 37 vacancies were submitted to the Human Resources Management Department of the National Administration of Penitentiaries and proposals were made to add 60 positions to the job chart.

► *the DrobetaTurnu-Severin Penitentiary, Vanjulet External Section* answered the following regarding the implementation of recommendations: • current repairs and rearrangement of detention rooms are in progress, with a view to improving detention conditions; such activities are performed maximizing detention areas, with a view to allocating more than 4 sqm for each person deprived from freedom; • the number of employees increased to 285, compared to 264 on the date of the visit; • budget funds of 143,697 RON (VAT included) were provided in the Annual Strategy of Public Procurement and in the Annual Public Procurement Programme for the penitentiary, in order to purchase furniture and bunk beds meeting the requirements of OMJ no. 2772/2017; the purchase procedures are in progress.

► pursuant to the visit to the *Focsani Penitentiary*, the People's Advocate Institution sent the National Administration of Penitentiaries a range of **recommendations** included in the visit report, with the following answers:

The National Administration of Penitentiaries:

- regarding the management of overcrowding (about 155% occupation), the dynamics of the population of subordinated units is always considered; 30 persons deprived from freedom were transferred from the Focsani Penitentiary during November-December 2017 and January 2018. If 628 persons deprived from freedom were in custody on the date of the visit, 586 prisoners were hosted in the Focsani Penitentiary as of 27.02.2018.

- regarding the publication of the 47 vacancies, competitions were organized (19 for execution staff and 4 for management staff) and the Focsani Penitentiary was assigned 15 graduates of education institutions preparing staff for the penitentiary system. Pursuant to the publication of Government Ordinance no. 3/2017 in the Official Gazette, the occupation of vacancies was suspended; therefore, the National Administration of Penitentiaries initiated a Memorandum in February 2018 to organize competitions to occupy 417 vacancies in the penitentiary system. Regarding the situation in the Focsani Penitentiary, it is notified that, of the 47 vacant positions registered by the visit team, 42 were still vacant as of 07.02.2018, of which 3 were in competition procedure and a position was to be covered in the following period.

- regarding the pursuit of actions for the performance of interventions in real estate, in order to obtain new accommodation places by changing the destination of some buildings, based on the Plan of measures to the Memorandum approved by the government on 19.01.2016, the management of the National Administration of Penitentiaries informs the People's Advocate Institution what repair and investment works are planned for 2018 in the Focsani Penitentiary, so that 17 detention rooms will be subject to current repair works and funds were allocated for investments, for the performance of expertise, with a view to promoting two objectives so as to create 58, respectively 68 new accommodation places.

The Focsani Penitentiary:

- regarding the improvement of accommodation conditions by providing all rooms with new beds and mattresses, as well as the required furniture to serve meals and keep personal goods and items, supply proper artificial lighting, especially in the rooms where natural lighting was insufficient, removing the third level of beds in

detention rooms and sanitizing and equipping bathrooms with the required furniture and utilities, the following was informed: fireproof mattresses and pillows were purchased during 2016-2017, some of the detention rooms were subject to current repairs and were equipped with the required furniture; 37 detention rooms were planned to be subject to current repair works and provided with furniture during 2018-2019; intervention rooms will be performed in the rooms with improper lighting (additional lamps were mounted in the half-open section) and, regarding the ventilation of rooms, this is performed on a daily basis by opening windows, visors or doors, depending on the detention status. Regarding the sanitization and equipment of rooms, the management of the unit informed that current repair and maintenance works were performed on sanitary, electrical and thermal installations on a monthly basis. Since the date of the visit, 56 beds were removed in the detention sector and the compliance with the minimum requirement of providing an individual bed for each person deprived from freedom is envisaged on a permanent basis. **Overcrowding is the main issue of the Focsani Penitentiary, which results in improper accommodation conditions.**

- regarding the continuation of the cleaning of the detention chambers, as well as performing more frequent disinsection operations and the checking of the efficiency of the used substances, it is mentioned that in order to ensure cleanliness and hygiene, the cleaning materials are distributed monthly in the quantities stipulated by the law, there are planned actions based on the DDD plan for trimestrial cleanliness, disinsection and disinfestation;

- as regards the access of detainees to the sports ground in the penitentiary's courtyard, as well as to the indoor gymnasium and the involvement of detainees in sports activities, steps have been taken to fill the staff shortage so that a minimum of 5 hours sports activities with detainees;

- with regard to ensuring confidential visits through discreet surveillance, remotely discloses the structure of the right to visit and package business, and it is made clear that surveillance is made visually within the supervisor's office.

In addition to the answers mentioned above, the management of the Focșani Penitentiary has submitted to the People's Advocate Institution a **Plan of Measures for**

the implementation of the recommendations formulated by the People's Advocate Institution, with deadlines and responsible for the implementation of the measures.

► following the findings of the visiting team members at the *Bacău Penitentiary*, the People's Advocate Institution sent **recommendations** to the National Administration of Penitentiaries and the visited unit in the visit report, and received the following answers:

- regarding the management of overcrowding, it was stated that particular efforts are being made to ensure the accommodation conditions for the persons deprived of their liberty. Bilaunar is elaborating a detailed analysis of the measures taken to reduce crowding, specifying the number of transfers ordered in order to balance the number of detainees. The management of the Bacău Penitentiary stated that, periodically, according to the dynamics of the detainees, the profiles of the detention rooms were modified in order to balance the level of overcrowding.

- concerning the employment of medical, psychosocial and operational staff, more posts were made in 2017, but the number of candidates was lower than the number of posts in the competition. Moreover, the legislation concerning the central public administration suspended the vacancy of the vacant positions, both in 2017 and in 2018. As a result, the National Administration of Penitentiaries initiated a memorandum to the Ministry of Justice for the approval of the organization of competitions for the filling of positions vacancies from the penitentiary system, including the medical sector posts.

- As regards the allocation of financial resources in order to reorganize the infirmary in an adequate space that meets the minimal requirements of an admissions salon, as well as the installation of ramps for the access of the disabled persons and their sanitary groups, that, in 2017, current repair works were carried out to improve the conditions of detention, consisting of painting, repairs to the thermal installation, sanitary and electrical installations. In 2015, the infirmary for 5-member males and authorized for operation was populated with pre-trial detained persons over 21 years of age. Since May 2017, this has not been possible since the premises have been upgraded and are intended exclusively for accommodating young detainees. For the

installation of ramps for the access of people with motor disabilities funds will be allocated from the 2018 budget.

- regarding the improvement of the accommodation conditions, the management of Bacău Penitentiary states that on 28.02.2017 477 pieces of mattresses were put into use. In accordance with the Action Plan on Improvement of Detention Conditions, drawn up following the recommendations of the People's Advocate Institution, the measure of the removal of beds installed at the third level

- regarding the continuation of the hygienic actions, it was specified that in each pavilion there were works of current repairs, painting, repairs to the thermal, electrical and sanitary installation, and the shells on sections E4, E5 and E6 were equipped with storage racks. Also, during the year 2017, three disinfection actions were carried out with a specialized firm and other actions with its own personnel, whenever their presence was reported.

- regarding the identification of solutions for the persons deprived of freedom of labor to be able to make phone calls after the end of working hours, the extent of the extension of the program approved by the director of the unit for making phone calls until 22 h

► following the findings of the visiting team members at the *Iasi Penitentiary*, the People's Advocate Institution sent to the National Administration of Penitentiaries and the visited unit a series of **recommendations** contained in the visit report, which received the following responses:

- regarding the management of overcrowding (recommendation sent to the National Administration of Penitentiaries), it was stated that the shortage of places in the penitentiaries in Romania, calculated at 4 sq m, was on 20.02.2018 of 2903 places. In order to reduce overcrowding, between November 2017 and January 2018, a transfer of 2122 detainees was approved, 173 detainees being transferred from the Iași Penitentiary to other units. A Standing Committee within the National Administration of Penitentiaries weekly analyzes and monitors the accommodation capacity of the units, and another commission draws up a detailed analysis of the measures taken to reduce congestion, specifying the number of transfers made to balance the number of detainees. A number of other measures taken by the National Administration of

Penitentiaries are being brought to the knowledge of the People's Advocate Institution for the permanent management of the evolution of the accommodation capacity of the total number of detainees (*Schedule for the resolution of overcrowding and detention conditions 2018-2024*).

- Concerning the employment of medical staff, the National Administration of Penitentiaries has approved several vacancies, out of which 4 doctor positions and 3 nursing positions. There were 5 competitions, which hired a psychiatrist, who resigned shortly after hiring.

- regarding the allocation of the necessary funds for the purchase of several refrigerators as well as for the repair or replacement of the defective ones (recommendation sent to the National Administration of Penitentiaries), the Iasi penitentiary management states that the unit was equipped with 7 refrigerators, have been made available to people deprived of their liberty.

- Regarding the improvement of the accommodation conditions, the People's Advocate Institution informed the measures taken by the Iasi penitentiary management: current repairs to 37 rooms in the A-Corps, 40 rooms in the B Corps and hygienic works at all rooms in the body D, waterproofing on the A roof, paintwork and local dyeing, etc.

- As regards the endowment of all rooms with beds and new mattresses, Iași Penitentiary has stated that in the Body A the beds are completely renovated with new mattresses and shelves for storage were made and placed. Regarding the provision of adequate artificial lighting, especially in rooms where natural lighting was insufficient, the People's Advocate Institution was informed about how to provide artificial lighting: fluorescent tubes 2x18W / 220V each with 2 lamps in each room, and in the baths light bulbs 60W / 24V. Regarding the elimination of the third level of beds in all the detention rooms, it is stated that **the Iasi Penitentiary no longer has detention rooms with beds located on the third level, which were fully removed;**

- regarding the continuation of the cleaning of the detention chambers, it is mentioned that, during the period April-May, hygienic activities are organized;

- as regards the identification of solutions to ensure the confidentiality of telephone calls, it is stated that "supervision by supervisors is done through

observation and listening, not by listening to the phone calls of detainees." In the semi-open regime telephones were introduced in each detention room, and in the open mode telephone calls can be made to the phones installed in the hall of the holding sections;

- regarding the location of an info-kiosk in the perimeter of the 5th Section, it was transmitted that at the level of the E 6 section the electronic information point was put into operation, which can also be accessed by the inmates from the section E5;

- as regards the evolution of the prison staff members' situation in conflict with some inmates and with some of the staff, the leaders monitor the way the person addresses the difficulties encountered during the performance of the service, including the relationship with other staff members ;

- regarding the necessary measures for the persons involved in the disciplinary procedure to exercise more diligence, the management of the penitentiary states that the incident reports were and are brought to the attention of the detainees, their hearing being obligatory.

- as regards the prevention of disciplinary deviations and the use of alternative mechanisms for their resolution, the Iasi Penitentiary's management reports that staff members are constantly considering the prevention of negative events and take decisions accordingly.

- regarding the taking of the necessary measures for the application in the activity of psychologists of standardized and calibrated psychological tests, the People's Advocate Institution was made aware of the efforts made for the elaboration and implementation of some working instruments in accordance with the Order of the Minister of Justice no. 1322 / C / 2017 for the approval of the Regulation on the organization and carrying out of activities and educational programs, psychological assistance and social assistance in the places of detention subordinated to the National Administration of Penitentiaries. It also shows that in 2018 the unit will provide the training of newly employed psychologists for obtaining the license to use the tests.

- Regarding the achievement at the level of the psychological assistance service of a permanent record of the number of persons deprived of their liberty by categories: minors, women, elderly people, people with physical or mental disabilities, low decisional, aggressive, self-aggressive, former consumers psychotropic substances,

psychiatric beneficiaries, suicide risk, physical, psychological, emotional, sexual abuse, age-related psychological damage, LGBT community members, food refusal, etc. it is reported that statistics on these categories are not performed exclusively by psychologists, with a working document background, according to the specific assistance needs and recommendations formulated by each specialist. The Social Reintegration Division supports the work of the psychologists in the penitentiary units permanently, providing the tools for identifying the psychological needs and risks to the specialists.

- regarding the observance in case of any death (with or without violence) of the provisions of Article 52 (1) of the Law no. 254/2013 on the execution of sentences and detention measures ordered by the judicial bodies during the criminal proceedings, which states that “In the case of the death of a convicted person, the administration of the penitentiary shall immediately notify the judge of the deprivation of liberty, the prosecutor's office and the National Administration of Penitentiaries, the deceased's family, a person close to it or, as the case may be, the legal representative”, it is stated that at the level of the unit, in case of any death, the custodial supervision judge, the criminal investigation bodies, the National Administration of Penitentiaries, family or a close person, or legal representative.

b)The representatives of the field regarding prevention of torture carried out thematic visits to:

► **The Bucharest Rahova Penitentiary Hospital** - the main objective being the *medical assistance provided to the pregnant persons deprived from freedom*, following which recommendations were made both to the visited unit and to the National Administration of Penitentiaries.

Some deficiencies have been identified, such as: lack of a special register for traumatic mark registration; ● shortage of medical and personnel staff for guarding, escorting, escorting, surveillance; protocols with civilian hospitals were not renewed; ● Inadequate ventilation of hospital penitentiary halls.

In the answer, the director of the Bucharest Rahova Penitentiary Hospital noted the recommendations and presented the Action and Monitoring Plan on the

implementation of the recommendations: • at the level of the unit was established the Registry in which the traumatic marks were registered; • the approval of the assignment of 6 graduates of the National Penitentiary Training School • 5 operational agent posts were filled and 5 additional posts were handed out • steps were taken to conclude a new protocol of collaboration with the civil hospital • a number of 4 appliances were purchased air conditioning.

► The **Bucharest Jilava Penitentiary** - an extensive thematic visit, announced on 4 May 2017, with the following objectives: *disciplinary measures, access to psychological and socio-educational activities of persons deprived of their liberty, body search and access to the medical care of persons deprived from freedom* . Subsequently, on May 23, 2017, a new visit was made to fill in some aspects of the use of prisoners, access to psychological and socio-educational activities, and possible post-visit retaliation.

It should be noted that at this visit to the People's Advocate for the Domain of Prevention of Torture, 12 representatives of the Domain, 2 representatives of civil society, two representatives of the Association for the Prevention of Torture in Geneva (APT), Mr. Jean-Sébastien Blanc-detention counselor and Mr Octavian Ichim - the program manager for Europe and Central Asia. The prison management ensured that the visit was in good condition, providing both the requested information and documents and the necessary staff (section heads, security personnel, specialist officers) to meet the objectives of the visit.

We mention that after the visit to the Jilava Penitentiary, the People's Advocate directly notified the Constitutional Court, at the initiative of the People's Advocate who coordinates the Domain for the prevention of torture in places of detention, on the unconstitutionality of art. 101 par. (1) lit. e) of Law no. 254/2013 on the execution of sentences and detention measures ordered by the judicial bodies during the criminal proceedings, which regulate the application of the disciplinary sanction of suspension of the right to visits. It has been noted that in the literature it is constantly emphasized that the suspension of the right to receive visits for a period of up to 3 months is a sanction that applies to those who usually commit deviations during the visits or have committed serious deviations during the execution of the punishment. We appreciate

that this sanction is a severe one, since the connection to the exterior is extremely important for the convicted.

The recommendations addressed several issues, including a series of legislative proposals:

► *the Ministry of Justice* to undertake the legal measures required to:

- **examining and modifying art. 101 par. (1) lit. e) and art. 101 par. (2) of the Law no. 254/2013, to include the right to visit in the category of rights that can not be restricted by the application of disciplinary sanctions. The proposal that the suspension of the right to visit should no longer be a disciplinary punishment would help to bring the legal provisions into line with Regulation no. 43 (3) of the United Nations Minimum Rules of Procedure on the Treatment of Detainees, according to which **disciplinary sanctions or restrictive measures do not entail the prohibition of contacts with the family.** Means of contact with the family may be restricted only for a limited period and in strictly prescribed manner to maintain security and order. The change will contribute to maintaining the detainees' relationship with their families, as well as increasing the post-liberal social inclusion of the persons deprived of their liberty. **The Ministry of Justice will also examine and amend Art. 217 par. (1) lit. d) and art. 218 lit. b) of the Regulation on the application of Law no. 254/2013 on the application of the disciplinary sanction consisting in the suspension of the right to receive visits** in the event of serious disciplinary misconduct and very serious disciplinary deviation by complying with Regulation no. 43 (3) of the United Nations Minimum Rules of Procedure on the Treatment of Detainees, according to which disciplinary sanctions do not imply the interdiction of contacts with the family, so that the suspension of the right to visit is no longer a disciplinary punishment. The Ministry of Justice will initiate the draft amendment to the Law no. 254/2013 and the Law on Implementation of the Law within 6 months. The Director of the Bucharest-Jilava Penitentiary will examine and amend Art. 60 par. (1) lit. e) regarding the application of the disciplinary sanction consisting in the suspension of the right to receive visits from the internal order of the Jilava Penitentiary, depending on the date of the modification of the Law no.**

254/2013 and the Law on Enforcement of the Law, by complying with Regulation no. 43 (3) of the United Nations Minimum Rules of Procedure on the Treatment of Detainees, according to which disciplinary sanctions do not imply the prohibition of contacts with the family, so that the suspension of the right to visit is no longer a disciplinary punishment;

● **revising art. 101 par. (4) of the Law no. 254/2013, according to which the doctor informs and makes recommendations to the chairman of the discipline commission in the presence of any medical reason to prevent the application and execution of the sanction with isolation.** The medical staff of the penitentiary visits, whenever necessary, the convicted persons who execute this disciplinary sanction. The Ministry of Justice will agree, within 6 months, the provisions of Art. 101 par. (4) of the Law no. 254/2013 with the recommendations of the Committee for the Prevention of Torture, according to which such a provision affects the doctor-patient relationship as well as those of art. 46 of the United Nations Minimum Rules of Procedure for the Treatment of Prisoners (Nelson Mandela Rules). In this respect, we mention that in the Report on the visit to Romania of the Committee for the Prevention of Torture on 5-17 June 2014, the CPT reiterated the opinion that **doctors working in penitentiaries are doctors' inmates and that the guarantee of a positive relationship between the doctor and the patient is essential to maintaining the health of their inmates and their welfare.** The fact that prison doctors have an obligation to confirm whether detainees are fit to be punished is against the promotion of this relationship and is contrary to Recommendation Rec. (2006) 2 of the Committee of Ministers on European Prison Rules. The Committee calls on the Romanian authorities to ensure that regulations and practices regarding the role of doctors in prisons in existing disciplinary matters are reviewed. The Ministry of Justice will also consider that, according to Art. 46 of the United Nations Minimum Rules of Procedure for the Treatment of Prisoners (Nelson Mandela Rules), **medical staff will have no role in the application of disciplinary sanctions or other coercive measures.** However, they will pay special attention to the health of prisoners in any form of separation, including the daily visit of such detainees and the provision of prompt medical assistance and treatment at the

request of such detainees or prison staff. Medical staff should report to the director of the penitentiary without delay any adverse effects of disciplinary sanctions or other restrictive measures on the state of physical or mental health.

•initiating the procedure for the revision of the Regulation on the safety of the places of detention subordinated to the National Penitentiary Administration, within 30 days from the date of the referral, by the Director General of the National Administration of Penitentiaries, for the purpose of introducing the obligation to conduct the search in two so that this measure can be adopted in all penitentiary units, taking into account the position of the European Committee for the Prevention of Torture, which has repeatedly stated that the search is a potentially degrading measure and the persons searched should not remove all their clothes same time; people undergoing search should be allowed to undress first over the waist, then put their clothes on them and then undress under the waist;

• starting the procedure for the revision of the Regulation on the safety of the places of detention subordinated to the National Penitentiary Administration, within 30 days from the date of the notification, by the Director General of the National Administration of Penitentiaries, in order to introduce the obligation to record all searches thorough physical or cavity control, for this measure to be adopted in all penitentiary establishments, taking into account Rule 51 of the United Nations Minimum Rules of Procedure for the Treatment of Prisoners (Nelson Mandela Rules), according to which the prison administration must record searches as well as the reasons for the searches, the identity of the persons who carried them out, and any search results.

► *The following recommendations have been submitted to the National Administration of Penitentiaries:* • Adapting and harmonizing the online version of the online version of the psychological file on paper • Developing the Therapeutic Community by including a larger number of former drug users • Balancing the rewards for reintegration activities by supplementing crediting and rewarding for participation in educational group programs, psychological assistance and social assistance • referral to the Ministry of Justice to initiate the procedure for the

revision of the Regulation on the safety of detention places subordinated to the National Administration of Penitentiaries, the introduction of the obligation to conduct the search in two stages, within 30 days • referral to the Ministry of Justice (in accordance with the provisions of Article 303 of the raising the safety of the places of detention subordinated to the National Administration of Penitentiaries approved by the Order of the Minister of Justice no. 1676/2010) to initiate the procedure for the revision of the Regulation on the safety of places of detention subordinated to the National Penitentiary Administration for the purpose of introducing the obligation to record all thorough searches or cavity control, having regard to Rule 51 of the Minimum Enforcement Assembly United Nations Rules for the Treatment of Prisoners (Nelson Mandela Rules), according to which the prison administration should provide evidence of body searches as well as reasons for searches, identity of persons who have conducted them, and any search results

► *The following recommendations were also submitted to the Bucharest-Jilava Penitentiary:* • management of overcrowding • admission to competition, in compliance with the legal provisions, during the 6 months, for 122 vacancies • keeping a permanent record of the disciplinary sanctions • prevention of disciplinary deviations and the use of alternative mechanisms to solve them • proper preparation of the psychologist's working papers • solving the schooling of persons deprived from freedom • professional training of all personnel conducting searches • promptly informing medical staff about the doctor's obligation to immediately notify the prosecutor and to notify the director of the penitentiary if the medical examination reveals that a detainee shows signs of violence or accusations of violence • ensuring the timely supply of the medic compensated.

Regarding the previous recommendations, the **National Administration of Penitentiaries and the Bucharest-Jilava Penitentiary communicated the following:**

► *National Administration of Penitentiaries:* • at the level of the National Administration of Penitentiaries, for the year 2018, activity 4.3 is foreseen. Finalizing the simplification of the documentation on the domain of social reintegration, complementary to the revision of the normative framework, which is in progress at

the level of the central administration. Actions to de-bureaucratise and simplify documentation specific to the field of social reintegration were carried out both in the period before 2017 and during 2018 • the expansion or establishment of another therapeutic community imposes a significant budgetary impact, so that, to the extent that they will to identify such opportunities, the central administration will take steps to do so. • A draft Order of the Minister of Justice on the Regulation on the Safety of Detention Sites was elaborated at ANP level, which was submitted for approval to the Ministry of Justice on 05.04.2018, **without specifying the suggested revision proposals.**

► *The Bucharest-Jilava Penitentiary:* • there were 68 staff members; • at the penitentiary level there is a register containing information on the type of disciplinary sanctions applied, the disciplinary deviations for which they were applied, the contestation of the disciplinary sanctions and the manner of solving them to the custodial judge or the court • at the level of the Jilava Penitentiary are used alternative conflict prevention techniques and mechanisms, as confirmed by the reduced number of disciplinary sanctions applied compared to the number of rewards granted • the psychological records in the individual file will be updated to remedy the situation with regard to blank areas • Starting with the 2017-2018 school year, low-school gymnasiums are under way • Legal provisions in force as well as good practices in terms of the execution of body searches is part of the initial training of new staff as well as the training of the entire personnel of the unit • so far there have been no situations in which the doctor of the unit does not notify the prosecutor if the medical exam is found that a detainee shows signs of violence or accusations of violence. The staff shall act according to art. 72, par. (3) of the Law no. 254/2013.

Until the drafting of this report, the Ministry of Justice did not respond to the recommendations.

c) Investigations in penitentiary units

Inquiries aimed at verifying the complaints in petitions registered at the People's Advocate Institution concerned various aspects such as: accommodation conditions,

medical assistance, dental care, repeated transfers between prison units and transfer conditions, incident reports, refusals food, etc. The representatives of the Domain on the prevention of torture found that some of the investigations carried out did not confirm the ones notified by the persons deprived of their liberty, in other cases the petitioners did not support their statements, and in other cases recommendations were issued to the penitentiary management visited, the National Administration of Penitentiaries and the Ministry of Justice.

► four inquiries in 2018 were carried out together with representatives of the Army Domain, Justice, Police, Prison Service within the People's Advocate Institution as a result of an ex officio notification of the People's Advocate Institution in connection with the death of a detainee detained in Rahova Penitentiary . Thus, investigations were carried out at the Rahova Penitentiary, the Jilava Penitentiary and the Giurgiu Penitentiary in order to learn more about the reasons for the transfer of the detainee from the Rahova Penitentiary to the Giurgiu Penitentiary, his state of health at the time of the transfer, and other issues that may arise during the course of the investigations. As a result, Recommendation no. 40/5 September 2018, available on the AVP website.

► following the investigation at the *Tulcea Penitentiary*, the People's Advocate Institution sent an address to the Tulcea County Police Inspectorate for the communication of information regarding the stage of solving the complaint of a person deprived of liberty regarding the constitution of a criminal file on the physical aggression justified by the presence of some signs of violence: limbs bumps, wounds, traumatic facial and thoracic lesions, lumbar, fractures, burns. The Chief of the Tulcea County Police Inspectorate replied that acts and activities of criminal prosecution had been carried out and that the criminal file was submitted to the competent prosecution unit for finalizing the investigations. As a result, the People's Advocate Institution addressed the Prosecutor's Office attached to the Tulcea District Court, receiving the following answer: *the criminal prosecution on the facts of abusive conduct and abuse of office is decided, as provided in art. 296 and art. 297 of the Criminal Code.*

► following the investigation at the *Craiova Pelendava Penitentiary*, following a petition, deficiencies were found with regard to overcrowding (68 rooms were accommodated in a room accommodating 63 detainees, the area of 148.8 m², being insured space of 2.19 m² / person, below the minimum of 4 m² / person), lack of furniture and lack of intimacy at showers. As a result of the requests from the People's Advocate Institution, the visited unit communicated the answer explaining that the administration of the Penitentiary Craiova Pelendava has made constant efforts to reduce the overcrowding of the custodial population, to rehabilitate a number of 11 metal bedside were installed in the holding room verified during the investigation, the documentation was prepared for the purchase and installation of 12 shower curtains, the procurement procedure for this purpose was started.

► as regards the *non-observance of the right to health care, treatment and care*, representatives of the People's Advocate Institution conducted an investigation at the *Bucharest-Jilava Penitentiary-Hospital* where they found that in the case of a person deprived of liberty who had a recommendation to attend a new medical consultation at three months, the specialist consultation took place over a period of 4 months. Following the investigation of the People's Advocate Institution, he **recommended** to the director of Bucharest-Jilava Hospital Penitentiary to arrange the necessary measures for the observance of the term recommended by the physician to present the persons deprived of their liberty to the specialized medical consultations.

➤ Also regarding *the non-observance of the right to healthcare, treatment and care*, the representatives of the People's Advocate Institution conducted an investigation at the *Giurgiu Penitentiary* following a complaint by a person who was deprived of his liberty, chronically ill, who complained that he had not received medical treatment, the delays being due to the purchase of unpaid medicines through SEPA. The People's Advocate issued the **Recommendation** of the General Director of the National Administration of Penitentiaries to order the necessary measures to identify a solution that would ensure the timely purchase of the drugs prescribed for the persons deprived of their liberty in custody of the Giurgiu Penitentiary.

As a result of this Recommendation, the management of the National Administration of Penitentiaries sent to all subordinate units the adoption of a unitary way of working, organizing a public procurement procedure, so that each penitentiary unit will send to the penitentiaries the hospital to **which the maximum and minimum necessary** unpaid medicines over a one-year period, the estimate based on historic data from the previous period. Also, the framework agreement should be concluded with one or more economic operators and the duration of the agreement shall not be less than 2 years, the equivalent of unpaid medicines being borne by the funds insured by the state budget.

► Following the investigation carried out at the **Constanta-Poarta Albă Penitentiary**, the People's Advocate sent the Recommendation no. 5 of 22 January 2018 to the General Director of the National Administration of Penitentiaries with a view to arranging the necessary measures to find a solution that would allow the necessary number of new beds to be purchased within the Constanta-Poarta Penitentiary, given that the insufficient funds allocated to the Constanța-Poarta Penitentiary they did not allow the continuation of the replacement program for old beds with new beds.

The Director General of the National Penitentiary Administration *said they will launch a procurement procedure that will end with the conclusion of a framework agreement for a period of two years (the framework agreement will be entered for a minimum quantity of 100 pcs. and a maximum of 778 pieces). The minimum amount of 100 beds that is intended to supplement the need for new beds for the E5 section will be purchased after the completion of the procurement procedure, the funds required for the purchase are allocated through the approved budget of the unit. The difference in the number of beds to be purchased up to the maximum will be acquired after identifying the funds needed for the loan transfers or the budget rectifications this year. The National Administration of Penitentiaries has allocated funds in 2018 to contract the design services related to the complex investment objective "Sections IV-V", which will modernize 486 accommodation places for persons deprived from freedom.*

d) Notices to criminal prosecution bodies

Following the visit to Iasi Penitentiary in 2017, the People's Advocate notified the Prosecutor's Office attached to the Iasi Court on aspects found during the visit, especially on the Iasi Penitentiary's failure to inform the Prosecutor's Office on the death of detainees, which was brought to the notice of the Iasi Penitentiary. In its reply of March 2018 sent to prison management Iasi states that *the establishment, if any death (with or without violence), shall immediately notify the judge surveillance of imprisonment, the prosecution, the National Administration of Penitentiaries and the deceased person's family, a person close to the deceased, or, as the case maybe, the legal representative.*

The Prosecutor's Office attached to the Iasi Court was notified about this matter by the People's Advocate and in the response sent to the institution it was mentioned that on the role of the Prosecutor's Office attached to the Iasi Court is registered a criminal case covering aspects notified.

e) Proposals

- amendment of the Law no. 254/2013 on the execution of punishments and deprivation measures ordered by the judicial bodies during the criminal trial by **completing the art. 48 par. (8) with new alternatives for decreasing over crowding**, given that only the procedure for the transfer of detainees between prisons is currently foreseen. Please note that art. 48 par. (8) states that: "If the legal capacity of the penitentiary is exceeded, the director of the penitentiary has the obligation to inform the general director of the National Administration of Penitentiaries in order to transfer the sentenced persons to other penitentiaries. The Director-General of the National Penitentiary Administration determines whether the transfer is required, specifying the penitentiaries in which the sentenced persons are transferred."

- issuing a new decision of the Director General of the National Administration of Penitentiaries allowing **sale of products made by prisoners in the workshops**, which would supplement the incomes of prison by reinvesting money in creative activities or to improve housing conditions.

- examination of the provisions of Law no. 254/2013 regarding the execution of the punishments and the deprivation of liberty measures ordered by the judicial bodies during the criminal trial, under the amendment of art. 101 par. (1) lit. e) and art. 101 par. (2), **to include the right to visit in the category of rights that cannot be restricted by the application of disciplinary sanctions.** We propose that the suspension of visiting rights should no longer be a disciplinary sanction, which would help harmonize legal provisions with Rule no. 43(3) of the Minimum Rules of the United Nations on the treatment of detainees, based on which disciplinary sanctions or restrictive measures do not imply forbidding contact with the family. Means of contact with the family can only be restricted for a limited time and as strictly provided to maintain order and safety.

- the revision of the Regulation on the safety of places of detention subordinated to the National Administration of Penitentiaries for the purpose of introducing the obligation to conduct the two-stage search and the introduction of the obligation to record all thorough bodily searches or cavity control, having regard to Rule 51 of the Minimum Ensemble United Nations Rules for the Treatment of Prisoners (Nelson Mandela Rules), according to which the prison administration should provide evidence of body searches as well as reasons for searches, identity of persons who have conducted them, and any search results.

At the end of this activity report, we underline once again that the Domain of Prevention of Torture in Places of Detention operates through all activities carried out to prevent any violation of the rights of persons deprived of their liberty. In its mission, the field of prevention of torture in places of detention takes into account the living conditions of the units subject to monitoring as well as the working conditions of the personnel, motivated by the fact that they have an impact on the efficiency of the activities in the detention centers and on the nature of the relations with the persons deprived of their liberty.

At the same time, we would like to thank all the institutions, non-governmental organizations (in particular, the Romanian Group for Human Rights GRADO, FACIAS, the Social Alternative Association Iasi, OADO-Craiova Regional Branch, LADO Cluj Branch) with whom we cooperated during the reporting period, for our contribution to National Preventive Mechanism visits, participation in the events and activities organized by the Domain of Prevention of Torture, as well as the creation of a vision in line with the latest international developments in the field of human rights defence.