



*Prevention Mechanism (NPM)*



*The field regarding  
prevention of torture  
in detention places - National*

**ACTIVITY REPORT**  
**of the field regarding prevention of torture**  
**in detention places**  
**for 2017**

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## ***I. Introduction***

### ***1. International and National Provisions on Banning and Preventing Torture and Inhuman or Degrading Punishment or Treatment***

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”**.

**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.”*

Article 22 of the Romanian Constitution stipulates that the right to life, as well as an individual’s right to physical and psychological integrity are guaranteed. No one shall be subjected to torture or to inhuman or degrading treatment or punishment. Death penalty is forbidden.

**National legal provisions define: *subjecting to ill treatment*** as: a) subjecting an individual to serving a sentence, a safety measure or an educational measure

otherwise than stipulated in legal provisions; **b)** subjecting to degrading or inhuman treatment an individual in detention or who is serving a sentence, a safety measure, an educational measure or a freedom depriving sentence (art. 281 of the Criminal Code); *torture*, an action performed by a public servant who has a position implying the exercise of public authority or by another person instigated by him/her or acting with his/her explicit or tacit consent to cause significant physical or psychological harm to an individual: **a)** with a view to obtaining information or statements from this person or from a third person; **b)** with a view to punishing him/her for an act s/he or a third party has committed or is suspected to have committed; **c)** with a view to intimidating or pressuring him/her or a third party; **d)** for a reason based on any form of discrimination (art. 282 of the Criminal Code).

According to 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 in New York on December 10, 1984, torture and inhuman or degrading punishment or treatment are forbidden and represent serious infringements of human rights, and their actual prevention implies a combination of legislative, administrative, judicial and other types of measures.**

**The purpose of the Optional Protocol is to set up a system of systematic visits undertaken by international and national independent bodies on the sites where persons are deprived from freedom, so as to prevent torture and inhuman or degrading punishment or treatment.**

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.

**Monitoring the treatment and detention conditions of individuals deprived from freedom who are in some form of custody, through periodic spot visits performed by independent National Prevention Mechanisms, is one of the most efficient means to prevent torture and ill treatment, a part of the system to protect**

**individuals who are deprived from freedom.** External spot visits may be a significant deterrent. Moreover, visits allow independent experts to directly examine the treatment applied to individuals who are deprived from freedom and detention conditions. **Based on the concrete observed situations and interviews with individuals deprived from freedom, experts may issue realistic, practical recommendations and may establish a dialogue with authorities so as to improve the situation.** For persons who are deprived from freedom, coming into direct contact with people from the outside, who are interested in their conditions, is also important and is a form of protection, as well as moral support. Visits make possible the establishment of direct dialogue with authorities and officials in charge with managing detention places. This dialogue results in the development of a constructive work relation, which could help obtain the authorities' points of view on work conditions and identify the relevant issues.

The head of the delegation of the UN Subcommittee on Prevention of Torture (SPT) who visited the Netherlands during July 28-31, 2015, mentioned that **“Fighting against inhuman or degrading treatment is a continuous process and the appointment of a national monitoring body is not the end, but the beginning”**.

## ***2. The Organization and Operation of the Field Regarding Prevention of Torture in Detention Places***

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 normative acts, approved by Law no. 181/2014).

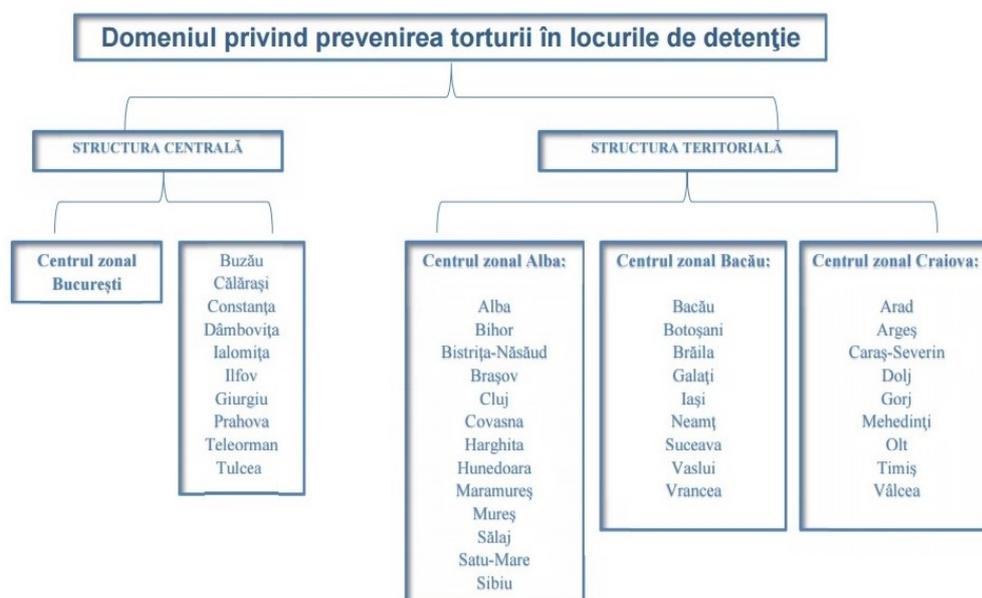
**The field regarding the prevention of torture in detention places monitors the treatment applied to people in detention places in a regular manner, so as to reinforce their protection against torture and inhuman or degrading punishment and treatment and against the exercise of their fundamental rights 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 Central Structure** includes **the Bucharest local centre** and the counties: Buzău, Călărași, Constanța, Dâmbovița, Ialomița, Ilfov, Giurgiu, Prahova, Teleorman and Tulcea.

**The territorial structure** includes 3 local centres: ● **The Alba local centre**, with the counties: Alba, Bihor, Bistrița-Năsăud, Brașov, Cluj, Covasna, Harghita,

Hunedoara, Maramureș, Mureș, Sălaj, Satu-Mare and Sibiu; • **The Bacău local centre**, with the counties: Bacău, Botoșani, Brăila, Galați, Iași, Neamț, Suceava, Vaslui and Vrancea; • **The Craiova local centre**, with the counties: Arad, Argeș, Caraș-Severin, Dolj, Gorj, Mehedinți, Olt, Timiș and Vâlcea.



► Visits are performed *ex officio*, based on an annual visit plan or spot-on, or based on notifications from any persons or on the acknowledgement, in any way, on the existence of a situation of torture or cruel, inhuman or degrading treatment in a detention place.

Visit teams include a legal professional of the field regarding prevention of torture in detention places, at least a physician, depending on the relevant specialization, and a representative of non-governmental organizations. External collaborators with other specializations than permanent employees may also take part in the visits, for both the central structure and the territorial structure, based on service agreements.

Within the visit, 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 in case of irregularities. 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 independence of the National Prevention Mechanism** is a fundamental principle that supports its role; hence, it also influences its capacity to prevent abuse. The closed nature of the monitored institutions transform the detainee into a vulnerable person, at any time likely to be subject to abuse. The reliability of the monitoring body, its independence perceived by all involved parties and how it acts are highly important for the achievement of its role.

**In order to guarantee the functional independence of the NPM and for the exercise of its preventive mandate, the first approaches to harmonize the provisions of Law no. 35/1997 on the field regarding the prevention of torture (NPM) with the provisions of the Optional Protocol were initiated starting 2016,** through a legislative proposal for the amendment and supplementation of Law no. 35/1997 on the organization and operation of the People's Advocate institution, as republished and subsequently amended and supplemented, as well as the amendment of normative acts (Pl-x no. 257/2016). We mention that other proposals regarding the activity of the People's Advocate institution were provided, besides NPM-related proposals. Legislative amendment provisions regarding NPM mainly referred to:

- replacing the name of Field regarding prevention of torture in detention places with the one of National Torture Prevention Mechanism, for harmonization with the provisions of the Optional Protocol;

- drawing up an annual report on the activity of the National Prevention Mechanism, separate from the annual report of the People's Advocate;

- 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. In exceptional cases, at the People's Advocate's discretion, the latter may decide that some petitions or notifications should be solved *ex officio*, by the National Prevention Mechanism. With the above mentioned exceptions, this will only undertake attributions in terms of preventing torture in detention places by performing regular visits to these places. 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 fields of activity of the People's Advocate's institution will provide the National Prevention Mechanism, at the beginning of the year and whenever required, information on the petitions solved in the previous year, so as to draw up the annual visit plan;

- including means of terrestrial, airborne, water and naval transport used for the transport of persons deprived from freedom, in the category of detention places subject to NPM monitoring; also checking the performance of the measure of removal from escort;

- NPM drawing up and 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;

- including explicit provisions on the interdiction to retaliate, i.e. no authority and no officer will decide, enforce, allow or tolerate any sanction against persons or organizations, for having provided any information to members of the visit team. None of these persons or organizations may be damaged otherwise; the national Prevention Mechanism shall guide persons that may be subject to retaliation after the visit, to approach the fields of the People's Advocate's institution, depending on the type of the detention place or the relevant authorities, according to the nature of retaliation;

- 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. Members of the National Prevention Mechanism are not legally liable for the expressed opinions or for the acts they enforce/draw up, according to the law, in the performance of their legally-stipulated attributions;

- the annual budget of the National Prevention Mechanism is proposed and drawn up by the deputy of the People's Advocate for the National Prevention Mechanism and drawn up by the People's Advocate, being exclusively used for the Mechanism's expenses;

- awarding an increase for the staff performing visits or investigations in areas with high danger factors, likely to affect physical and psychological health and integrity, whose value and conditions shall be established by an order of the People's Advocate, according to the law on wages.

- 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.

**The legislative proposal** (Plx no. 257/2016; L566/2016) on the amendment and supplementation of law no. 35/1997 on the organization and operation of the People's Advocate, republished, as subsequently amended and supplemented, and the amendment of normative acts, **pursuant to the review request filed by the President of Romania**, regarding some punctual issues, failed to gather the required number of votes for an organic law in the Senate (decision-making chamber) on November 27, 2017 (3 votes were missing), hence it was rejected.

We stipulate that, as of December 27, 2017, this project was registered as a legislative initiative with the Chamber of Deputies, and permanent chambers were asked to approve its debate **in an emergency procedure**.

**The legislative procedure was resumed and was registered with the Chamber of Deputies under no. BP780/2017**

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 under age individuals execute the freedom-depriving measures stipulated by Law no. 286/2009, as subsequently amended and supplemented, on the criminal liability of under age individuals, to persons in charge with supervising and guiding under age individuals who are executing non-freedom-depriving measures stipulated by Law no. 286/2009, as subsequently amended and supplemented, on the criminal liability of under age individuals, to placement centres, family residences, mother care support centres where under age individuals 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.

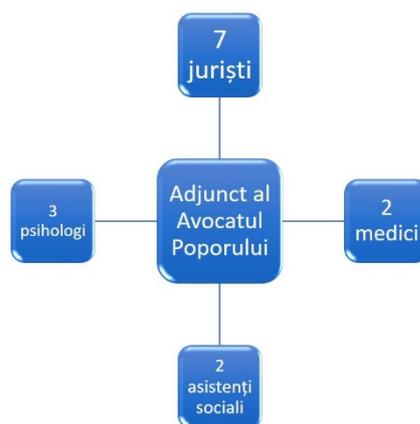
**Actions will be pursued so that legal provisions ensure the exercise of the NPM mandate and attributions according to the provisions of the Optional Protocol, especially in terms of guaranteeing the functional independence of the NPM and the exercise of its mandate in a preventive, not reactive manner.**

To this purpose, art. 18 of the Optional Protocol stipulates **the state-parties' obligations to guarantee the functional independence of national prevention mechanisms, as well as the independence of their staff.**

► 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 7 employees (4 legal professionals and 3 specialists/physician, psychologist and social worker), while local centres have

7 employees (3 legal professionals, 1 physician, 1 social worker and 2 psychologists), with 9 other vacancies (2 physician positions in the Alba and Bacau local centres, as well as 7 positions for financial, wages, human resources and administrative staff).

### Echipa Domeniului privind prevenirea torturii în anul 2017



Competitions for social workers, physicians and financial and human resources staff continued in 2017 for the occupation of vacancies, resulting in the occupation of the social worker position in the Bucharest 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 2017 as well without the 4 cars. So, **visits and investigations were performed with the cars of the staff for the local centres of Alba, Bacau and Craiova, and with the car of the People's Advocate, the People's Advocate deputy and the institution for the Bucharest local centre.**

From this point of view, Law no. 9/2018 on the amendment and supplementation of Law no. 35/1997 on the organization and operation of the People's Advocate regulated the possibility for the **People's Advocate to rent, lease or administer, according to the law, for its own activities, movable goods and real estate, public or private property.**

**Moreover, the NPM budget for 2018 also stipulates the amounts required for the purchase of 4 cars.**

► 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 National College of Social Workers in 2015.

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), cooperation with most representatives of professional associations (external collaborators) was interrupted, since the **mentioned legal provisions stipulate that external collaborators should be registered in SEAP (the Electronic Public Procurement System)**. Thus, the actual performance of the activity of the field and mainly the activity of the Alba and Bacau local centres, where permanent physician positions are still vacant, was blocked and became more difficult. According to Law no. 35/1997, republished, as subsequently amended and supplemented, **the visit team includes at least a physician.**

Therefore, the collaboration between the field regarding the prevention of torture in detention places and external collaborators decreased significantly, while some of the visits to the Alba and Bacau local centres were performed with the support of the physician employed by the Craiova local centre.

The lists of external collaborators were completed with physicians/social workers included in SEAP, so as to unblock the situation, and the following were

issued: *Order no. 64/July 3, 2017 on the supplementation of the Annex to the Order of the People's advocate no. 163/October 1, 2015 on the approval of the list of external collaborators (social workers) selected by the People's Advocate based on the provisions of art. 29<sup>5</sup> and art. 29<sup>6</sup> of Law 35/1997 on the organization and operation of the People's Advocate, republished, as subsequently amended and supplemented* and *the Order of the People's Advocate no. 65/July 3, 2017 for the supplementation of Order no. 160/October 18, 2017 on the supplementation of Order no. 44 of March 28, 2016 for the supplementation of the annex to the Order of the People's Advocate no. 201/2015 on the approval of the list of external collaborators (physicians), selected by the People's Advocate based on the provisions of art. 29<sup>5</sup> and art. 29<sup>6</sup> of Law 35/1997 on the organization and operation of the People's Advocate, republished, as subsequently amended and supplemented.*

The People's Advocate entered addenda to the Protocols entered with the Romanian College of Physicians and the Romanian College of Social Workers, so that external collaborators are selected provided that they are registered with SEAP. Announcements were posted on the website of the People's Advocate institution and the mentioned Colleges, regarding the requirements to take part in the new selection for external collaborators of NPM organized by the People's Advocate, including the one for registration with the Electronic Public Procurement System (Sistemul Electronic de Achiziții Publice - SEAP).

We also stipulate that measures were taken to organize a meeting with the representatives of the Romanian College of Psychologists, which is currently facing a litigation for the determination of its managing bodies.

Likewise, we considered that we had to address the Chair of the National Authority for Public Procurement Regulation and Monitoring, in order to obtain their point of view, since the selection of external collaborators upon proposal of professional associations should be the only request to involve them in the field regarding prevention of torture in detention places, as an exception from the SEAP procurement procedure, and an answer was going to be provided.

Thus, we considered that the obligation to purchase services from external collaborators directly through the electronic catalogue published in SEAP is a condition that goes against the **provisions of art. 29<sup>5</sup> and art. 29<sup>6</sup> of Law no. 35/1997 on the organization and operation of the People's Advocate, republished, as subsequently amended and supplemented, according to which external collaborators are selected based on the proposals of professional associations.**

To this purpose, for the participation of specialists, external collaborators (physicians, psychologists, social workers) in the activity of the field regarding prevention of torture in detention places, the law stipulates the following requirements:

**a) External collaborators are proposed** by the Romanian College of Physicians, the Romanian College of Psychologists, the National College of Social Workers or other relevant professional associations.

**b) 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.

Therefore, the following issues arise:

- the People's Advocate can purchase from SEAP **only** the services of external collaborators proposed by professional associations and selected by the People's Advocate;

- the People's Advocate **cannot purchase the services of any specialist registered with SEAP**, since the legal provisions regarding the appointment by professional associations and selection by the people's advocate. Moreover, the specialists selected to take part in the activity of the field regarding prevention of torture in detention places must have prior training so as to be familiar with issues relevant to the specific field on prevention of torture in detention places, so that relevant knowledge is adapted to the specific legislation of the visited detention place and to the possible situations that would be identified with the opportunity of visits. Therefore, the participation of different external collaborators, selected through SEAP,

would affect the quality of the visit and their suitable training in terms of torture prevention would not be possible.

On the other hand, one of the legislative priorities of the new Romanian Government invested on January 29, 2018 is the substantial amendment of the Public Procurement Law in the shortest delay; we consider that the above mentioned restriction will also be removed in this context.

► Visit teams also include **representatives of non-governmental organizations working in the field of human rights protection.**

In terms of cooperation with non-governmental organizations, addenda to existing protocols and new cooperation protocols were entered in 2017, so that the field regarding prevention of torture in detention places cooperates with **26 non-governmental organizations**, as follows:

- **at the level of the Bucharest local centre** (11 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); the Independent Association for Human Rights (Societatea Independentă pentru Drepturile Omului - SIRDO); the Foundation for the Defence of Citizen Rights against State Abuse (Fundatia pentru Apărarea Drepturilor Cetățenilor împotriva Abuzurilor Statului - FACIAS); Organizația pentru Apărarea Drepturilor Omului (OADO); the Federation of Non-Governmental Organizations “Pentru Copil” FONPC; the ICAR Foundation.

- **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 Siguranța și Antidrog - ASCA), Harghita branch; the Association for Community Partnership of Brasov; the “Impreună 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** (5 non-governmental organizations): the Piatra Neamt Pro Democratia Association; the “Calea, Adevarul si Viata” Association of Christian Roma; the “Alternative Sociale” Association; the Bucovina Institute for Social Partnership and the “Familia” Foundation of Galati;

- **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).

We mention that a collaboration protocol was entered with the ICAR Foundation at the beginning of 2018, whereby the parties shall cooperate to promote and observe the migrants’ rights (in terms of non-constitutionality of the laws and ordinances regarding the migrants’ rights and freedoms; cooperation in terms of situations of torture of cruel, inhuman or degrading treatment within migrant centres, staff training).

### ***3. Relevant Information on the Activity of the Field Regarding Prevention of Torture in Detention Places***

Pursuant to the three-year mandate of the Field regarding prevention of torture, it was found that its visits are no longer a surprise for most of the staff of detention places in Romania, that **the established faults can be solved by cooperation with the authorities in charge with detention places and that, still together, we can prevent torture and punishments or cruel, inhuman or degrading treatment in detention places.**

The visit teams of the Field regarding prevention of torture performed visits to all types of detention places and made various recommendations, concluding that **the institutions think of these as an opportunity to assess their own practices and implement change where needed. At the same time, dialogues were held with public authorities managing detention places, and the staff’s participation in national and international meetings was a source to gather expertise, knowledge and experience.**

► In this context, we mention the **Round table** organized on November 23, 2017 at the Parliament’s Building, with the title **“Monitoring detention places by the Field regarding prevention of torture in detention places - National Prevention Mechanism (NPM), results and difficulties. The visited institutions’ obligations in the fulfilment of NPM attributions”**.



The meeting was attended by: the Romanian Governmental Agent with the European Court of Human Rights, representatives of the Prosecutor’s Office attached to the High Court for Cassation and Justice, of the National Administration of Penitentiaries, of the Jilava Penitentiary, of the General Inspectorate of Romanian Police, of the General Inspectorate for Immigration, of the National Authority for Child Rights’ Protection and Adoption, of the General Directorates for Social Assistance and Child Rights’ Protection, of the “Mina Minovici” Legal Medicine Institute, of the College of Social Workers and the College of Romanian Physicians, the non-governmental organizations GRADO, AEPADO, ANAIS, FACIAS, SIRDO. The event was also attended by a delegation of the People’s Advocate of Moldova that was undertaking a study visit in Romania, at the human rights protection institutions in Romania.

Mr Victor Ciorbea, the People’s Advocate, mentioned the role of the field regarding prevention of torture in detention places in terms of monitoring detention places; the idea was also supported by Ms Catrinel Brumar, a governmental agent with

ECHR, who underlined the part of the field regarding prevention of torture in prevention activities, stipulating that **the National Prevention Mechanism is the connection between international commitments and their implementation.**

The deputy of the People's Advocate coordinating the Field regarding prevention of torture in detention places performed a review of international provisions in terms of prevention of torture, referring particularly to the Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). Furthermore, aspects were presented on the performance of visits, the difficulties encountered by NPM in the performance of visits and the obligations of the visited institutions, the implementation of recommendations sent to visited units and the relation with local and central authorities, as well as proposals to improve the activity of the Field regarding prevention of torture in detention places.

The findings of the visits of the field regarding prevention of torture in detention places in 2016 and the first quarter of 2017 were presented by the Field's staff, by categories of visited detention places. References were made to the actions taken by the visited institutions and by the managing public authorities pursuant to the visits of the Field regarding prevention of torture in detention places performed in 2016 and the first quarter of 2017.

The discussions also included proposals to improve the activity of the Field regarding prevention of torture in detention places by employees of the Field, who presented a set of measures likely to have a positive impact on torture prevention activities.

Interventions and discussions were held by representatives of public authorities managing detention places (the General Inspectorate of Romanian Police, the General Inspectorate for Immigration, the National Administration of Penitentiaries, the National Authority for Child Rights' Protection and Adoption), as well as by representatives of professional associations (the National College of Romanian Social Workers) and non-governmental organizations (GRADO, SIRDO).

► In the same context of cooperation with public authorities, we refer, on a national and international level, to the correspondence with:

- **the Prosecutor's Office attached to the High Court for Cassation and Justice**, which, based on art. 63 g) of Law no. 304/2004 on judicial organization, requested for information regarding actions of the Field regarding prevention of torture, of interest for the activity of prosecutors' offices, dealing with the defence of the legitimate rights and interests of under age people and legally incapacitated persons.

We also mention the notice addressed by the People's Advocate to the Prosecutor's Office attached to the High Court for Cassation and Justice regarding a beneficiary from the Balaceanca Centre for Recovery and Rehabilitation who was accommodated in an isolation room starting 2015, since he had caused a severe cranial trauma to another beneficiary, and, as a consequence, the latter died.

Regarding the beneficiary's situation, it was considered that the integration in a neuropsychiatry recovery and rehabilitation centre of such a person whose discernment is doubtful and, hence, presents a high degree of social risk, does not meet their needs, cannot provide for treatment and recovery conditions and cannot ensure the required means of security and protection for other beneficiaries. In this context, a solution should be identified to the beneficiary's interest (e.g. integration in a psychiatry unit and safety measures), especially since their **isolation for a long time infringes legal provisions that stipulate that isolation should be applied for a minimum duration and should be periodically reviewed every two hours at most**. According to ECPT guidelines, patients must be awarded suitable treatment and care from both a psychiatric and somatic point of view; considering the principle of equal treatment, medical treatment and assistance to persons who are unwillingly placed in psychiatric units must be equal to the ones awarded to psychologically ill patients who agree to be admitted.

In this context, the People's Advocate asked **the General Prosecutor from the Prosecutor's Office attached to the High Court for Cassation and Justice** to examine the situation, i.e. identify a solution to support the beneficiary, so that they may be granted a suitable treatment for their situation, in an adequate institution.

- **the Governmental Agent to ECHR**, who was provided with information on the visits and conclusions of visits undertaken by the People's Advocate in psychiatric hospitals, in the performance of its role as a national prevention mechanism, during 2016 and the second semester of 2017; the recommendations drawn up in visit reports, their enforcement and the People's Advocate's actions to ensure that recommendations are implemented, if they are not enforced.

- **the Ministry of Justice, which, pursuant to the notice regarding overcrowding**, submitted information regarding the actions proposed to reduce the phenomenon, i.e. • *administrative measures* reducing overcrowding by creating 439 new accommodation places and building 2 new penitentiaries, expected to be completed by 2021 and including new accommodation places – 875 during 2016-2017, 7520 during 2018-2020 and 2500 during 2021-2023; • *legislative measures* by: drawing up the draft Government Decision on the transfer of real estate in the public domain of the state, from the management of the Ministry of National Defence to the National Administration of Penitentiaries, so as to be used as accommodation places for prisoners; the publication of Law no. 169/2017 to amend and supplement Law no. 254/2013 stipulating for a compensatory mechanism for prisoners accommodated in improper condition, i.e. Reducing their punishment as a general measure to alleviate penitentiaries; investments in the penitentiary infrastructure in the “Justice” Programme funded through the Norwegian Financial Mechanism 2014-2021 creating at least 1420 new accommodation places..

We also mention that the People's Advocate notified the Ministry of Justice on the analysis and actions to be taken to supplement the number of visits in the case of prisoners in a serious state and on the need to take actions for flexibility in assessing requests for parole in the case of prisoners with health issues. As for the increase in the number of visits, the Ministry of Justice initiated a consultation process together with the National Administration of Penitentiaries and judges for the execution of penalties by freedom deprivation regarding the need and content of a possible change of Law no. 254/2013 on the execution of punishments and freedom-depriving actions decided by judicial bodies during the criminal process.

In terms of flexibility in assessing requests for parole, the **Ministry of Justice submitted the issues notified by the People's Advocate to the High Council of the Judiciary**, so that the latter may decide according to their own competences.

- **the Ministry of Labour and Social Justice**, which, after the incident of the “Sf. Dumitru” residence of Voluntari, Ilfov (where the vice-president of the administration of the centre for elderly persons initially asked the visit team to leave the centre and did not allow their access on site, stating that the centre did not fall within the jurisdiction of the NPM, and then allowed their access, but obstructed the performance of the visit) notified us that: during October, **the ministry informed social care public services on the competences of the People's Advocate institution in the exercise of attributions regarding the prevention of torture in any place included in the social care system, as well as on their obligation to provide the requested information and support the performance of monitoring visits, according to the law.**

- **the Ministry of External Affairs**, which asked for information on the letter of the Department for Special Procedures of the Office of the United Nations High Commissioner for Human Rights on the analysis of the situation at the Neuropsychiatric Recovery and Rehabilitation Centre of Maciuca, as well as information regarding incidents that may be crimes reported by NPM to investigation bodies.

- **the Human Rights Commissioner of the Council of Europe, Mr Nils Muiznieks**, who asked for information regarding the performance of the asylum procedure in Romania, the enforcement of the readmission agreement with Serbia and accommodation conditions in alien centres. The answer sent to this request included information regarding the Protocol of June 8, 2011 between the Romanian Government and the Serbian Government on the enforcement of the Agreement between the European Community and the Serbian Government on the readmission of people staying illegally, as well as information notified by the General Inspectorate of the Border Police and the General Inspectorate for Immigrations, for the requests to readmit applicants from a third country or stateless individuals and requests for land transit.

- **Mr Markus Jaeger, Department for Human Rights Policy and Cooperation, Directorate General Human Rights and Rule of Law, Council of Europe**, who asked for information on the visit reports drawn up by NPM pursuant to monitoring visits undertaken to centres where migrant children are being held in custody.

- **the Ombudsmen from: Norway, Croatia, Bulgaria, Poland, Sweden, Austria, Czech Republic, Spain, Portugal**, who were asked for information on the organization of the National Prevention Mechanisms in their institutions, the functional, operational and financial independence of NPM, the solution of petitions regarding torture and ill-treatment, immunity/guarantees, increases of NPM staff, their compensation.

In the same context of cooperation, we mention the meeting with **Mr Eduardo Yrezabal, the representative of UNHCR to Romania**, from the beginning of 2018, where issues of shared interest in terms of migrants were discussed and the basis of future cooperation was laid.

► In 2017, the field regarding prevention of torture in detention places benefitted from the **support of the Association for Prevention of Torture in organizing a workshop**. Thus, the workshop “Monitoring detention places - a practical and reflective workshop” was held in Bucharest from May 3 to May 5, 2017, with the participation of specialists from the Association for Prevention of Torture - APT Geneva - **Mr Jean Sebastien Blanc, detention counsellor and Mr Octavian Ichim, in charge with the programme for Europe and Central Asia** - as well as members of the field regarding prevention of torture in detention places within the People’s Advocate Institution.

The workshop aimed at improving the competences of the field regarding prevention of torture in detention places for monitoring detention places, also in terms of preparation, performance and follow-up of a visit, exposing specific vulnerability situations and exploiting the various approaches, enforcing the methodology discussed on a visit to a detention place, optimizing the impact of reports and recommendations pursuant to the adoption of a perspective to change in drawing up and strategic

activities. The workshop covered three days and included a theoretical part and a practical one.

The first day included presentations and debates on various topics, such as: the methodology for monitoring detention places; vulnerability and vulnerable persons in detention; identifying cases of torture; the methodology for preparing a visit. On this occasion, the deputy of the People's Advocate and members of the Field regarding prevention of torture in detention places presented the field and information on legal regulations on penitentiaries, required to prepare the visit.

Visits to the Jilava Penitentiary took place on the second day, where the representatives of APT participated as observers; the third day included discussions on the performance of the visit, drawing up visit reports and following the implementation of recommendations, mapping actors, group exercises.

The meetings included discussions on the double-smart model to prepare recommendations. Thus, **the quality and utility of recommendations may be assessed based on ten interdependent and mutually complementary criteria:** specific, measurable, achievable, results-oriented, time-established, suggesting solutions, considering the priority and succession of actions and risks, argued, approaching basic causes, well targeted. Although recommendations may not match all criteria, ensuring a maximum observance thereof will considerably reinforce recommendations.

The entire staff of the field regarding prevention of torture highly appreciated the support awarded to the Romanian NPM in organizing the workshop and for the opportunity to be shared experiences of APT representatives in terms of monitoring detention places.



► A major aspect in the activity of NPM in 2017 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, **10 of the 80 undertaken visits aimed at checking the enforcement of recommendations**.

For instance, pursuant to recommendations drawn up after the 2015 visit to the Balaceanca Centre for Neuropsychiatric Recovery and Rehabilitation, the local centre of the field regarding prevention of torture performed visits to check the implementation of the recommendation at the visited unit and the Ilfov General Directorate for Assistance and Child Protection. We hold that the following actions were taken pursuant to the checks: employing a psychiatrist who has initiated a reassessment of the entire group of beneficiaries; new beds and bedside tables had been purchased at the centre; the head of the centre had asked DGASPC Ilfov to suspend admissions since the accommodation capacity had been exceeded (190 beneficiaries compared to 136 places); pursuant to the visit team's recommendation to assign beneficiaries in rooms in compliance with gender criteria and the maximum number of beds in a room, the unit's manager asked physicians to initiate the transfer of beneficiaries to rooms considering their gender, pathology and degree of autonomy.

► Moreover, in 2017, the field regarding prevention of torture in detention places enforced the provisions of art. 29<sup>15</sup> 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 a crime.

**Criminal prosecution bodies were notified in 21 cases.** For instance, pursuant to the spot visit to the Centre for Elderly Persons of Mironesti - Giurgiu, **the visit team of the field regarding prevention of torture found out that, in July 2017, a 95-year-old beneficiary 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. In the following days, the beneficiary's health worsened, and then she died.

The visit team was not informed on the reasons why the ambulance did not take the patient. Moreover, the visit team did not find the results of the medical examination undertaken by the ambulance staff among the deceased patient's medical documents, except for her vital parameters (blood pressure, pulse, blood oxygen level).

From this point of view, **it was found that the medical staff of the centre should have taken additional diligences to take the patient to a specialized examination and notify her general practitioner, as monitoring was only performed by the medical staff of the centre.**

**Therefore, the medical staff must take all actions in case of damages in the beneficiaries' state of health, considering the case of the 95 year-old person who died 5 days after the 112 call, though she was conscious at the time of the incident.** In this context, standard 4 of the Order no. 2126/05.11.2014 issued by the Ministry of Labour, Family, Social Protection and the Elderly stipulates that the competent legal bodies (prosecutor's office, police, public health department, etc.) should be notified in special situations, in case of suspicions regarding the beneficiary's death or in case

of a significant injury or accident; these aspects will be included in the Register of special events.

Regarding the above mentioned, the situation was examined and it was requested that legal action should be taken, along with informing the People's Advocate regarding the case submitted to the Prosecutor's Office attached to the Court of Giurgiu.

► It should also be stated that **the field regarding prevention of torture in detention places is involved in monitoring the rights of persons in residential centres for disabled individuals.**

Based on the legal attributions of the field regarding prevention of torture in detention places (NPM), a visit team performed a spot visit on **January 31, 2017** to the Neuropsychiatric Recovery and Rehabilitation Centre of Maciuca. **Subsequently**, seven spot visits were performed to the Neuropsychiatric Recovery and Rehabilitation Centre No. 1 of Babeni, the Crisis and Respite Care Centre of Babeni, the Neuropsychiatric Recovery and Rehabilitation Centre No. 2 of Babeni, the Neuropsychiatric Recovery and Rehabilitation Centre of Maciuca, the Care and Assistance Centre of Milcoiu, the Care and Assistance Centre of Zatreani and the Care and Assistance Centre of Bistrita, Valcea county, and the visit report included a range of recommendations, such as:

■ **the legal protection of beneficiaries** by pursuing action at competent authorities for the **appointment of the legal representatives of incapacitated beneficiaries or persons who may be appointed as their tutors/curators and the regular review of their situation**, since their absence affects the protection of the beneficiaries' rights and interests.

■ **the review of the health status of beneficiaries in all residential centres and the immediate and accurate determination of the beneficiaries' discernment and capacity of exercise by specialists**, so as to decide whether recovery in a neuropsychiatric recovery and rehabilitation centre is needed, or whether they should be transferred to other residential centres for care and assistance, depending on the

specific needs of each beneficiary and the type of services that each centre may provide.

■ **observing the rights of disabled beneficiaries to be informed and consulted on all the decisions regarding them** (on transfer to other centres as well), to decide and to take risks, directly or through legal representatives, in all aspects of their lives, and to freely express their options;

■ **taking action to obtain the support of public authorities at a county and local level for their family reintegration** and the creation of family services, protected residences and social economy structures for disabled individuals.

■ **observing standards on the assurance of accommodation capacities in terms of avoiding overcrowding some of the visited centres and observing the minimum quality standards for the accreditation of social services dedicated to disabled adult individuals** in terms of accommodation, stipulating no more than 3 beds in a bedroom/personal room and no more than 6 sqm for each beneficiary.

■ **performing a screening to detect HIV infection, B or C viral chronic hepatitis, upon admission to the centres and on a regular basis** and reviewing the opportunity of vaccinating beneficiaries against hepatitis B virus; for instance, 20 cases of hepatitis B virus were registered in CRRN No. 1 of Babeni, considering the high frequency of such diseases in institutionalized persons (D.G.A.S.P.C. Valcea and all centres).

■ **correctly drawing up the Register of isolation and contention measures according to legal provisions.**

■ **notifying criminal prosecution bodies in case of any death in the centres and amending the current legislation, that only regulates notices to competent bodies in case of suspicions on the causes of deaths;** prevention of deaths in residential centres, by supplying emergency medical care/assistance; drawing up, filling in and archiving the registers including special events (C.R.R.N. Maciuca), including detailed information on the beneficiaries' deaths;

■ **preventing abuses against beneficiaries and the objective investigation of such abuses by the commissions appointed by D.G.A.S.P.C. Valcea, along with**

**the urgent notification of competence bodies and the centre staff's monitoring** of beneficiaries who may be a risk for their own health and safety, as well as cases of self- and hetero-aggressiveness. We mention that, according to standard S.4.3 of Order no. 67/2015 of the Ministry of Labour, Family, Social Protection and Elderly Persons (M.M.F.P.S.P.V.), in special situations, when issues that might represent crimes or infringements were established, any other events affecting the quality of the beneficiaries' life were notified, and the centre informs the competent bodies stipulated by the law (the prosecutor's office, the police, the public health department, etc.); the beneficiaries' protection against being used for work for the benefit of the centre's employees.

- **recruitment of psychologists, occupational therapists for vacancies**, that would ensure the recovery and rehabilitation services stipulated by Customized Intervention Plans; the re-assessment and transfer of beneficiaries who are not under the jurisdiction of centres, with high skills in achieving an autonomous and independent life in other centres or forms of social assistance with a view to psycho-social reintegration; the accurate assessment and filling in of assessment reports and individual recovery programmes, individually and specifically for each beneficiary, with full information and details, with date and signature; drawing up a timetable and planning daily, weekly or monthly recovery and rehabilitation activities, provided by centres to beneficiaries; the continuous professional training of staff in the centre in order to properly intervene, prevent and manage the situations of psycho-motor crisis of beneficiaries;

- **ensuring the organization of diverse activities of recovery, of spending spare time and socialisation for the centres' beneficiaries**, their involvement in the performance of self-management activities and the development of independent living skills.

- **recruitment of individuals for the vacancies, since the lack of staff (94 vacancies out of 419 positions included in the organizational charts)** of the 7 visited centres affects the supply of care, assistance, recovery and rehabilitation of beneficiaries, as well as the identification of solutions to contract services of

physicians, psychologists, where the vacancies have not been occupied after competitions (D.G.A.S.P.C. Valcea and all centres).

Regarding the recommendations included in the Visit Report, we mention the **answer of the National Authority for Disabled Individuals (Romanian acronym: ANPD)**, which notified us that it intended to review the minimum quality standards for the accreditation of social services dedicated to adult disabled individuals, when it would also analyse the aspects included in the field assessments of County Agencies for Payments and Social Inspection, as well as other institutions with relevant attributions, so as to minimize issues related to the infringement of quality standards and continue ensuring high quality social services to disabled individuals.

Moreover, the **County Agency for Payments and Social Inspection** set out, in its annual control plan, a set of controls on the observance of standards and the beneficiaries' rights in residential centres, also performing the field assessment of the social services licensed by ANPD in the field of disability.

The National Agency for Payments and Social Inspection notified us that the social services visited within the jurisdiction of Valcea are undergoing an assessment, certification, monitoring and control process to ensure quality in the field of social services. As for recommendations, they were already under the implementation procedure, since, according to the legislative acts in terms of quality assurance for social services, social inspectors have the obligation to systematically and constantly check the observance of minimum quality standards and criteria.

► **As for monitoring the rights of children in residential centres** we mention the visit where NPM representatives became aware of the case of a beneficiary under custody in the “Robin Hood” placement centre, who claimed he had been subject to a physical aggression by police bodies, after a fight with other beneficiary. As the police bodies were notified by the staff of the centre, the under age individual was taken to the police accompanied by a member of the staff; according to his statements, he was left alone with the policemen in the police department, when he was allegedly attacked by them, as he was handcuffed.

**The Prosecutor's Office attached to the Court of Bucharest was notified** on this case. According to the answer provided to the People's Advocate, the notice was sent to the Prosecutor's Office attached to the Court of district 4 of Bucharest, in order to be solved.

► In 2017, the field regarding prevention of torture in detention places **was also involved in matters of national legislation**, and the lawmaker was especially concerned with alignment to the provisions of international legislation on human rights protection.

We reiterate that, in 2015, the field regarding prevention of torture in detention places drew up the **special report on detention conditions in penitentiaries and preventive detention and arrest centres, determinant factors in the respect for human dignity and the rights of persons deprived from freedom, which included a set of legislative proposals to reduce overcrowding and improve material conditions in detention units, such as:**

- measures of criminal policy targeted at the *enforcement of non-custodial/alternative sanctions* (fine, community service, suspension of execution of punishment under supervision) in the detention place as a reference sanction for certain crimes, especially crimes committed by primary criminals;
- *the regulation of a form of parole, at least on a temporary basis*, i.e. releasing prisoners who are executing their final 3 years of prison and/or reducing the punishment to half, compared to two thirds in case of imprisonment of no more than 10 years, as stipulated by current legislation and, respectively, two thirds compared to three quarters, for imprisonment of more than 10 years, as stipulated by current legislation, provided that the convicted individuals have repaid their debt to the state and to the civil party;
- *re-assessing legal provisions regarding the part of the punishment that, according to the law, is considered to be executed based on the performed work and/or school and professional training*;
- *reconsidering legislation on parole so as to ensure a fair treatment to persons deprived from freedom who cannot work for reasons not related to themselves*, on the one hand, and persons deprived from freedom who, due to good penitentiary management, are supplied with conditions to perform their right to work somewhere else;
- *reconsidering legal*

*provisions regarding the parole committee; • capitalizing the potential of persons deprived from freedom by using them for work.*

Subsequently, the European Court of Human Rights pronounced the pilot sentence in the case *Rezmives et al. versus Romania*, establishing the following general measures to remedy the structural issue:

**a. Measures to reduce overcrowding and improve detention conditions.** In this context, it has established that the measures included in the reform initiated by the Government regarding the reduction of punishment limits for certain crimes, criminal fine as an alternative to imprisonment, the waiver of punishment and postponement of punishment, positive effects of the probation system, **should be additional to the diversification of punishments alternative to detention.** Other ways to explore, such as **the relaxation of conditions for the waiver of the punishment, of conditions for the postponement of punishment and, especially, the extension of the possibilities to access parole and the efficient operation of the probation system might be sources of inspiration.**

**b. Establishing a specific way of appeal likely to allow to obtain a suitable compensation for any infringement of the Convention** that has already occurred due to insufficient vital space and precarious material conditions.

Around mid-2017, Law no. 169/2017 was adopted 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 lawsuit, stipulating that, for every 30 days spent in improper conditions, even if they are not consecutive, prisoners may have a six-day cut-off in the time they have to spend in prison. Moreover, this system also applies for calculating the actually performed punishment, as a preventive measure/punishment in the preventive detention and arrest centre with improper conditions. Conditions in penitentiaries were reviewed on this occasion, and the very text of the law determines that they imply lack of access to outdoor activities, lack of natural light, of ventilation, overcrowding of the detention room or mould on the walls. Moreover, Law no. 169/2017 stipulates that an assessment committee for detention conditions will be established for each penitentiary with such issues.

Moreover, another provision of Law no. 169/2017 refers to the prisoners performing compensated work. Thus, three days of work correspond to four days executed from the punishment; two days of work correspond to three days from the punishment, and one night of work corresponds to two days of punishment. **The law had a double purpose: providing compensation to persons who execute freedom-depriving punishment in improper conditions and reducing overcrowding in penitentiaries.**

As of October 19, 2017, 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 during the criminal lawsuit has been enforced, so that **2551 prisoners were released at the level of the penitentiary system by December 4, 2017.**

Since 2017 was a year of significant evolutions for international migrations, and as a consequence of the recommendations submitted by the People's Advocate institution to the General Inspectorate for Immigration, **changes were made to the the Order of the Minister of Internal Affairs and Administrative Reform no. 269/13.08.2007** as subsequently amended and supplemented, which defined ensuring conditions for accommodation, material goods for each accommodated person, maintenance and hygiene materials, the material goods for preparing and serving food, the raw duration of use, as well as the maximum quantitative amounts and cleaning materials needed to maintain accommodation centres. Thus, the **Order no. 113/2017 was issued, on the amendment and supplementation of the Order of the Ministry of Internal Affairs and Administrative Reform no. 269/13.08.2007** on ensuring material assistance for persons accommodated in the centres subordinated to the General Inspectorate for Immigration, i.e. **introducing new goods and reducing the duration of use of others.**

In our opinion, legislative changes likely to help improve the treatment of persons deprived from freedom are also needed in other fields, such as: ● regulating the establishment of local medical and social centres, to remove social cases from psychiatric hospitals and recovery and rehabilitation centres; ● the legislative

clarification of the double subordination of physicians in penitentiaries and harmonization with relevant EU guidelines; ● the possibility to implement community structures for former drug users in all penitentiaries.

► **The Newsletter of the European NPM no. 88/89 May/June 2017** published the contribution of the Romanian NPM to the body search procedure. Moreover, the “Cuvantul Libertatii” newspaper published the following articles: “Mai multe penitenciare din țară, vizitate de specialiștii Instituției Avocatul Poporului” (Several penitentiaries in the country, visited by the specialists of the People’s Advocate institution, December 12, 2017); “Cum se trăiește în câteva dintre penitenciarele din țară” (How is life in some of the country’s penitentiaries December 14, 2017).

► A flyer was drawn up to present the field regarding prevention of torture in detention places, including information regarding the attributions and contact details of local centres.

► ***Difficulties arising during the monitoring activity:***

According to art. 4 of the Optional Protocol, each state party shall allow the performance of visits of national prevention mechanisms *in any place under its jurisdiction and control where persons are or could be deprived from freedom*, either based on an order of a public authority, upon request of the latter or with its tacit approval (referred to as detention places).

*Moreover, according to the 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.*

**During 2017, the visit teams of the field regarding prevention of torture faced a range of difficulties in developing their specific visits to detention places, i.e.: a) the interpretation of the concept of detention places by some public authorities, i.e. not including units that were subordinated to NPM monitoring; b) an improper attitude of public authorities against members of the visit team; c) the refusal of some visited authorities to provide documents or copies thereof. Thus:**

*a) regarding the first aspect, the interpretation of the concept of detention places by some public authorities, i.e. not including units that were subordinated to NPM monitoring, we state as follows:*

► **The “Alexandra-Violeta” Family Centre** of the Alexandria Complex of Services for children with special needs of Alexandria, where the presence of the visit team was welcomed with reluctance, and the director of the General Directorate for Social Assistance and Child Protection of Teleorman stated that the visit of the NPM team was not due, since the centre was not a detention place and, hence, it was not subject to monitoring by the People’s Advocate institution.

► **The “Sf. Dumitru” private residence of Voluntari, Ilfov**, where the vice-president of the administration of the centre for elderly persons initially asked the visit team to leave the centre and did not allow their access on site, stating that the centre did not fall within the jurisdiction of the NPM, as it was not a detention place. Subsequently, after he agreed to the NPM visit, he obstructed its development and threatened the members of the team, interfered in discussions between visit team members and beneficiaries, so that confidentiality could not be observed and information could not be obtained reflecting the actual situation in the centre. Moreover, he asked team members to leave the facilities, and team members had to end their visit earlier than necessary.

► **The “Casa Sfantul Iosif” Elderly Residence of Iasi**, where the management of the private centre considered that the visit was not welcome and refused to show the registers and documents regarding the provided services.

According to the Ministry of Labour and Social Justice, the draft Government Decision on the approval of master agreements for the organization and operation of public social assistance services and the indicative staff structure, currently under endorsement, the Ministry had explicitly included **the obligation of the public social assistance service within the administrative/territorial unit to communicate or provide the requested information to institutions/structures with attributions on prevention of torture, as the case may be, providing support in the performance of monitoring visits.**

We mention that, according to art. 6 par. 1 d) of *Government Decision no. 797 of November 8, 2017 on the approval of the master regulations for the organization and operation of public social assistance services and indicative staff structure*, local public authorities must communicate or provide the requested information to institutions/structures with attributions on monitoring and controlling the respect for human rights, while monitoring the use of procedures for the prevention and fighting of any forms of abusive, negligent, degrading treatment against beneficiaries of social services and institutions/structures with attributions on prevention of torture, also providing support for the performance of monitoring visits, according to the law.

Regarding the above mentioned, we state as follows:

According to the Practical Guide “Monitoring detention places” and the “Guide for the designation and appointment of NPMs” of the Association for the Prevention of Torture, **the definition of “detention places”** of article 4 (1) of OPCAT is **very extensive**, so as to provide the widest possible protection to persons deprived from freedom. The key elements of the definition are: **persons may not leave the detention place and the detention is related to public 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 the Optional Protocol, according to art. 29<sup>2</sup> par. (1) of Law no. 35/1997 on the organization and operation of the People’s Advocate, republished, as subsequently amended and supplemented, the following are detention places according to the law: penitentiaries, including hospital penitentiaries; educational centres, detention centres, preventive detention and arrest centres, residential services for under age 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 custody, special centres for the reception 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 of art. 29<sup>2</sup> par. (1) on the definition of the detention place or **included** in the health system or the **social care system**.

Moreover, 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** (art. 29<sup>12</sup> par. (3) of Law no. 35/1997, republished, as subsequently amended and supplemented).

Hence, we stipulate that child care centres (centres where disabled individuals

are accommodated; placement centres; centres for the emergency admission of children; maternal centres) are subject to the provisions of OPCAT, in the case of any institutional settlement – criminal, correctional, educational, protective, social, therapeutic, medical, administrative – be it public or private – that the child cannot leave at his/her own will. In such cases, both the decision of the Child Protection Committee and the judgment represent orders of a judicial, administrative or other authority.

The fact that placement in such centres is made upon request, with the agreement or the interest of the envisaged persons, as a social service, shall not exclude the supply of such social services from the control set out in the Protocol, as long as beneficiaries are not free to leave such locations at any time, for any reason, without obtaining any agreement and with no need for help to do it. According to art. 4 par. (2) of the 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”**.

This situation is also found in centres for elderly people.

**b) regarding improper attitudes of public authorities against visit team members**

In this context, we mention the visit to **Police Department 26 of the Police of the 4<sup>th</sup> district of Bucharest**, where the visit team was denied access to the police department, though its members (legal adviser and physician, advisers of the field regarding prevention of torture in detention places) showed their business certificates, and the NGO representative showed the identity card, along with the mandate for the visit from the People’s Advocate.

Under the pretext that all visit team members (physician and legal professional) should submit their identity card - even though they attended Police Department 26 of Bucharest for the exercise of their professional attributions - they were intimidated and threatened by police agents, who stated that they would not leave the police department

until they showed their identity card; that they could be detained for 24 hours for not showing their identity card, due to a suspicion regarding their presence in the police department.

We stipulate that, according to art. 2 par. (1) of Law no. 61/1991 on sanctions for the infringement of social coexistence norms, of public order and silence, republished, invoked by the police agent, any of the following facts is an infringement: art. 31 - a person's refusal to provide information in order to establish his/her identity, to show his/her identity document or to attend the police department, upon request or justified invitation of criminal prosecution bodies or public order bodies, in the exercise of their attributions. **Nevertheless, the identity of visit team members had been established based on their business certificates and the identity card (for the NGO representative) along with the mandate from the People's Advocate.**

In discussions with the head of the Police Department 26 of Bucharest, he claimed that there was a misunderstanding by his subordinates regarding the access of team members to the police department, stating that, according to their allegations, the members of the visit team had refused to leave their mobile phones at the entrance, which was not true, as informed by the representatives of the field regarding the prevention of torture in detention places.

Considering the attitude of the officer on duty, i.e. intimidating and threatening NPM representatives, they decided not to perform the visit any more. Regarding this aspect, the recommendations of the UN Subcommittee on Prevention of Torture (SPT) stipulate that the visit no longer takes place when visit team members feel threatened. Moreover, we stipulate that Law no. 360/2002 on the Policemen's Status stipulates that policemen have the duty to "have a correct conduct, not to abuse their official position and not compromise the prestige of their position or institution with their public or private activity".

In this context, we stipulate that, according to art. 21 item 2 and art. 35 of the Optional Protocol, members of national prevention mechanisms are awarded the required privileges and immunities for the independent exercise of their attributions.

The incident was notified to the Minister of Internal Affairs, who was asked to take legal action and notify the attributions of the field regarding prevention of torture in detention places to the subordinated units, police departments included.

Pursuant to the actions taken by the People's Advocate, the General Inspectorate of Romanian Police, through the Service for the Coordination of Preventive Detention and Arrest Centres, notified that **it had sent to all subordinated units benchmarks regarding the activity of the field regarding prevention of torture in detention places, fulfilling the specific attributions of National Preventive Mechanism of torture in detention places, in the meaning of the Optional Protocol, also referring to the inclusion of topics regarding the National Torture Prevention Mechanism in continuous professional training, including representatives of the People's Advocate institution being invited as lecturers.**

**c) regarding the refusal of some authorities to provide documents or copies thereof**

- the management of the Territorial Service of the Border Police of Radauti Prut provided the visit team with the requested documents for study/analysis, **but failed to issue copies of the System Procedure on the organization and operation of the sorting room, invoking its secret nature and the organizational rules of the Border Police.** The requested documents were provided to the visit team after the visit.

*The People's Advocate recommended* to observe the legal provisions stipulated under art. 4 and art. 29<sup>8</sup> 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 NPM budget.** According to art. 29<sup>19</sup> of Law no. 35/1997 on the organization and operation of the People's Advocate institution, republished, as subsequently amended and supplemented, 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.

We mention that, according to the answer of the Financial Office, wages, human resources, in 2017, the budget of the People's Advocate institution was drawn up according to the provisions of Law no. 500/2002, with the compulsory observance of the limits notified by the Ministry of Public Finance in the master letter, based on the provisions of Law no. 69/2010. "Since the budget of the field regarding prevention of torture in detention places is an integral, not a distinct part of the budget of the People's Advocate institution, which holds the status of main credit awarding entity, the amounts in the annex are allocated to the NPM, in direct correlation with the ceilings notified in the master letter and the rigorous allocation to finance the institution's global activity". According to the annex to the previously mentioned notice, the 2017 NPM budget was 2546 thousand RON, of which: staff expenditure (CAS, unemployment, risk of accidents, leaves and indemnities) - 2224 thousand RON; goods and services (e.g. service supply, travels abroad, domestic travels, inventory goods, professional training) - 316 thousand RON; capital expenditure - 6 thousand RON.

► **the following actions were taken to disseminate the attributions of the field regarding prevention of torture in detention places:**

- a round table was organized on December 12, 2017 at the "Nicolae Golescu" Policemen Training Centre of Slatina, Olt, on the topic "Visits of the field regarding prevention of torture in detention places within the People's Advocate institution, Craiova local centre";



- a communication to mark the International Day to Support Torture Victims was organized on June 26, 2017 at the Bucharest-Rahova Penitentiary. The communication included two parts: the first part referred to elements specific to torture, inhuman or degrading behaviour, as well as principles of the Mandela Rules; the second part of the presentation regarded aspects resulting from the activity of the field regarding prevention of torture in detention places, with a focus on the organization and performance of visits, the implementation of recommendations to the visited institutions.

- the organization of an event on the “Role of the National Mechanism to prevent torture, inhuman or degrading treatment in the respect for human rights and human dignity”, on June 26, 2017, at CRRN Galda de Jos, Alba county, with the opportunity of the International Day to support torture victims;

- Event dedicated to the International Day to support torture victims organized on June 26, 2017 by the representatives of the Bacau local centre in the Bacau Penitentiary. The event consisted of training some of the staff of the Bacau Penitentiary on topics such as: the importance of the international day to support torture victims; human dignity; the concepts of torture, inhuman or degrading treatment; vulnerabilities in penitentiaries; the role and activity of the National Torture Prevention Mechanism, etc. The training was delivered by representatives of the Bacau Local Centre of the People’s Advocate Institution, with Geanina Stancu, deputy director for

psycho-social intervention participating on behalf of the Bacau Penitentiary, along with about 40 employees of various fields of activity of the Bacau Penitentiary.

- The “TORTURE PREVENTION CONCEPT” workshop organized on July 10, 2017 by the representatives of the Bacau Local Centre at the Bacau Centre for Elderly Persons. On this occasion, 15 employees of the residence received information on the concepts of torture, inhuman or degrading treatment, human dignity and the activity of the field regarding prevention of torture and the applicable legislative framework. Folders were given out with information on the previously mentioned topics, as well as ECHR practices on deeds that may be classified as torture, inhuman or degrading treatment. Discussions were held on the situations that could be classified as torture, inhuman or degrading treatment. The purpose of the event was to outline the activity of the field regarding prevention of torture and ensure the respect for the fundamental rights and freedoms of persons in the custody of the Bacau Residence for Elderly Persons.

- Round table with the Vaslui county institutions responsible for detention places, dealing with visits of the National Prevention Mechanism within the People’s Advocate institution on November 10, 2017. The event took place in the Large Hall of the Vaslui County Council, starting 12 o’clock. Participants were representatives of local authorities managing detention places (Vaslui County Council, Vaslui Local Council, Vaslui Municipality, Vaslui Penitentiary, Vaslui Police Inspectorate, the General Directorate for Social Assistance and Child Protection of Vaslui, the Anti-drug Prevention, Assessment and Counselling Centre of Vaslui, etc.), of professional organizations (physicians, psychologists, social workers), as well as non-governmental organizations (Iris Association of Vaslui, the "Calea, Adevarul si Viata” Association of Christian Roma, the Piatra Neamt Pro Democratia Association). The purpose of the event was to outline the activity of the field regarding prevention of torture and ensure the respect for the fundamental rights and freedoms of persons in the custody of the detention centres of Vaslui.



- Round table on the topic “Visits of the National Prevention Mechanism to the Social Settlement of Sfantul Ghelasie, Galda de Jos, Alba county”, on December 14, 2017.

#### ***4. Professional Training of Visiting Staff and Actions of the Field Regarding Prevention of Torture in Detention***

The following activities took place at a national level:

- participation in a meeting with Mr Willy Fautré, director of Human Rights without Frontiers, at the headquarters of the People’s Advocate institution, January 20, 2017. Discussions were held on allegations of unfair lawsuits, judicial errors, lack of independence of judges and detention conditions in Romanian prisons.

- Public debate – The prisoners’ right to work, April 25, 2017, Bucharest, the Parliament Palace, on issues such as: introducing the prisoners’ possibility to co-sign the service agreement for the recognition of seniority in work; the professional qualification of prisoners, i.e. this should be done at any time, not only in the last year of detention; identifying solutions to stimulate local authorities to use prisoners for

community service; social reinsertion of prisoners, with priority in the societies of Local Councils; • motivating prisoners.

- participation in the course on the topic “Modern management of applied psychology services in the field of national safety - 4<sup>th</sup> edition”, January 28, 2017, organized by the Association of Applied Psychology of Timisoara and the Romanian College of Psychologists;

- participation in the reunion organized on February 17, 2017 by the regional branch of O.A.D.O. Craiova regarding the cooperation throughout 2016 and setting goals for 2017:

- participation, on February 22, 2017, in the presentation of the 2016 activity report of the National Administration of Penitentiaries. The event included a presentation of the 2016 annual activity report of the National Administration of Penitentiaries, stipulating that, in order to improve detention conditions, current repairs increased compared to the previous year, with new places of accommodation in penitentiaries being created:

- participation in the *Public debate - Identifying sustainable solutions for the respect of human rights in Romania in terms of execution of freedom-depriving and non-depriving sanctions* – Bucharest, Parliament Palace, organized by the Commission for Human Rights, Cults and National Minorities of the Chamber of Deputies and including two sections: **sustainable solutions** to avoid overcrowding in penitentiaries and to improve detention conditions, and **active and complementary measures** to reintegrate persons deprived from freedom in the society, March 21, 2017;

- participation in a public debate – draft of a legislative document to supplement Law no. 254/2013, Chamber of Deputies, Romanian Parliament, April 4, 2017;

- participation in the Press conference for the closure of the project “Reinforcing the capacity of the preventive arrest system to observe relevant international instruments on human rights”, April 6, 2017, an event organized by the General Inspectorate of Romanian Police. During April 2014 - April 2017, the General Inspectorate of Romanian Police developed the project “Reinforcing the capacity of the preventive arrest system to observe relevant international instruments on human

rights”, financed by the Kingdom of Norway through the Norwegian Financial Mechanism 2009-2014, within Programme RO23 “Correctional services, including non-freedom-depriving sanctions”, managed by the Ministry of Justice as the Programme Operator. The project was implemented in partnership with the Council of Europe and aimed at improving the preventive detention and arrest system, in compliance with relevant international instruments on human rights. The main results obtained therein were: the development of 43 professional training sessions, drawing up two guides and two good practice brochures on human rights and preventing discrimination in preventive detention and arrest centres (guides are available in Romanian language, and brochures in Romanian, Hungarian and Romani), editing and printing 300 copies of guides and 1200 good practice brochures on human rights that were given out to staff in detention centres, editing and printing 300 copies of guides and 800 good practice brochures on anti-discrimination, given out to staff in detention centres, equipping preventive detention and arrest centres with the required equipment for improving their infrastructure, according to relevant international instruments on human rights.

- taking part in the debate on the draft law on pardon, on April 20, 2017 - an invitation launched by the Association “Tine de Noi” and the Hanns Seidel Romania Foundation. The debate was attended by lawyers, judges, representatives of the National Administration of Penitentiaries, as well as representatives of civil society who provided a point of view on the draft law.

- taking part in the *Seniors’ Forum* organized by the Caritas Romania Confederation, along with the Association C.A.R.P. Omenia Bucharest, April 25, 2017. The Caritas Romania Confederation, along with the Association C.A.R.P. Omenia Bucharest, partner in the project “Active Citizens to the Third Power”, the Seniors’ Forum, as a space for communication between Romanian Parliament members and senior representatives of the Seniors’ Parliament - a consultative forum protecting and promoting the interests of the elderly. The meeting was attended by the minister of health, senators and deputies, representatives of civil society and initiative groups protecting the interests and rights of elderly persons in Romania. The meeting

included a presentation of the activity of the field regarding prevention of torture, with a focus on visits to centres and residences for the elderly, assuring the organizers of the entire support of the institution and expressing their availability for future cooperation.

- taking part in the Conference *Management of services for the elderly: sustainability and professional development*, Bucharest, May 10-12, 2017. The conference was organized by the Association of Directors of Institutions for the Elderly (A.D.I.V.) of Romania, in cooperation with the Alexandru Ioan Cuza University of Iasi and included: presentations on integrative approaches and innovative potential in services for the elderly; professional development of centre directors; the geriatric team and supervision of staff in the care and assistance centres; preventing excessive loads and exhaustion; socio-medical managers, a constant search for balance between standards, quality and resources, supported by guests from Italy, Belgium and Austria. The meeting included a presentation on the priority of the field prevention of torture in respecting the rights of the elderly who benefit from public or private residential services.

- participation in the Round table “Enforcing the UN Convention on the Rights of Persons with Disabilities along the psycho-social segment - from theory to practice”, organized by the Commission for equal opportunities of the Romanian Senate and the Romanian Association of Medico-Legal Psychiatry, in partnership with the National Council for Fighting Discrimination and the National Council of Disability of Romania, Senate, the Parliament Palace, May 17, 2017. The main purpose of organizing the round table was to present the draft law on the execution of medical safety measures with a view to enforcing the UN Convention on the Rights of Persons with Disabilities and suggesting concrete ways to organize an integrated psycho-social rehabilitation system.

- taking part in the Symposium organized by O.A.D.O. Regional Branch of Craiova on June 22, 2017, on the topic “Human rights - a priority focus of democratic Romania, an essence of human existence”, Craiova.

- taking part in the Conference “Legislative solutions for the enforcement of the pilot decision of the ECHR on detention conditions in penitentiaries, organized by the Commission for law, discipline and immunities of the Chamber of Deputies, June 29, 2017.

- taking part in the continuous professional training course in Clinical Psychology “Career or family? A balance between professional life - family life, a priority of society and ourselves as specialists in mental health”, September 2, 2017, a course delivered by the Institute for Promoting Experimental Psychology and the Romanian College of Psychologists.

- taking part in the professional training course on “Human rights - a European approach of executing freedom-depriving punishment”, organized by the National Administration of Penitentiaries, September 5-7, 2017. Relevant aspects were presented from the activity of the field regarding prevention of torture, with a focus on visits to detention places (penitentiaries) in visit reports, as well as the Mandela Rules.

- taking part in the Anniversary Event “20 years from the establishment of the People’s Advocate Institution” during September 19-22, 2017.

- taking part in the International Conference on Human Rights, the Parliament Palace, September 23, 2017.

- taking part in the Round Table on detention and alternatives to detention, in the context of an increased number of detention cases among families and children, as well as problematic aspects related to the assessment of the age of unaccompanied children and interpretation of relevant legal provisions, October 18, 2017.

- taking part in the round table on: “Legal perspectives on the psycho-social rehabilitation of patients subject to medical safety measures”, organized on November 15, 2017 at the Romanian Parliament by the Commission for equal opportunities of the Romanian Senate and the Romanian Medico-Legal Psychiatry Association, in partnership with the National Council of Disability of Romania. The purpose of the meeting was to present and provide a legal debate on a legislative draft on the execution of medical safety measures, to facilitate the social reintegration of persons with psychosocial disabilities.

- taking part in the Informative and Preparatory Session "*Challenges and Successes in Identifying Vulnerable Asylum Applicants*", ICAR Foundation, Bucharest, October 33, 2017. The meeting included a presentation of the first conclusions and obstacles in implementing the projects of the foundation, as the event took place within the project "Accessible health services for asylum applicants in Romania", implemented by the ICAR Foundation in partnership with AIDRom. The purpose of the project is to improve admission and stay conditions for asylum applicants on the Romanian territory, by providing medical and psychological assistance.

- Study visit of representatives of the People's Advocate Institution of Moldova to the Socola Psychiatric Hospital of Iasi on November 20, 2017. The event was included in a project of the People's Advocate Institution of Moldova aimed at visiting human rights protection institutions of Romania. On this occasion, representatives of the Moldovan delegation visited all departments of the Socola Psychiatric Hospital of Iasi, had discussions with medical staff, patients and the management on the differences and similarities between the conditions for accommodation and treatment in the unit and Moldova.

- taking part in the International Conference "Decision-Making Support for Mentally Disabled Persons", organized on December 12, 2017 by the Legal Resource Centre at the Novotel Hotel of Bucharest, within project "SOS: Romanian NGOs, together for the rights of mentally disabled persons in institutions", implemented by the Legal Resource Centre and cofinanced by a Swiss grant through the Swiss contribution for the extended European Union. The conference was attended by participants from both abroad and Romania, and discourses dealt with the need to amend Romanian legislation regarding custody and guardianship, with a view to enforcing the provisions of the Convention on the Rights of Persons with Disabilities. It was emphasized that the provisions of the Convention on the Rights of Persons with Disabilities are innovative and vanguardist, as a disabled individual has equal rights with any other person.

- participation in the annual conference on admission conditions and integration of persons with a form of protection organized by the Romanian Representation of the UN High Commission for Refugees (UNHCR), along with the General Inspectorate for Immigration and the National Council for Refugees, December 12, 2017.

- participation in the Annual conference for the rights of migrants and refugees. The event also marked the closure of the EMINET project, whose activities aimed at increasing the capacity of non-governmental organizations to take part in drawing up migration policies, December 13, 2017.

- participation in the meeting organized at the headquarters of the ICAR Foundation aimed at setting the criteria for future cooperation.

- participation in the Multiart Festival for prisoners “Dana Cenusă - Release through Culture” at the Nottara Theatre of Bucharest.

**The international manifestations** attended by the representatives of the field regarding prevention of torture in detention places in 2017 were as follows:

- participation in the Launch Conference for the EU NPM Network, organized by the Council of Europe in Strasbourg during April 3-6, 2017, a joint project of the European Union and the Council of Europe. The first sessions of this conference were devoted to identifying thematic priorities with a view to reaching an agreement on a work programme within the project, and the following sessions approached the assurance of an impact through National Prevention Mechanisms, by effective reporting, recommendations, follow-up and strategic cooperation between the NPM and a wide range of stakeholders. The conference was based on the research undertaken by the Ludwig Boltzmann Institute for Human Rights and the Human Rights Implementation Centre of the University of Bristol, as well as a range of discussions held in four workshops and subsequent discussions. Discussions were held on general principles for the operation of National Mechanisms. Thus, it was stated that national prevention mechanisms are mandated to prevent torture and ill treatment, in compliance with the prerogatives of the Optional Protocol to the UN Convention against Torture (OPCAT). To this purpose, they should undertake visits to all detention places, perform regular reviews of the treatment of persons deprived from freedom,

make recommendations and submit proposals and observations on current legislation or draft laws, all with a view to improving the treatment and conditions of persons deprived from freedom, if required, and reinforcing protection against torture and other forms of ill treatment.



- participation in the Meeting of the NPM EEA Network, organized by the Ombudsman of the Republic of Serbia during May 25-26 2017, in Belgrade, Serbia. The approached topics referred to the treatment of persons deprived from freedom with psychological disorders in detention and preventive arrest centres, penitentiaries, psychiatric hospitals and safety units, as well as social care centres. The main issues that were dealt with included the treatment and rights of persons with psychological disorders who are deprived from freedom, special protection measures for this category of persons, enforcing means of immobilisation, enforcing isolation sanctions, professional training of staff, voluntary/involuntary admission, informed consent, periodic review of involuntary admission.

During the meeting, the participants shared their experience obtained pursuant to monitoring detention places where persons with psychological disorders are admitted, good practices and challenges. The following conclusions were drawn: enforcing contention measures for punishment purposes or to compensate for lack of staff; insufficient medical staff (psychiatrists in particular); insufficient professional training of staff in units where persons with psychological disorders are admitted (especially police staff). Moreover, the participants underlined the part of the UN

Convention on the Rights of Persons with Disabilities in protecting the rights of persons with psychological disorders who are deprived from freedom in social care centres (especially art. 19, based on which states parties to the Convention must take the required action for the de-institutionalisation of these persons).



- During May 31 - June 1, 2017, Strasbourg hosted the reunion organized by the General Directorate for Human Rights and Rule of Law of the Council of Europe on the draft European guidelines on migrant detention drawn up by a group of governmental experts. The event provided the opportunity to discuss the first comprehensive draft rules on the administrative detention of migrants, that might bring a significant improvement in the conditions of stay of such persons. Based on the observations resulting from the consultation, the expert committee will complete the draft of legal rules and will submit it to the Committee of Ministers of the Council of Europe, for adoption purposes.

- taking part in the Conference of the NPM EEA Network - Medical group on the topic “Health protection in penitentiaries and psychiatric institutions”, organized in Podgorica, Montenegro, during July 5-6, 2017. The meeting organized by the Ombudsman of Montenegro was attended by NPM representatives of several countries who are members of the NPM EEA network (Austria, Bulgaria, Croatia, Hungary, Bosnia-Herzegovina, Macedonia, Kosovo, Slovenia, Romania, Serbia and Montenegro), as well as the project coordinator on behalf of the Council of Europe.



● the Summer School on the topic “Monitoring detention, with the enforcement of the Nelson Mandela Rules of the UN”, that took place during August 14-17 in Bristol, Great Britain. Organized by the University of Bristol, Penal Reform International and the Association for Prevention of Torture (APT), the works of the Summer School aimed at approaching the specific field of the minimum standard rules for prisoners’ treatment, that were reviewed in 2015. The event was attended by representatives of National Prevention Mechanisms (NPMs) in 20 countries (Argentina, Cambodia, Canada, Costa Rica, Croatia, Czech Republic, Estonia, Finland, France, Macedonia, Kyrgyzstan, New Zealand, Norway, Romania, Sweden, Scotland, Serbia, Slovenia, Switzerland and the host, United Kingdom), as well as experts on monitoring and correcting detention. Organized as a succession of interactive modules, the Summer School was led by specialists from a wide range of organizations, including the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the American Civil Liberties Union, the Association for Prevention of Torture (APT), the UN Subcommittee for Prevention of Torture (SPT) and the European Committee for Prevention of Torture (CPT).



- A professional traineeship was organized during September 11-15, 2017 by the Association for Prevention of Torture of Geneva at the Fresnes Penitentiary of Paris, France. The traineeship was undertaken in cooperation with the French body General Controller of Freedom-Depriving Places (CGLPL). The professional traineeship consisted of the participation of a Romanian NPM member in a detailed visit, along with a CGLPL team, to a women's penitentiary, with a view to observing the work methodology and subsequently reporting this experience in the Romanian NPM. The traineeship included a presentation of the attributions and objectives of team members, visits were made to a penitentiary, discussions were held on the rights of persons deprived from freedom and their practical enforcement. Moreover, documents were studied, interviews were held and various work procedures of the penitentiary staff were observed. After four days with the French team, a range of joint issues for the penitentiary systems of France and Romania were identified (precarious hygiene in certain areas of the penitentiary and lack of activity of prisoners), as well as differences in terms of good medical care, no overcrowding and good conditions of accommodation.

- ***Workshop – September 25-27, 2017 – Communication skills & techniques – Vienna, Austria, organized by the International Ombudsman Institute (IOI).***

Within this workshop, IOI provided the participants with the possibility to learn interview techniques and communications skills through a practical approach, also maintaining the do-no-harm principle, essential when they monitor detention places and interview persons in detention places, especially those who are vulnerable and need support.



- ***Workshop – November 14-15, 2017 – Brainstorming meeting on the norm-making powers and skills management of NPMs – Prague, Czech Republic,*** organized by the EU and the Council of Europe.

The main topic of the event was exchanging ideas regarding the individual NPM, i.e. to what extent it can draw up legal rules on a domestic level and what fields are most impacted by its guidelines. Several topics were approached in the same context, such as: the power to draw up NPM rules at a national level, the potential power to draw up NPM rules at a regional level, how the NPM makes sure that the know-how developed by the members/staff is not lost in case of leaves, especially sudden leaves, etc.

- ***The meeting of the SE Europe Network of National Torture Prevention Mechanisms*** – Belgrade (Serbia) - December 12-13, 2017. Representatives of all member countries of the NPM network attended the meeting, along with observers

from the European Commission, APT, SPT, CPT, Kosovo and Hungary. Debate and comment sessions took place, where every country presented the issues it was facing within the visits, along with new relevant information such as: the relationship with public authorities, especially with the judge in charge with the relevant penitentiary, the importance of knowledge and enforcement of high quality methodology, the part of NGOs in undertaking visits, the performance of visits during 2-4 days, also at night time, more frequent visits to residences for the elderly and child care centres (abuses take place and there is no protection for such categories), and increased attention and monitoring for the treatment of vulnerable categories, such as persons accused of terrorism, mentally ill persons or murderers.

#### ***5. Monitoring Detention Places through Visits Performed by the Field Regarding Prevention of Torture in Detention***

**Compared to 2015-2016, a significant increase was seen in 2017 in the number of visits to three types of detention places: neuropsychiatric recovery and rehabilitation centres, places for accommodation of aliens and preventive detention and arrest centres.**

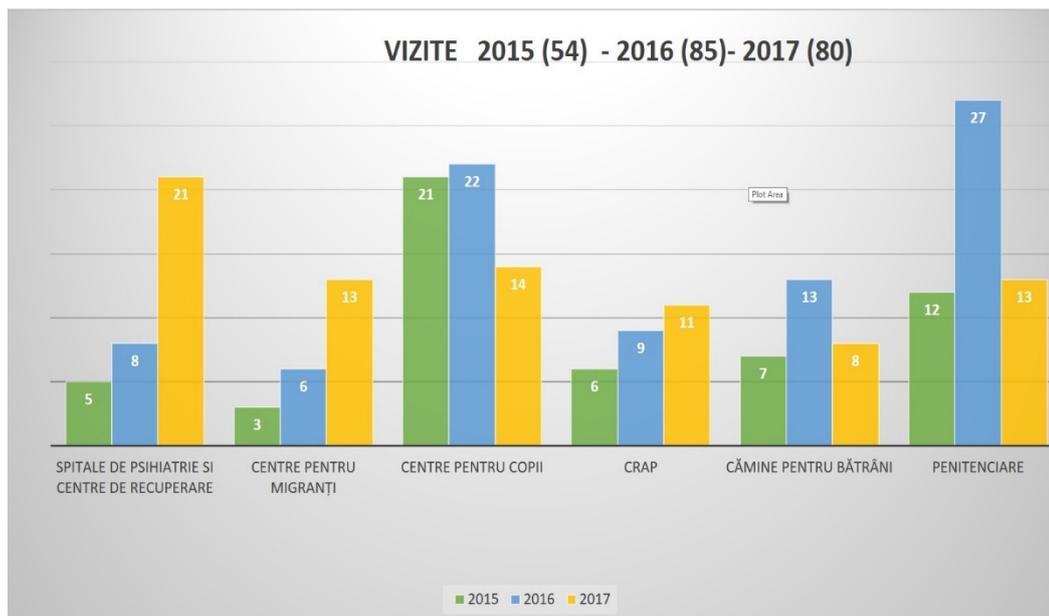
Therefore, a total number of 21 visits was undertaken in 2017 (**15 visits to neuropsychiatric recovery and rehabilitation centres and 6 visits to psychiatric institutions**), compared to 8 visits in 2016 and 5 visits in 2015, to the same types of institutions. **The treatment of adults with a psycho-neuro-locomotory disability placed in public institutions was monitored, with a focus on the legal status and therapy and recovery methods, considering that many adults diagnosed with a severe and serious disability in Romania come from child care centres and are taken care of by the state for at least 20-30 years.**

**If 3 visits were made to migrant centres in 2015, 13 visits were undertaken in 2017, as the field regarding prevention of torture reacted to the European crisis of migrants through visits, also by checking the implementation of recommendations during the period with a migrant inflow.**

**As for the persons in the custody of police, the field regarding prevention of torture visited 11 preventive arrest centres of the entire country in 2017, compared to 6 centres in 2015 or 9 centres in 2016.**

Visit teams of the field regarding prevention of torture in detention places performed 80 visits to detention places, of which 10 visits to check the enforcement of recommendations. 81 investigations were performed and 48 observations *ex officio* and 345 petitions were received. 32 recommendations stemmed from the investigations, and 518 from the visits.

**The performed visits: 80 visits, 21 cases of notices to criminal prosecution bodies for the following detention places** (9 penitentiaries, 2 preventive detention and arrest centres, 4 child care centres, 2 neuropsychiatric recovery and rehabilitation centres for disabled individuals, 1 residence for elderly persons, 1 psychiatric hospital, 2 centres for asylum applicants), with notices to: the Prosecutor's Office attached to the Court of Tulcea, the Prosecutor's Office attached to the Court of Arges, the Prosecutor's Office attached to the Court of Bucharest, the Prosecutor's Office attached to the Court of Arad, the Prosecutor's Office attached to the Court of Timisoara, the Prosecutor's Office attached to the Court of Botosani, the Prosecutor's Office attached to the Court of Targu Jiu (2), the Prosecutor's Office attached to the Court of Pitesti, the Prosecutor's Office attached to the Court of Iasi (2), the Prosecutor's Office attached to the Court of District 4 of Bucharest, the Prosecutor's Office attached to the Court of Balcesti-Valcea, the Prosecutor's Office attached to the Court of Ilfov, the Prosecutor's Office attached to the Court of Craiova, the Prosecutor's Office attached to the Court of Caracal, the Prosecutor's Office attached to the Court of Drobeta Turnu Severin, the Prosecutor's Office attached to the Court of Suceava, the Prosecutor's Office attached to the Court of Galati, the Prosecutor's Office attached to the Court of Iasi, the Prosecutor's Office attached to the Court of Giurgiu.



Visits performed according to detention places:

- **Penitentiaries – 13 visits:** Hospital-Penitentiary of Bucharest-Rahova; Penitentiary of Rahova; Penitentiary of Slobozia; Penitentiary of Margineni; Penitentiary of Focsani; Penitentiary of Iasi; Penitentiary of Bacau; Penitentiary of Oradea; Penitentiary of Craiova Pelendava; Penitentiary of Mioveni; Penitentiary of Craiova; Penitentiary of Bucharest-Jilava (2).

- **Preventive Detention and Arrest Centres – 11 visits:** The Preventive Detention and Arrest Centre of Buzau; the Preventive Detention and Arrest Centre no. 1 of Bucharest; the Preventive Detention and Arrest Centre no. 10 of Bucharest; the Preventive Detention and Arrest Centre of Teleorman; the Preventive Detention and Arrest Centre no. 3 of Bucharest; the Preventive Detention and Arrest Centre of Salaj; the Preventive Detention and Arrest Centre of Cluj; the Preventive Detention and Arrest Centre of Harghita; the Preventive Detention and Arrest Centre of Iasi; the Preventive Detention and Arrest Centre of Vrancea; the “Dr. Nicolae Kretzulescu” Medical Centre for Diagnostic and Treatment of Bucharest.

- **Migrant centres – 13 visits:** Sector of the Border Police of Calarasi; the Centre for accommodation and procedures for asylum applicants of Giurgiu (2 visits); the Centre for accommodation and procedures for asylum applicants of Bucharest; the

Centre for accommodation of aliens in public custody of Otopeni; the triage centre of the Border Police of Radauti-Prut, Botosani county; the Regional Centre for accommodation and procedures for asylum applicants of Radauti; 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 (2 visits); the Centre for accommodation and procedures for asylum applicants of Timisoara (2 visits); the Centre for accommodation of aliens in public custody of Arad.

- **Residential centres for children – 14 visits:** the “Soarele” Family Home of Giurgiu; the “Daniela” Family Home of Giurgiu; the “Sfanta Maria” emergency admission centre of Calarasi; the “Alexandra-Violeta” Family Home of the Complex of Services for Children with Special Needs of Alexandria; the “Robin Hood” placement centre of Bucharest; the emergency admission centre for boys, district 4 of Bucharest; the residential centre for behavioral recovery for boys of the “Floare de Colt” Complex of Social Services of Dambovita; the “Sf. Spiridon” Centre of Social Services for under age children who are not criminally responsible of Targu Frumos; the residential centre for children with disabilities of Focsani; the emergency admission centre for abused, neglected and exploited children of Oradea; the “Azur” placement centre - Victoria Complex of Services; the placement centre for disabled children of Hunedoara; the Lugoj placement centre; the placement centre for the residential protection of disabled children of Targu Jiu.

- **Neuropsychiatric recovery centres – 15 visits:** the Neuropsychiatric Recovery and Rehabilitation Centre of Videle, Teleorman; C.R.R.N. Bălăceanca Ilfov (and D.G.A.S.P.C. to check the enforcement of CRRN Bălăceanca); the Neuropsychiatric Recovery and Rehabilitation Centre of Nedelea; the Pastraveni Recovery and Rehabilitation Centre, Neamt county; the “Sfanta Ana” Care and Assistance Centre for mentally disabled adults of Carei; the “Alexandru” Care and Assistance Centre for adults of Carei, Maramures; the Neuropsychiatric Recovery and Rehabilitation Centre of Sinersig, Timis county; the Neuropsychiatric Recovery and Rehabilitation Centre no. 1 of Babeni, Valcea county; the Neuropsychiatric Recovery and Rehabilitation Centre no. 2 of Babeni, Valcea county; the Crisis and Respiro

Centre of Babeni, Valcea county; the Neuropsychiatric Recovery and Rehabilitation Centre of Maciuca, Valcea county (2); the Care and Assistance Centre of Zatrei, Valcea county; the Care and Assistance Centre of Bistrita, Valcea county; the Care and Assistance Centre of Milcoiu, Valcea county.

- **Psychiatry hospitals - 6 visits:** the Gura Vaii Psychiatry Department; the Podriga Neuropsychiatry Sanatorium; the Sapunari Psychiatry Hospital; the Chronic Psychiatry Hospital of Dumbraveni; the Psychiatry and Safety Arrangement Hospital of Jebel; Centres for drug users in a closed system - “Prof. Dr. Alexandru Obregia” of Bucharest.

- **Residences for elderly persons – 8 visits:** the Sf. Dumitru Elderly residence of Voluntari; the Floriana House Elderly residence of Voluntari, Ilfov; the Mironesti Centre for Elderly Persons of Giurgiu; the “Sf. Maria” Residential Centre for Elderly Persons of Talpa, Teleorman; the “Acad. Nicolae Cajal” Elderly residence of Bucharest; the Centre for Elderly persons of Furculesti; the Centre for elderly persons of Baia Sprie; the “Casa Sfântul Iosif” Elderly residence of Iasi.

**81 investigations** were undertaken, as follows:

- the Bucharest local centre – 41 investigations:** the Bucharest Jilava penitentiary (5); the Gaesti penitentiary (3); the Margineni penitentiary (3); the Ploiesti penitentiary (3); the Poarta Alba penitentiary (5); the Bucharest Rahova penitentiary (6); the Slobozia penitentiary, the Targisor women’s penitentiary (3); the Tulcea penitentiary (5); the Rahova hospital-penitentiary; the Giurgiu penitentiary (4); the integrated complex of social services for adults “Sf. Ioan” of Bucharest, the “Vintila Voda” elderly residence of Buzau county; the Jilava hospital-penitentiary.

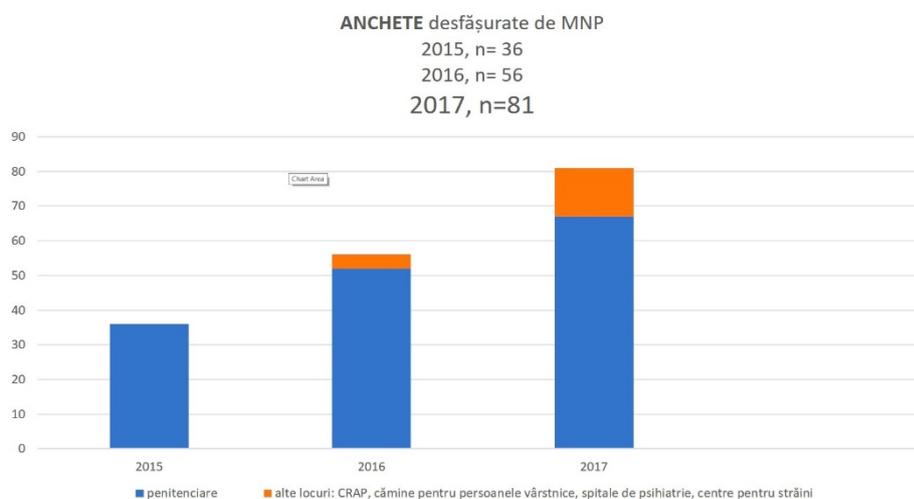
- the Bacau local centre – 16 investigations:** the Psychiatric and Safety Arrangement Hospital of Grajduri-Padureni, Iasi county (2); the Iasi penitentiary (3); the Vaslui penitentiary; the Solca Elderly Residence of Suceava; the Braila penitentiary; the preventive detention and arrest centre of Suceava; the Botosani penitentiary; the Bacau penitentiary (2); the regional centre of procedures and

accommodation for asylum applicants of Galati; the clinic hospital of psychiatry of Socola, Iasi (2); the Prefecture of Suceava.

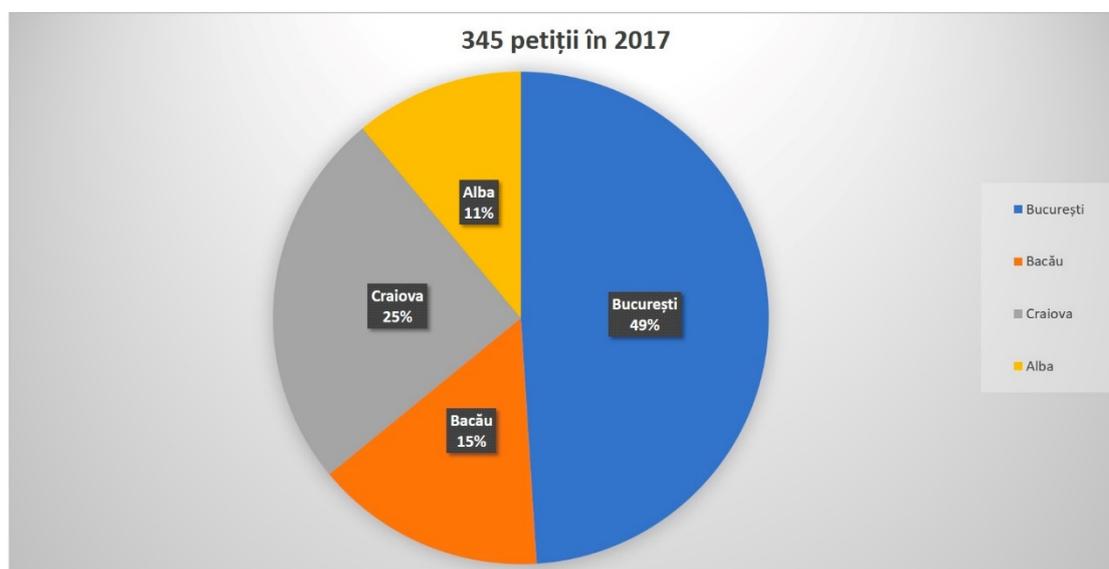
**the Alba local centre – 10 investigations:** the Alba preventive detention and arrest centre (2); the Gherla penitentiary - men, the Gherla penitentiary - women, the Targu Mures penitentiary (2), the Barcea Mare penitentiary, the Aiud penitentiary, the Codlea penitentiary, the Psychiatry and Neurology Hospital of Brasov.

**the Craiova local centre – 14 investigations:** the Craiova penitentiary (4); the Craiova detention centre; the Targu Jiu penitentiary (2); the Arad penitentiary (2); the Timisoara penitentiary (2); the Drobeta Turnu-Severin penitentiary; the Arad penitentiary; the Craiova Pelendava penitentiary.

**Visits to check the enforcement of recommendations (11):** the Somcuta Mare centre for asylum applicants; the Regional Centre of accommodation and procedures for asylum applicants of Giurgiu; the Centre for the accommodation of aliens in custody of Arad; the Regional Centre of accommodation and procedures for asylum applicants of Timisoara; the Regional Centre of accommodation and procedures for asylum applicants of Radauti; the Regional Centre of accommodation and procedures for asylum applicants of Galati; CRAP Iasi; the Elderly Residence Centre of Talpa, the CSS “Floare de colt” behavioural rehabilitation centre; CRRN Balaceanca; CRRN Maciuca.



**345 petitions** were registered in 2017, of which 170 in the Bucharest local centre and 149 in local centres: Alba - 38 petitions, Bacau - 52 petitions and Craiova - 86 petitions.



## **II. Psychiatric Hospitals, Units for Psychiatric Treatment and Safety Measures and Units for Neuropsychiatric Recovery and Rehabilitation**

*All persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law (art. 5 of the UN Convention on the Rights of Persons with Disabilities (CRPD)).*

Psychiatric hospitals, psychiatric and safety hospitals, psychiatric departments of general hospitals, neuropsychiatric recovery and rehabilitation centres are structures undertaking mental health services, according to Law no. 487/2002 on mental health and the protection of psychologically disordered individuals, republished.

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. The psychiatric and safety hospital is a psychiatry unit where admission can be decided as a safety measure, as established by the court based on art. 108 and art. 110 of the Criminal Code, if the person perpetrating a deed stipulated by criminal law is mentally ill and is a danger for society.

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. These types of centres operate in compliance with relevant national laws: Law no. 292/2011 on social assistance, Law no. 448/2006 on the protection and promotion of the rights of persons with disabilities, republished, Law no. 197/2012 on quality assurance in the field of social services, as subsequently amended and supplemented, Law no. 487/2002 on mental health and the protection of psychologically disordered persons, republished, Order no. 67/2015 of the minister of labour, family, social protection and the elderly (currently, the minister of labour and social justice) **on the**

**approval of minimal quality standards for the accreditation of social services for disabled adults.**

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 provisions are in accordance with international provisions forbidding ill treatment of disabled individuals, in terms of equal opportunities with others. Moreover, by ratifying international instruments regulating human rights, Romania has agreed to take all legislative, administrative, judicial or other type of measures so that disabled individuals are not subject to torture, cruel, inhuman or degrading treatment or punishment, in terms of equity with others (UN Convention on the Rights of Persons with Disabilities, ratified on November 11, 2010).

From this point of view, it should be considered that ensuring improper living conditions in hospital units and recovery or rehabilitation centres can also be assimilated to inhuman and degrading treatment. According to the European Committee for Prevention of Torture, creating a positive therapeutic environment firstly implies ensuring enough space for each patient (equipped with bedside tables and wardrobes), as well as proper illumination, heating and ventilation thereof, suitable maintenance of the institution and compliance with medical rules of hygiene.

The Romanian state must seriously approach all aspects related to the assurance of living conditions that are not compatible with the respect for human dignity in these institutions, also considering its first conviction at the European Court of Human Rights, in the case **Parascineti versus Romania**, for inhuman and degrading conditions in a psychiatric unit (*The psychiatric department of the municipal hospital of Sighetu Marmatiei*). The Court has unanimously found the infringement of art. 3 of the European Convention on human rights, i.e.: overcrowded rooms, improper hygiene of bathrooms, not enough showers, etc. The Court has held that the state must focus on mentally disordered persons in particular, considering their vulnerability and the risk that they feel inferior and punished.

When establishing therapeutic conduct in the case of mentally disordered persons, the rules of the European Committee for Prevention of Torture should be considered, as they emphasize the *importance of psycho-social rehabilitation* and the avoidance of exclusively medicine-based treatment. Such an approach is particularly important since, by ratifying the UN Convention on the Rights of Persons with Disabilities, the Romanian state recognized the equal right of all disabled persons to live in a community, with equal opportunities to others, and agreed to take efficient and suitable action to make sure that disabled individuals fully enjoy this right and full integration in the community and participation to its life.

The recommendations of the Commissioner for human rights of the Council of Europe, Mr Nils Muižnieks, included in the report drawn up pursuant to the visit undertaken in Romania in 2014, should have priority for the Romanian state. By means of his report, *the commissioner firmly asks the authorities to draw up a comprehensive plan for the replacement of institutions by community services, with the active involvement of disabled individuals. The commissioner invites the authorities to prove their commitment to reform the social assistance system for disabled individuals by closing obsolete residential institutions and providing suitable resources for the development of community alternatives.*

Psychiatric hospitals, psychiatric and safety hospitals and residential centres for disabled persons (neuropsychiatric recovery and rehabilitation centres, care and support 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. 29<sup>2</sup> par. (3) e) and j) of Law no. 35/1997 on the organization and operation of the People's Advocate institution, republished, as subsequently amended and supplemented, the field regarding prevention of torture in detention places (NPM) monitors psychiatric units and residential centres for disabled individuals.

During 2017, the National Torture Prevention Mechanism for detention places undertook **6 visits to psychiatric hospitals**: the Chronic Psychiatry Department

(Adults) of Gura Vaih, Mehedinti county; the Podriga Sanatorium of Neuropsychiatry of Botosani county; the “Dr. Alexandru Obregia” Centre for Support to Drug Users in a closed system, Bucharest; the Psychiatric Hospital of Sapunari, Calarasi county; the Chronic Psychiatry hospital of Dumbraveni, Vrancea county; the Psychiatric and Safety Hospital of Jebel, Timis county and **15 visits to psychiatric recovery and rehabilitation centres and care and support centres for disabled adults**: the Neuropsychiatric Recovery and Rehabilitation Centre of Maciuca, Valcea county (C.R.R.N. Maciuca) - 2 visits; the Neuropsychiatric Recovery and Rehabilitation Centre of Sinersig Timis, Timis county (C.R.R.N. Sinersig Timis); the Neuropsychiatric Recovery and Rehabilitation Centre no. 1 of Babeni (C.R.R.N. No. 1 Babeni); the Crisis and Respite Care Centre of Babeni; the the Neuropsychiatric Recovery and Rehabilitation Centre no. 2 of Babeni (C.R.R.N. No. 2 Babeni); the Care and Assistance Centre of Milcoiu (C.I.A. Milcoiu); the Care and Assistance Centre of Zatreani (C.I.A. Zatreani), the Care and Assistance Centre of Bistrita (C.I.A. Bistrita), Valcea county; the Neuropsychiatric Recovery and Rehabilitation Centre of Nedelea, Prahova county (C.R.R.N. Nedelea); the Neuropsychiatric Recovery and Rehabilitation Centre of Videle, Teleorman county (C.R.R.N. Videle); the Neuropsychiatric Recovery and Rehabilitation Centre of Pastraveni, Neamt county (C.R.R.N. Pastraveni); the Care and Assistance Centre for Mentally Disabled Individuals “Sf. Ana” (C.I.A. “Sf. Ana”) and the Care and Assistance Centre for Adults “Alexandru” (C.I.A. “Alexandru”) of Carei, Satu Mare county (both centres were monitored in the same visit); the Neuropsychiatric Recovery and Rehabilitation Centre of Balaceanca, Ilfov county (C.R.R.N. Balaceanca), the General Directorate for Social Assistance and Child Protection of Ilfov (D.G.A.S.P.C. Ilfov), of which 2 visits to check the implementation of recommendations (to C.R.R.N. Balaceanca and D.G.A.S.P.C. Ilfov).

**8 notices** were received *ex officio* for psychiatric hospitals in 2017, along with a notice *ex officio* for residential centres for disabled adults.

Visit reports were drawn up pursuant to visits undertaken in psychiatric units: the Chronic Psychiatric Department (Adults) of Gura Vaih, the Podriga

Neuropsychiatry Sanatorium and the Sapunari Psychiatric Hospital, and the following centres: C.R.R.N. Maciuca, C.R.R.N. Sinersig Timis, C.R.R.N. no. 1 of Babeni, the Centre for Crisis and Respite Care of Babeni, C.R.R.N. no. 2 of Babeni, C.I.A. Milcoiu, C.I.A. Zatreni, C.I.A. Bistrita, C.I.A. "Sf. Ana" and C.I.A. "Alexandru" and C.R.R.N. Videle; reports are in progress for the other visits undertaken in 2017.

Furthermore, **5 investigations** were undertaken to the following hospital units in 2017: the Psychiatric and Safety Hospital of Padureni-Grajduri (two investigations), the Socola Clinical Psychiatric Hospital of Iasi (two investigations) and the Psychiatry and Neurology Hospital of Brasov.

Pursuant to the performed visits/investigations, the People's Advocate institution notified the Prosecutor's Office in **2** situations, as follows:

- information was requested from the Prosecutor's Office attached to the Court of Balcesti, Valcea, regarding the notice submitted by the management of the Neuropsychiatric Recovery and Rehabilitation Centre of Maciuca, Valcea county to criminal investigation bodies, requesting the performance of checks, so as to determine whether the staff of the centre had any criminal actions against the beneficiaries (abusive actions/degrading treatment applied to beneficiaries).

- the Prosecutor's Office attached to the Court of Iasi was notified on the case of a patient admitted in the Psychiatric and Safety Hospital of Padureni-Grajduri who was taken to the hospital after setting himself on fire.

**We mention the main aspects notified within the monitoring activity undertaken in psychiatric hospitals, in psychiatric and safety hospitals, in neuropsychiatric recovery and rehabilitation centres, included in the visit reports drawn up during 2017.**

\* The reports drawn up during 2017 pursuant to visits performed during 2016 at the following units were also considered: the Psychiatric and Safety Hospital of Sapoca, Buzau county; the "Eftimie Diamandescu-Balaceanca" Psychiatric Hospital of Ilfov county; the Socola Psychiatric Hospital of Iasi; the "Sf. Pantelimon"

Psychiatric Hospital, Braila county; the Neuropsychiatric Recovery and Rehabilitation Centre of Balaceanca (visit to check the implementation of recommendations).

The findings of visits undertaken to C.R.R.N. no. 1 of Babeni, the Centre for Crisis and Respite Care of Babeni, C.R.R.N. no. 2 of Babeni, C.I.A. Milcoiu, C.I.A. Zatrei, C.I.A. Bistrita and the second visit to C.R.R.N. of Maciuca were included in a single visit report.

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

**Positive aspects** were found during the visits, such as: ● the patients' comfort and hygiene were ensured, and those who could not take care of themselves were supported by the care staff on a daily basis; ● the rooms provided the legal surface for each patient; the degree of physical disability was taken into account in the allocation of rooms (patients with a severe physical disability occupied rooms with private bathroom); ● the patients or their legal representatives were informed on the rights, obligations and legal methods of providing medical care from the very admission of patients, and the informed consent form was duly filled in and signed by patients or by their legal representatives (*the Neuropsychiatry Sanatorium of Podriga*); ● the clinical evolution of patients subject to treatment was monitored by the psychiatrist and the general medicine physician on a daily basis, and the treatment scheme was reviewed according to the protocols and therapy guides in force, if clinical symptoms (somatic, psychological, behavioural) required this; ● medical registers were duly drawn up and filled in, as well as the patients' medical records, including: a follow-up of their general health status and vital functions, symptoms, treatments, interdisciplinary medical examinations, analysis results, etc. (*Secția de Psihiatrie Cronici – Adulți - Gura Văii*); ● the medical and auxiliary staff had taken part on a regular basis and had graduated professional training courses on cardiorespiratory resuscitation and emergency medical care, as well as fundamental notions of hygiene (*the Neuropsychiatry Sanatorium of Podriga*); ● patients could entertain themselves and spend their spare

time in the institution's yard, with a generous surface, with green areas, an orchard and a vegetable garden, under supervision of the medical and auxiliary staff (*the Neuropsychiatry Sanatorium of Podriga*); • the hospital's management took actions to improve accommodation conditions, such as: ▪ the management of the Psychiatry and Safety Hospital of Padureni-Grajduri submitted a memorandum to the Ministry of Health describing the situation of the hospital and summarizing its main issues: extending the accommodation area, the need of a feasibility study for connection to the water supply and sewerage system and the temporary rearrangement of hospital enclosures so that they may be turned into an accommodation area, as the case may be; ▪ *the Drobeta-Turnu Severin County Emergency Hospital, managing the Chronic Psychiatry Department (Adults) of Gura Vaii*, in its 2017 investment programme, requested capital repairs in the Gura Vaii Department (facade, roof, indoor facilities, medical areas, etc.), as the building was a major hazard for public safety (according to the technical expertise report drawn up to determine the state of the department), and the structure of the building could be improved through reinforcement works; moreover, the management of the psychiatry department took action in the relevant bodies to obtain identity cards for 30 patients, so that they may be ensured in the health insurance system, according to the provisions of law no. 95/2006 on health reform.

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. A total number of **68 recommendations** resulted from the visit reports drawn up in 2017, of which **36** from reports drawn up pursuant to visits undertaken in 2017, at the chronic Psychiatry Department (Adults) of Gura Vaii and the Neuropsychiatric Sanatorium of Podriga and the Psychiatric Hospital of Sapunari and **32** from reports drawn up pursuant to visits undertaken in 2016 at the Sapoca Psychiatric and Safety Hospital, the "Eftimie Diamandescu-Balaceanca" Psychiatry Hospital, the Socola Psychiatry Hospital, the "Sf. Pantelimon" Psychiatry Hospital.

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 Chronic Psychiatry Department (Adults) of Gura Văii; the Sapoca Psychiatric and Safety Hospital; the “Eftimie Diamandescu-Bălăceanca” Psychiatry Hospital.

***Regarding accommodation conditions***

- in some room, the ceiling and walls were covered in mould and infiltrations; furniture was reduced to a minimum (beds, basin, mirror, chair and table); the facilities were in an advanced state of wear (*the Chronic Psychiatry Department (Adults) of Gura Văii*); the rooms and common areas were not customized (*the Neuropsychiatry Sanatorium of Podriga; the “Sf. Pantelimon” Psychiatry Hospital*). *Recommendations*: performing full overhauls, sanitization, replacement of worn objects and supply of suitable furniture; customization of rooms and common areas and involving patients in such activities. *Answer*: improvement and repair works were performed, consisting of: sanitization of rooms, replacement of worn objects (showers, taps, windows); rooms were equipped with furniture (beds, chairs, tables, wardrobes), with mattresses with waterproof covers and new bedsheets; patients were involved in the implementation of solutions for the customization of rooms, according to their wishes and hospital-specific regulations.

- rooms included a large number of beds (for instance, some rooms in the “Eftimie Diamandescu-Bălăceanca” Psychiatry Hospital had 20 beds);

Pursuant to the *recommendation* of the People’s Advocate, to reduce the number of beds in rooms where the maximum capacity stipulated by the Guideline of July 26, 2006 on the functional structure of hospital departments and services, approved by Order of the Minister of Health no. 914/2016 was exceeded, in the *answer* to the People’s Advocate institution, the hospital management stipulated that the number of beds could not be reduced by moving them to other rooms, as they did not have enough space; reducing the number of beds in the hospital was not possible at that time since it affected funding from the national fund and would have made it impossible to employ urgently needed staff and, hence, to accommodate patients; the

reinforcement and improvement project foresaw the supply of accommodation areas with no more than 6 beds/room.

- patients were wearing pyjamas (*the Psychiatric Hospital of Sapunari*);

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*”, the People’s Advocate recommends that the psychiatric unit should take action to ensure individual clothing.

- *aspects seen upon the check of the implementation of recommendations to improve accommodation conditions;*

- within the visit undertaken in 2016, to check the implementation of the 2015 recommendations to the management of the “Eftimie Diamandescu – Bălăceanca” Psychiatric Hospital, it was found that the patients’ accommodation conditions had not changed, although, according to the answer of the visited facility, rooms had been equipped with suitable furniture, bathrooms had been provided with hygiene and sanitation products and regular disinfection had been performed during 2015. The rooms looked as in the previous visit (rooms were contaminated with fungi, not painted, with untight windows; the furniture and bathrooms were severely worn out); not all bathrooms were accessible; hygiene was improper; bedrooms and common areas were not customized.

A *recommendation* was sent to the hospital management, so as to take action in the Ilfov County Council and request the urgent issue of the required approvals and permits to start the overhaul, reinforcement and repair of rooms, as well as the sanitization of bathrooms.

According to the *answer* of the management of the concerned unit, the hospital and the Ilfov County Council cooperated to implement the recommendation; the measures had been included in the compliance plan drawn up to obtain the sanitary permit for operation; the required approvals had been obtained and the procurement procedure would be launched.

- pursuant to the follow-up of accommodation conditions provided to patients in the Psychiatric and Safety Hospital of Padureni-Grajduri, it was found that accommodation capacities were exceeded in 2017 as well (356 patients, in 240 beds). The management of the Psychiatric and Safety Hospital of Padureni-Grajduri submitted a memorandum to the Ministry of Health presenting the situation of the hospital. The following issues were identified as major: extending the accommodation area, the need to perform a feasibility study for connection to the water and sewerage supply system and the temporary rearrangement of hospital enclosures so that they could be turned into accommodation areas.

Considering the findings of 2017 investigations, as well as the previous visits of the teams of the People's Advocate institution regarding accommodation conditions in the Grajduri Hospital, the People's Advocate institution submitted a *recommendation to the Ministry of Health* requesting to take legal action to reduce overcrowding, along with ensuring suitable accommodation and decent work conditions for administrative staff.

*The Ministry of Health's answer* regarding overcrowding: After the hospital management submitted the documentation for the approval of intervention works "Rehabilitation, improvement and attic for the administrative department in order to change its destination into a patient area" and "Rehabilitation and improvement of the lavatory in order to change its destination into an administrative department", the Ministry of Health issued the prior approval no. FB 7891/09.08.2017 and the prior approval no. FB 7890/09.08.2017 on the documentations for the approval of mentioned intervention works, according to the provisions of art. 42 par. (1) (c) of Law no. 500/2002 on public finance, as subsequently amended and supplemented.

NPM shall keep monitoring the concerned unit.

***Regarding the patients' legal protection***

● *protection measures were not established*, as stipulated by art. 45 (10) of Law no. 487/2002 on mental health and protection of psychologically disordered persons, republished, *when patients did not have a legal representative or did not appoint a conventional representative for lack of psychological capacity*; legal representatives

were not appointed for the concerned patients, though the sanitary unit had notified the custody authority (municipalities with jurisdiction) to this purpose, which also affected the due fill-in of the informed consent (in some cases, the signature of the patient or of the legal representative was missing) (*Chronic Psychiatry Department (Adults)*) of *Gura Vaili*);

Pursuant to the *recommendation* of the People's Advocate to continue approaches to public authorities to solve the situation, according to the *answer* of the hospital's management, further notices were submitted for the appointment of the patients' legal representatives, but no answer was received from the authorities. Moreover, approaches to the custody authority had to be continued.

***Regarding the implementation of the Guidelines for the enforcement of Law no. 487/2002, approved by Order of the Ministry of Health no. 488/April 15, 2016***

- forms to obtain the patients' consent were not in accordance with the new form type stipulated in the Guidelines for the enforcement of Law no. 487/2002, ensuring increased protection for patients (stipulating: *informing patients on the fact that invasive medical and therapeutic methods, with a higher risk degree, will be stipulated separately, and the patient will have to consent to them individually; the major urgency of situations when the medical team is authorized to perform any diagnostic tests or therapeutic maneuvers, if medically justified and with good medical practice (the Psychiatric and Safety Hospital of Sapoca)*);

- the Work Procedure on measures restricting freedom of movement (contention and isolation) did not mention contention devices or the arrangement of the isolation room (*the Psychiatric and Safety Hospital of Sapoca*);

- the Contention and Isolation Register did not include all information explicitly stipulated in art. 9 (11) of the Guidelines for the enforcement of Law no. 487/2002 (*the hour and minute when the restrictive measure was established; the degree of restriction - partial or total - in case of contention; the circumstances and reasons lying at the basis of the restrictive measure; the name of the physician deciding the restrictive measure; the name of medical staff members who took part in enforcing the restrictive measure; the presence of any physical injury incurred by the patient or*

*the medical staff regarding the enforcement of the restrictive measure; the hour and minute of each patient monitoring visit, 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*): for instance, the degree of restriction (partial or total) was not stipulated in the case of contention, and nor the type of restrictive measure that was enforced - contention or isolation (*the Chronic Psychiatry (Adults) Department of Gura Vail; the Psychiatric and Safety Hospital of Sapoca; the Neuropsychiatry Sanatorium of Podriga*);

- isolation rooms were missing (*the Neuropsychiatry Sanatorium of Podriga, the Socola Psychiatric Hospital – there was only atraumatic room, the Psychiatric Hospital of Sapunari*) or they were not arranged and equipped according to the provisions of the Guidelines for the enforcement of Law no. 487/2002; illumination and ventilation were not proper; most isolation rooms were not properly equipped; the rooms were not protected so as to prevent injuries to isolated persons (*the Psychiatric and Safety Hospital of Sapoca; the Chronic Psychiatry (Adults) Department of Gura Vail*); persons contained in the isolation room could be observed by other patients in the department (one of the patients seen by NPM members said that he had been seen by the other patients during his contention, as he was tied to the bed, and stated that: "*I felt like the lowest human on earth*") (*the Psychiatric and Safety Hospital of Sapoca*);

- in some cases, restrictive measures (*every 1-2 days or even on the same day - contention measures*), which raised suspicions on the use of such measures only in exceptional cases (*the Psychiatric and Safety Hospital of Sapoca*);

- the visited unit was not equipped with means dedicated to contain patients, authorized by the Ministry of Health (*the Chronic Psychiatry (Adults) Department of Gura Vail*);

- the obligation to inform the legal/conventional representative regarding the establishment of a measure to restrict the patient's freedom of movement was not observed (*the Psychiatric and Safety Hospital of Sapoca*);

Several *recommendations* were drawn up in order to solve the established failures, so as to observe the Guidelines for the enforcement of Law no. 487/2002,

approved by Order of the Ministry of Health no. 488/April 15, 2016, as well as the enforcement of restrictive measures as a last resort, with respect for the patients' dignity and rights.

We mention the *answers* submitted by hospital managements by the date of this report (*the Psychiatric and Safety Hospital of Sapoca; the Chronic Psychiatry (Adults) Department of Gura Vaii*):

- the Procedure to obtain informed consent was adapted considering the changes to the Order of the Minister of Health no. 488/2016 on the approval of the Guideline for the enforcement of Law no. 487/2002, republished;
- the Work Procedure on actions to restrict freedom of movement (contention and isolation) was completed, i.e. contention devices were mentioned;
- the required actions were taken for the Ministry of Health to purchase the required equipment for the performance of contention procedures as provided by the law;
- actions will be taken depending on the hospital's financial resources, for the proper arrangement and equipment of isolation rooms;
- the register of isolation and contention measures was drawn up accordingly, including all the information stipulated by the Order of the Minister of Health no. 488/2016 on the approval of the Guideline for the enforcement of Law no. 487/2002, republished;
- the enforcement of restrictive measures - contention and isolation - will be used as a last resort, with respect for the patients' dignity and rights;
- the obligation to inform the legal/conventional representative, as stipulated by the Order of the Minister of Health no. 488/2016 on the approval of the Guideline for the enforcement of Law no. 487/2002, will be complied with;
- special bins were placed in each department/sector, so that the patients' relatives could submit anonymous notices/complaints, and a procedure to solve requests/petitions and/or complaints of the patients/family/legal/conventional representative would be drawn up in the shortest delay;
- the visit report was discussed with all the physicians in the hospital, with a focus on the recommendations and the actions to be taken.

### ***Regarding healthcare***

- a deficit of physicians (psychiatrists, internal medicine physicians, epidemiologists), medical nurses and carers was seen in most visited units; for instance, the "Eftimie Diamandescu-Balaceanca" Psychiatry Hospital had 10

psychiatrists for 143 admitted patients, with a patient load per physician that exceeded by far the relevant European standards (this situation could affect the quality of the medical act, as psychiatrists are acutely affected by overload and would like to allocate as much time to patients as possible).

Regarding the *recommendation* to recruit physicians for the vacant positions, so as to ensure the quality of the medical act, according to the *answer* provided by the management of the “*Eftimie Diamandescu-Balaceanca*” *Psychiatry Hospital*, a notice was sent to the County Council so as to publish 3 vacancies for specialist physicians and 1 vacancy for a head of department during 2017; however, this was conditioned by the approval of the request, by the budget and by the availability of staff on the labour market.

- the unit did not have birth control pills (three patients admitted in the Neuropsychiatry Sanatorium of Podriga got pregnant without knowledge of the staff, and their pregnancies were properly monitored).

The hospital management was *recommended* to take the required actions to purchase birth control pills and give them out to sexually active patients, upon recommendation of specialist physicians, so as to avoid unwanted pregnancies in the future. The answer from the Neuropsychiatry Sanatorium of Podriga had not been received by the date of this report.

**Regarding psychological assistance:** ● a lack of psychologists was seen (*the Chronic Psychiatry (Adults) Department of Gura Vaili*); ● for some patients who showed “psycho-motor agitation, physical aggression, verbal aggressiveness” according to the evolution and treatment report, patients were assessed by the psychiatrist on a weekly basis, and medicine treatment was indicated in all cases, with no documents certifying psychological intervention (*the Chronic Psychiatry (Adults) Department of Gura Vaili*); the team was not provided with psychological counselling reports or protocols drawn up pursuant to psychotherapy sessions (*the Psychiatric Hospital of Sapunari*). *Recommendation:* completing/supplementing the staff, possibly entering collaboration contracts with external specialists; constant supply of psychological assistance to patients, to prevent negative events; drawing up a

customized therapeutic programme for each patient that also includes, besides medicine therapy, complementary activities (occupational therapy activities, ergotherapy, social rehabilitation, etc.). *Answer:* the required actions will be taken according to the budget; the customized therapeutic programme is performed according to the available human and financial resources.

***Regarding social assistance:***

- according to the Rules of organization and operation of the hospital, the main attribution of the social worker was to draw up intervention projects for each admitted person, but it was found that they were not drawn up; though the attributions of the social worker include facilitating the patients' access to visits and correspondence (mail, phone) with family and friends, no records thereof were found in specific registers (the Psychiatry Hospital of Sapunari). *Recommendation:* drawing up intervention projects for each admitted person, that includes objectives and activities recommended by the multidisciplinary team, permanently monitoring the achievement of objectives and their adjustment, as the case may be; facilitating the patients' access to visits and correspondence (mail, phone) with their family and friends, and recording them in specific registers. The People's Advocate institution will receive an answer from the management of the Psychiatric Hospital of Sapunari.

***Regarding the hospital staff:***

- an insufficient number of staff was found in most visited hospitals (for instance, in the "*Sfantul Pantelimon*" Hospital of Braila, 282 positions were occupied of the 424 stated in the organizational chart; 142 were vacant and the highest deficit was found in nurses and supervisors;

The lack of specialised staff and supervisory staff had the following consequences: patients could not benefit from kinesic therapy sessions, since no kinesic therapists were employed; in a visited unit, though it had a properly equipped medical gymnastics/kinesic therapy room, patients could only use the equipment under supervision and staff was seldom available for supervision; the lack of supervision or monitoring of patients favoured the occurrence of serious events resulting in injuries or deaths of *patients* (for instance, the *Neuropsychiatry Sanatorium of Podriga* had 7

vacancies of carers and supervisors of psychologically ill persons, and the event register for 2016-2017 included 25 events: aggressions - 10 cases, runaways from the unit - 8 cases, falls - 4 cases). *Recommendation*: taking the required action to complete the vacancies in the staff chart, to improve the quality of the provided services. The *answers* sent to the People's Advocate Institution stipulated that the management of the visited units would take the required actions depending on the budget and the available staff on the labour market.

- the employer's obligation stipulated in the Internal Rules of the visited unit, according to which the employer had the obligation to provide the employees with regular access to professional training was not complied with (*the Sapoca Psychiatry and Safety Hospital*); neither the social worker, nor the ergotherapist employed in the Daycare Centre took part in professional training courses, as they were not included in the annual professional training plan of staff for 2017 (*the Psychiatry Hospital of Sapunari*);

As for the professional training of staff members, the management of the Psychiatry and Safety Hospital of Sapoca provided the visit team with a notice sent to the Ministry of Health, General Department for Medical Assistance and Public Health in 2015, notifying the lack of professional training courses at a national level (especially courses in forensic psychiatry for medical and auxiliary staff, specialized training courses for the supervising staff).

*Recommendation*: the staff should take part in continuous professional training courses; the Ministry of Health should be approached for support for the organization of specific courses needed for the proper performance of hospital activities (e.g. forensic psychiatry courses for medical and auxiliary staff, specialized training courses for the supervising staff). *Answer*: actions will be taken at the Ministry of Health, O.A.M.G.M.A.R., the College of Physicians for support with a view to organizing specific courses for the proper performance of hospital activities (courses of forensic psychiatry, courses of specialized training for the supervising staff, etc.) (*the Psychiatry and Safety Hospital of Sapoca*).

***Other issues:***

- a person admitted involuntarily was accommodated with patients supported by the safety measure of compulsory admission or subject to provisional medical admission (subject to stricter measures than other patients admitted to psychiatry hospitals), which could represent a restriction of the rights of the concerned individual (for instance, freedom of movement within the hospital); the meetings with patients and staff members of the visited institution showed that intra-hospital transfer, especially in legal departments - art. 110 of the Criminal Code (for patients who were not subject to the safety measure of medical admission (*the Psychiatry and Safety Hospital of Sapoca*)). *Recommendation:* the provisions of art. 67 of Law no. 487/2002 on the mental health and protection of psychologically disordered persons, as republished, should be considered for the intra-hospital accommodation/transfer of involuntarily admitted patients, since they stipulate as follows: “*patients who are involuntarily admitted shall be treated similarly to the other patients in the concerned psychiatry unit*”. *Answer:* the provisions of art. 67 of Law no. 487/2002 on mental health and the protection of psychologically disordered persons, republished, regarding the accommodation/intra-hospital transfer of involuntarily admitted patients shall be observed.

- the hospital did not have a special procedure regarding the patients’ possibility to draw up complaints/notices; the discussions with patients, relatives and hospital staff showed that some patients and relatives thereof hesitated to file complaints regarding the treatment applied to patients in the hospital, for fear of retaliation against patients (*the Psychiatry and Safety Hospital of Sapoca*). *Recommendation:* drawing up a procedure to solve the claims, petitions and/or complaints of the patients/family/legal representative/conventional representative, taking into account the possibility to submit anonymous notices/complaints by means of special bins. *Answer:* special bins were installed in each department/sector, for the patients/relatives to submit their anonymous notices/complaints, and a procedure for solving the requests/claims and/or complaints of the patients/family/legal/conventional representative would be drawn up as soon as possible.

During the performance of visits, the management of the concerned hospitals found or observed *special situations that affected the optimal operation of the concerned units*.

I. Some of the visited hospital units were found to host *patients classified as social cases*:

- according to the information provided by the management of the *Socola Clinic Psychiatry Hospital*, this hospital had about 15 cases of homeless persons every year, who were brought to the hospital by the County Inspectorate for Emergency Situations, with no immediate solutions being identified and who needed allocation of resources to the detriment of other patients.

Moreover, many patients were abandoned by their families in hospital (some persons had been admitted for decades), which affected the hospital budget and its capacity to provide specific services to a higher number of patients.

- in the *Psychiatry Department of Gura Văii*, for 35 admitted patients who were diagnosed with senile dementia and mental delay, actions had been taken by the Public Health Department of Mehedinți, the Mehedinți Prefecture and the Mehedinți County Council - General Directorate for Social Assistance and Child Protection as early as 2014, with a view to ensuring optimal protection and social assistance measures for such persons;

- the *"Sapunari" Psychiatry Hospital* also managed patients who were admitted in the chronic department, but who failed to meet the purpose, mission and objectives of the hospital, as they were social cases, abandoned by the family 10-30 years before (a patient who had died in September 2017 had been admitted 43 years before, in 1974; another patient who died in the hospital in January 2016 was at his 38<sup>th</sup> admission);

- such situations were also found in the *Eftimie Diamandescu-Bălăceanca" Psychiatric Hospital*.

The concerned units were *recommended* to approach the Ministry of Labour and Social Justice and the County Council, for the takeover of the concerned cases, possibly for the establishment of new social services such as recovery and rehabilitation centres for disabled persons; entering partnerships with the General

Directorate for Social Assistance and Child Protection, local custody services and the County Council, with a view to relieving the hospital from the social cases it hosted, by transferring them to the medico-social care network, also by promoting the proposal to establish local medico-social centres, that would locally manage some of the county-level cases, thus relieving the hospital from a significant number of patients with less serious cases.

According to the *answer* of the manager of the “Eftimie Diamandescu-Bălăceanca” Psychiatric Hospital, General Directorates for Social Assistance and Child Protection (D.G.A.S.P.C.) were approached to take over some social cases, as well as custody services for the analysis and establishment of legal protection measures for some patients; however, cooperation with the general directorates responsible for such cases was difficult (for instance the General Directorate. of the 2<sup>nd</sup> district notified the hospital management that taking over a person with a significant psychological disability and accommodating him/her in a neuropsychiatric recovery and rehabilitation centre in the jurisdiction of the 2<sup>nd</sup> district was not possible, for lack of places, and s/he would be placed on a waiting list, but an approximate duration was not given). Institutional discussions were also held with a view to entering a partnership with D.G.A.S.P.C. Ilfov, and a cooperation protocol was in progress, but there was a risk that negotiations could not be completed for such partnerships, on the one hand for the lack of interest of some potential partners, and on the other hand because of the unclear, ambiguous and occasionally contradictory legislation.

**II.** Another *specific situation shared by all psychiatric and safety hospitals* was notified to NPM representatives by the management of psychiatric and safety hospitals: ● *the absence of a specific legislation for such hospitals*, affecting the proper performance of their activities; ● *patients classified under the safety arrangement stipulated by art. 110 of the Criminal Code are transported* to courts, to the prosecutor’s offices, to county services of legal medicine (also to I.N.M.L. Mina Minovici of Bucharest), etc. with the hospital’s own ambulances, and the patients are accompanied by medical staff/instructors; *expenses are covered from the hospital’s own sources*, and are not settled by the National Insurance House, by the Ministry of

Health or by the Ministry of Justice; the patients' failure to attend court sessions or legal medicine appointments would result in the infringement of their right to a fair trial and the hospital manager would be fined; ● the hospital also uses its own resources to cover *other expenses for patients with a legal status*, that are not settled either, such as: fees for drawing up civil status documents, transport expenses in case of release of patients who are not supported financially, transport to other hospitals in the county and in Bucharest for certain investigations/surgical interventions (also involving additional expenses on transport, patient supervision and employee delegations).

In order to solve this situation, notices were sent out by the hospital management to the Ministry of Health, to the General Directorate for Medical Assistance and Public Health, proposing that all these expenses should be financed through a health programme that would include the four psychiatric and safety hospitals; however, nothing was done in this respect.

### **B. Neuropsychiatric recovery and rehabilitation centres**

\* aspects regarding visits performed to care and assistance centres for disabled individuals were also considered

**Positive aspects** were found during the monitoring of such centres. *The Neuropsychiatric Recovery and Rehabilitation Centre of Sinersig Timis* stood out in this respect, as it provided optimal living conditions to beneficiaries: the centre operated in a former mansion built in 1904; the old design and separation were mostly kept when the building was remade, with elegant and spacious rooms; carpentry was made of three-chamber PVC profiles, with wood and oak-like decorations, and thermally insulating windows included two glass sheets with decorative baguettes; no more than three beds were placed in a bedroom, so that at least 6 sqm were ensured for each beneficiary; the rooms had modern and sufficient furniture, a friendly environment, as they were customized with decorative objects; all common areas were accessible to disabled beneficiaries. But the most important thing that the centre provided to beneficiaries was the staff's attachment to them, as they showed pleasure

in holding hands, hugging and talking together. All along the visit, the beneficiaries were happy to welcome NPM team members, showing their satisfaction with the conditions in the centre and gladly talking about various aspects of their activities.

We present some other **positive aspects** found while monitoring these centres: bedrooms were customized according to the beneficiaries' preferences, with their personal objects, with proper furniture, non-slipping, warm and easily sanitized pavement (wood parquet), they were painted in warm colours (*C.I.A. Zătrene; C.R.R.N. no. 2 Băbeni*); • menus were balanced in terms of calories and nutritional elements, so that the food would match the beneficiaries' preferences and needs and the diet recommended by physicians in case of chronic diseases (*C.R.R.N. Sinersig Timiș, C.R.R.N. Măciuca; C.I.A. Zătrene; C.I.A. Milcoiu; C.R.R.N. no. 1 and no. 2 of Băbeni*); • beneficiaries who could not leave their beds were supervised more carefully, being allocated in rooms so that each nurse would have about the same number of dependent beneficiaries and, hence, have enough time for them all (*C.R.R.N. no. 2 Băbeni*); • a plan of measures had been established to prevent and fight all forms of abusive, degrading treatment to beneficiaries; the staff and beneficiaries were familiar with the procedure for notifying abuse, according to the records in the beneficiaries' information register and the continuous training register of staff; the centre surveyed beneficiaries who spent time away with their family or within the community, and no risk of abuse was identified outside the unit (*C.I.A. Zătrene*); • all centres provided the beneficiaries with bins where they could place written notices/complaints on any negative aspects, as well as proposals to improve the centre's activity.

Some **deficiencies** resulted from the visits to these residential centres. In order to solve them, the visit reports drawn up in 2017 included a total of **77 recommendations**, of which **65** in reports drawn up pursuant to visits performed in 2017 to: C.R.R.N. Maciuca - 2 visits; C.R.R.N. Sinersig; C.R.R.N. no. 1 of Babeni, Centre for Crisis and Respite Care of Babeni, C.R.R.N. no. 2 of Babeni, C.I.A. Milcoiu, C.I.A. Zătrene, C.I.A. Bistrita; C.R.R.N. Videle; C.I.A. "Sf. Ana" and C.I.A. "Alexandru" and **12** for the report drawn up pursuant to the visit performed in 2016 at C.R.R.N. Balaceanca (a visit to check the implementation of recommendations).

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

\* The following authorities had submitted answers by the date of this report: the General Directorate for Social Assistance and Child Protection of Valcea (to the report drawn up pursuant to the visit to C.R.R.N. Măciuca; to the single report drawn up pursuant to visits to: C.R.R.N. no.1 of Băbeni, the Centre of Crisis and Respite Care of Babeni, C.R.R.N. no. 2 of Babeni, C.I.A. Milcoiu, C.I.A. Zatrene, C.I.A. Bistrita and the second visit to C.R.R.N. Măciuca), the management of C.R.R.N. Sinersig and the management of D.G.A.S.P.C. Ilfov (to the report drawn up pursuant to the visit to C.R.R.N. "Bălăceanca").

***Regarding accommodation conditions:***

- the legal accommodation capacity was exceeded (*C.R.R.N. no. 1 of Băbeni, C.R.R.N. No. 2 of Băbeni, C.I.A. Bistrița*); the 6 sqm per beneficiary were not allocated in some bedrooms; in some rooms, patients were accommodated jointly irrespective of their gender and their degree of autonomy (*this was seen in C.R.R.N. "Bălăceanca"*); rooms were equipped with minimum furniture, and the available bedside tables and wardrobes were not enough for them to keep their personal items and goods; the areas of the centre were improperly sanitized (*C.R.R.N. Videle, the Centre of Crisis and Respite Care of Băbeni, C.I.A Bistrița*); some beneficiaries did not have personal clothing (*C.R.R.N. Băbeni, C.I.A. Bistrița*). *Recommendation:*
- observing capacity standards by ensuring accommodation capacity in terms of avoiding overcrowding and observing minimum quality standards for the accreditation of social services dedicated to disabled adults in terms of accommodation, stipulating no more than 3 beds in each room/personal room and no more than 6 sqm per beneficiary;
- beneficiaries should be assigned to rooms according to their gender;
- establishing a "halfway house" system that would allow for the separate accommodation of beneficiaries with increased autonomy;
- observing standards on

accommodation conditions: customization of rooms and creating an environment that would be closer to a family environment; replacing damaged furniture, performing current repairs, sanitizing and replacing damaged sanitary facilities; providing personal clothing and hygiene and sanitary products in sufficient amounts. *Answer:* ● at the moment, the space allocated to each beneficiary complies with the quality standard of 6 sqm per beneficiary in the bedroom; actions were taken to rearrange bedrooms so that each bedroom/room has no more than 3 beds (keeping in mind that centres that cannot allow the placement of no more than 3 beds in a bedroom can also operate without meeting this requirement, provided that their plan for the improvement and adaptation of the environment also stipulates that, within 3 years from the award of the operating license, bedrooms should be arranged according to the standard (Module III, standard 3.1) of Order no. 67/2015); ● assignment in bedrooms is done by physicians in compliance with legal provisions; ● the improvement of accommodation conditions is pursued in residential centres, as repair and sanitization procedures are launched; an environment as close as possible to the family environment will be created, by customizing rooms; the staff of the centres will permanently look after this and will consider the beneficiaries' preferences; ● the centres will provide both clothing and hygiene and sanitary products to all beneficiaries, in sufficient amounts and whenever needed; depending on their medical disorders, beneficiaries use these items by themselves; for those who cannot do it themselves, the support staff will be in charge.

● aspects regarding *the implementation of the recommendation to provide suitable hygiene conditions in rooms, a sufficient number of sanitary facilities compared to the number of beneficiaries, customization of rooms and equipment with suitable furniture for the beneficiaries' needs*, which were found pursuant of the visit at the "Balaceanca" Neuropsychiatric Recovery and Rehabilitation Centre

Within the 2016 visit to check the implementation of recommendations provided in 2015 to the management of the Balaceanca Neuropsychiatric Recovery and Rehabilitation Centre, it was found that the situation of the centre did not differ much from the one of the previous visit, so that hygiene was still precarious (harmful insects still existed in some rooms of the beneficiaries, though disinfection and

deratization works had been performed, according to the submitted documents); the number of sanitary facilities was not enough and privacy was not ensured; accommodation rooms were still uncustomized and not equipped with enough furniture.

Regarding the recommendation filed by the People's Advocate, i.e. to solve the established failures, the management of the unit provided the following *answer*: with a view to increasing the efficiency of sanitization, professional biocide solutions were used; a project was drawn up for the full overhaul of the centre, in four phases, with the initial phase including the overhaul and replacement of all sanitary facilities and items; 89 bedside tables had been replaced since the beginning of the year; the situation of the residential space of the centre was notified to C.P.A.H. Ilfov, asking to suspend admissions until the space and number of bathrooms/beneficiary would be observed.

***Regarding the beneficiaries' legal protection:*** ● in several centres, legal representatives had not been appointed for beneficiaries who were incapacitated due to their serious psychiatric disorders (*C.R.R.N. Videle, C.R.R.N. Măciuca, C.I.A. Milcoiu, C.R.R.N. Nr. 1 Băbeni, C.R.R.N. Nr. 2 Băbeni, C.I.A. Zătreni, C.I.A. Bistrița, the Centre of Crisis and Respite Care of Băbeni*), which affected the defence of their rights and interests.

During the performance of visits, the management of some centres mentioned that the actions taken to the General Directorates for Social Assistance and Child Protection to appoint legal representatives are unsuccessful.

In the case of D.G.A.S.P.C. Vâlcea, the Directorate, through its Administrative Legal Department, only in March 2017 asked all residential services for adults with some degree of disability to take action to establish a custodian/tutor for centre beneficiaries and to draw up applications to be submitted to courts.

In C.R.R.N. Maciuca, the Centre filed 43 requests to the relevant municipalities in order to identify persons to be appointed as custodians/curators. Answers were received from 28 municipalities, stating that the requested person was not found, and 15 municipalities had not answered by the date of the visit. In C.I.A. Milcoiu, the beneficiaries' applications were drawn up and the Municipality of Milcoiu was

requested to approve the appointment of the person in charge with social care issues, who would become the legal representative of beneficiaries, in May 2017. In June 2017, the Municipality of Milcoiu approved the appointment of the legal representative, the employee of the municipality's social service. In C.I.A. Zatreni, actions had been taken to establish custody and, by the visit date, three persons had been identified who agreed to be the custodians of three beneficiaries; however, in many cases no one was willing to accept custody and negative answers had been received for 48 beneficiaries.

*Recommendation:* by pursuing action at competent authorities for the appointment of the legal representatives of incapacitated beneficiaries or persons who may be appointed as their tutors/curators and the regular review of their situation, since their absence affected the protection of the beneficiaries' rights and interests. *Answer:* actions to identify persons to become custodians/tutors for incapacitated beneficiaries have continued at the level of residential services; at the same time, the regular review of the situation of each beneficiary compared to the need to establish custody/tutorship has continued.

**Regarding healthcare:** • a lack of medical and care staff has been found (psychiatrist, odontologist, medical nurses, kinesic therapists, nurses) (C.R.R.N. no.1 of Băbeni, C.R.R.N. Maciuca, C.I.A. Zatreni, C.I.A. Bistrita, C.R.R.N Sinersig); • the emergency facilities were improperly equipped with medicines and sanitary materials (C.R.R.N Sinersig, C.I.A. "Sfânta Ana"); • the medical staff had not taken courses for providing qualified first aid (C.R.R.N. of Maciuca, C.R.R.N. no. 1 and no. 2 of Băbeni); • various beneficiaries were registered in the centre who were diagnosed with chronic hepatitis of viral aetiology (B and C) and no regular screening was performed for these disorders (C.R.R.N. no. 1 of Băbeni); • no isolation facility was arranged in the centre (C.I.A. "Sfânta Ana"). *Recommendation:* • analysing the opportunity and performing the required actions in order to recruit a physician in the centre's staff, considering the various disorders of beneficiaries and the need to continuously supervise their health state; recruiting or collaborating with psychiatry specialists; • taking the required

action in order to provide the medical staff with medicines and sanitary materials according to the minimum standards; ● taking the required actions so that the medical staff of centres takes part in courses for providing qualified first aid in case of emergency; ● performing screening to detect cases of HIV infection, B or C viral chronic hepatitis, upon admission to centres and on a regular basis, considering the high incidence of such disorders in institutionalized individuals. *Answer:* ● the establishment of a new position of physician in the centre will be proposed when drawing up the new organizational chart at the level of D.G.A.S.P.C (D.G.A.S.P.C. Timiș); ● instruments were purchased according to Order no. 153/2003 on the approval of the Methodological guidelines on the establishment, organization and operation of medical practices; the medical practice in the centre fell under annex 2 “psychiatry” and had to be equipped with a blood pressure meter, a reflex hammer, a thermometer, a centimetre, various vials; ● the professional training programme of D.G.A.S.P.C. Vâlcea for 2018 includes the first aid course for staff in residential services, which is going to be purchased; ● the procurement plan of D.G.A.S.P.C. Vâlcea includes the purchase of services for the performance of screening to detect cases of HIV infection, B or C viral chronic hepatitis;

- aspects regarding the *implementation of the recommendation to establish the scheme for the treatment and reassessment scheme of beneficiaries by the physicians of the “Eftimie Diamandescu” Psychiatry Hospital*, found out on the occasion of the visit to the “Balaceanca” Centre of Neuropsychiatric Recovery and Rehabilitation

Neither the head of the centre, nor the physician could clearly provide the visit team with the procedure for taking the beneficiaries of the centre to the hospital for prescription of psychiatric treatment, even though, according to the answer provided pursuant to the previous visit, the beneficiaries of the centre were reassessed by the physicians of the “Eftimie Diamandescu” Psychiatry Hospital. Within the visit performed by NPM representatives, the hospital representatives only referred to the possibility to receive beneficiaries as emergencies; in this case, the hospital had the obligation to admit them.

A *recommendation* was again submitted, to perform the annual reassessment of beneficiaries by a psychiatrist, according to a plan for all beneficiaries with a psychiatric prescription. According to the *answer* of the management of D.G.A.S.P.C. Ilfov, a labour contract was entered on June 3, 2017 with a psychiatrist and a full psychiatric reassessment of all beneficiaries was in progress according to their priorities and health state, according to minimum quality standards and the legislation in force.

***Regarding the enforcement of contention and isolation measures***

- The register of contention and isolation measures was not drawn up and filled in according to the legal provisions included in Order no. 488/2016, art. 9 par. (11) for the approval of the Guidelines of the enforcement of the Law on the mental health and protection of psychologically disordered persons no. 487/2002, for most visited centres. *Recommendation*: correctly drawing up the Register of isolation and contention measures according to legal provisions. *Answer*: since the procedure on the isolation and contention of beneficiaries was reviewed at the level of residential centres, the Register of isolation and contention measures includes heading according to the legislation in force.

- aspects regarding the *implementation of the recommendation to fully rearrange isolation rooms*, found out on the occasion of the visit to the “Balaceanca” Centre of Neuropsychiatric Recovery and Rehabilitation

The team found out minimal rearrangement of isolation rooms, a precarious state of cleanliness (one of the rooms was infested with insects), and the material for the cushioning of one of the rooms was torn and, thus, injuries or acts of violence could not be prevented.

The management of the centre suggested a *recommendation* to arrange isolation rooms according to the Guidelines for the enforcement of Law no. 487/2002, approved by Order of the Ministry of Health no. 488/April 15, 2016. In its *answer* to the People’s

Advocate institution, the management of D.G.A.S.P.C. Ilfov stated that the arrangement of the concerned areas was included in the project for the rehabilitation of the centre, that would be launched as soon as the funding source is approved.

During the visit to check the implementation of recommendations it was found that, on the date of the second visit as well, ***the aggressor of the young man who died in 2015 was still accommodated in the isolation room and no procedure had been initiated for his transfer/admission to a psychiatry and safety hospital.***

We stipulate that, according to CPT guidelines, patients must be awarded suitable psychiatric and somatic treatment and cure. The admission of such a person, whose discernment is doubtful and, hence, presents a high degree of social risk, is impossible in a neuropsychiatry recovery and rehabilitation centre, since this does not meet their needs, cannot provide for treatment and recovery conditions and cannot ensure the required means of security and protection for other beneficiaries. Moreover, **until the completion of criminal processes, a patient must receive suitable treatment and cure in medical institutions that suit his/her needs, and not be placed in the isolation room for a long time**, since the procedure of isolation is applied for a limited time and must be reviewed on a regular basis.

The People's Advocate *recommended* that the Ministry of Labour and Social Justice and D.G.A.S.P.C. Ilfov should identify a solution for beneficiaries accused of serious criminal deeds, so that they could benefit from suitable treatment and cure in medical institutions suited to their needs, by the end of criminal processes. *Answer from D.G.A.S.P.C. Ilfov*: a request was drawn up to this purpose; as of July 2017, the judgment issued in the case of the beneficiary had not been amended.

\* Regarding this situation, the People's Advocate institution **requested for information from the Prosecutor's Office attached to the Court of Ilfov** regarding the state of the file, after the performance of the first visit and filed the request again after the visit to check the enforcement of recommendations (when it was found that the person who had injured the young man still was in an isolation room).

The Public Ministry – the Prosecutor's Office attached to the Court of Cornetu – provided the People's Advocate institution with information on the criminal file,

mentioning that the June 2015 Ordinance of the Prosecutor's Office attached to the Court of Ilfov stipulated the initiation of criminal prosecution regarding the perpetration of attempted murder, stipulated by art. 32 of the Criminal Code with reference to art. 188 of the Criminal Code.

In February 2016, the Ordinance of the Prosecutor's Office attached to the Court of Ilfov stipulated that the case on the perpetration of attempted murder should be dismissed, as stipulated by art. 32 of the Criminal Code with reference to art. 188 of the Criminal Code, and a decision was made to defer competence to the Prosecutor's Office attached to the Court of Cornetu, so that it may perform investigations for professional negligence, as stipulated by art. 298 of the Criminal Code; it will be established whether the provisions were observed regarding the supervision of people admitted in the "Balaceanca" Neuropsychiatric Recovery and Rehabilitation Centre.

The criminal case was assigned to the Pantelimon Municipality, and investigations were performed for professional negligence.

**Regarding psychological assistance:** ● a psychologist was not employed who could provide psychological counselling and psychological therapy (*C.R.R.N. no. 1 of Băbeni, C.R.R.N. Of Măciuca*); ● some customized intervention plans failed to contain the beneficiary's date and signature and included general descriptions, without being clear about the moment and method of performing the activities in the plan (*C.R.R.N. Of Măciuca*); ● some recovery programmes did not include a planning of daily, weekly or monthly activities (*C.I.A. Of Bistrița*); ● assessment reports included general written results, but no concrete recommendations from the assessment were provided (*C.R.R.N. no. 2 of Băbeni*). **Recommendation:** ● recruitment of psychologists, occupational therapists for vacancies, that would ensure the recovery and rehabilitation services stipulated by Customized Intervention Plans; ● the accurate assessment and filling in of assessment reports and individual recovery programmes, individually and specifically for each beneficiary, with full information and details, with date and signature; ● drawing up a timetable and planning daily, weekly or monthly recovery and rehabilitation activities, provided by centres to beneficiaries. **Answer:** specialized and care staff was selected for the vacancies; considering the low degree of occupation

of vacancies, the management of D.G.A.S.P.C. (D.G.A.S.P.C. Valcea) decided to delegate specialists from other centres, so that specialized staff would be available until vacancies would be occupied; individual recovery reports and programmes are individually and specifically filled in with full, dated and signed information and details, for each beneficiaries; timetables of recovery and rehabilitation activities are drawn up at the level of centres and are visibly posted.

***Regarding social assistance and activities organized in the centre***

- a low number of beneficiaries could go out in the community (*C.R.R.N. Măciuca, C.I.A. Bistrița*); there was no concrete method (phone, mail, internet) to keep in touch with the outside (family, relatives) (*C.R.R.N. Bălăceanca*). *Recommendation*: ensuring the organization of diverse activities of recovery, of spending spare time and socialisation for the centres' beneficiaries, their involvement in the performance of self-management activities and the development of independent living skills; involving the centre in ensuring the beneficiaries' contact with the outside (family, community) for family and community reintegration. *Answer*: in order to maintain an active life for the centres' beneficiaries, a monthly programme of activities was drawn up, coordinated by centre specialists; beneficiaries whose state of health allows this are encouraged to perform activities outside the centre, to become acquainted with community services and use them; depending on the seriousness of medical disorders, beneficiaries could go to the community to make some shopping and are involved in domestic activities performed in the centre;

- the number of beneficiaries reintegrated in the family was low (for instance, 2 persons of C.R.R.N. no. 1 of Băbeni, and only one case of family reintegration was seen in C.I.A. Milcoiu during 2007-2017, compared to the number of beneficiaries admitted to the 7 centres of D.G.A.S.P.C. Vâlcea that had been visited - 524 persons). *Recommendation*: action to obtain the support of public authorities at a county and local level for their family reintegration and the creation of family services, protected residences and social economy structures for disabled individuals (D.G.A.S.P.C.

Vâlcea). In order to ensure the social reintegration of disabled individuals, public authorities with jurisdiction over the beneficiaries' places of residence should cooperate in order to observe the principle of proximity in the supply of social services, so that county-level social assistance departments are not the only suppliers of social services for these beneficiaries. *Answer:* the possibility to integrate/reintegrate the beneficiaries of residential centres in their families or their social and professional reintegration are analysed on a permanent basis. The low number of these integrations/reintegrations (only two reintegrations in 2017 in all residential services for adults) is due both to the beneficiaries' medical pathology and to the fact that their natural family does not exist or is unable to provide the care services they would need. D.G.A.S.P.C. Valcea is interested in setting up protected residences and in the socio-professional integration of disabled individuals; to this purpose, funding applications were submitted in order to obtain funding for the development of such services; funding applications will be drawn up in the future as well, depending on the launched funding lines dedicated to disabled adults.

- aspects regarding the *implementation of the recommendation to involve beneficiaries in occupational programmes coordinated by psychologists and occupational therapists, where the care staff could be involved too*, found out on the occasion of the visit to the “Balaceanca” Centre of Neuropsychiatric Recovery and Rehabilitation

No changes were seen compared to the previous visit, and the centre staff does not seem to be concerned with involving the beneficiaries in occupational programmes. Institutionalized persons were not provided with occupational therapy services or programmes, vocational or professional rehabilitation programmes. The centre provided no alternatives for spending the spare time or activities developing new skills in the persons with this potential. During the visit, on a Saturday, the beneficiaries were walking on the stairs or on the halls of the centre in a chaotic manner, looking dishevelled.

Regarding the recommendation to organize occupational activities, coordinated by psychologists and occupational therapists, the management of D.G.A.S.P.C. Ilfov

answered that, during January-July 2017, 60 beneficiaries had taken part in several activities for socialisation and spending spare time: visit to the zoo, trips to the seaside (Eforie Sud) and in the mountains (in Brasov); the beneficiaries are accompanied by specialized staff for visits to the community and stores.

### ***Regarding the staff***

- all visited centres lacked staff, which impacted the supply of the services mentioned in the contract with the beneficiaries; as for C.R.R.N. Videle, the organizational chart did not include a position of social worker; the attributions of a social worker were wrongly assigned to the educator. *Recommendation*: recruitment of individuals for the vacancies, since the lack of staff in most visited centres affected the supply of care, assistance, recovery and rehabilitation of beneficiaries, as well as the identification of solutions to contract services of physicians, psychologists, where the vacancies have not been occupied after competitions; initiating actions in order to approve (based on the organizational chart) and recruit staff for a social worker position. *Answer*: competitions were organized for occupying the vacancies in the staff structure, resulting in the occupation of a low number of positions; the recruitment procedure would be resumed in order to supply the beneficiaries with the required services, at the end of 2017, pursuant to the approval of the new organizational chart and position chart (for D.G.A.S.P.C. Vâlcea).

- documents could not be shown to certify that the centre had ensured the training of staff on the methods of approach, communication and relations with beneficiaries depending on their psycho-behavioural specificities (*C.R.R.N. of Măciuca; C.R.R.N. of Videle*); some centres failed to ensure the care and support of beneficiaries, suited to their needs (for instance, for C.R.R.N. of Videle, the NPM team found out that a seriously disabled individual was lying in bed, fully naked and covered with a blanket, with no proper care; the care staff declared that the beneficiary was constantly tearing her diapers). *Recommendation*: taking continuous

professional training courses, personal development activities and enhancing the staff's responsibility regarding the methods of approach, communication and relations with beneficiaries, depending on their psycho-behavioural specificities; constantly training the care staff so that the principle of respect to the beneficiary's dignity and privacy is always considered in their activity. *Answer:* the staff was also trained on aspects related to minimum quality standards, the establishment of custody for beneficiaries; on an annual basis, all employees of the unit are assessed by the head of the centre, who draws up the "assessment report for the individual performances of staff occupying contractual execution positions", whose annex proposes a recommended training programme. The organization of these courses is exclusively dependent on the R.U.O.S. Service, who asks for the approval of the management of D.G.A.S.P.C. for the organization of such activities, considering the legal provisions in force and the proposals suggested for each employee.

***Regarding the beneficiaries' protection against abuse and neglect:***

- during visits performed to neuropsychiatric recovery and rehabilitation centres subordinated to D.G.A.S.P.C. Vâlcea (*C.R.R.N. Măciuca, C.I.A. Milcoiu, C.R.R.N. no. 1 Băbeni, C.R.R.N. no. 2 Băbeni, C.I.A. Zătreni, C.I.A. Bistrița, the Centre of Crisis and Respite Care of Băbeni*) it was found that: some beneficiaries recent had superficial injuries (excoriations) on their face, head and limbs, due to self-aggression based on the severe chronic psychiatric pathology of such beneficiaries, or to conflicts among beneficiaries; cases of abuse of employees against beneficiaries were identified, along with incidents checked or in progress of investigation by committees of D.G.A.S.P.C. Valcea; some beneficiaries had injuries pursuant to improper supervision during their institutionalization at C.R.R.N. Maciuca (some of the beneficiaries transferred from C.R.R.N. Maciuca showed older signs of self-aggression on their forearms and abdomen); a beneficiary got pregnant and gave birth during 2015, and the child was given to adoption (the beneficiary had agreed to the adoption) (*C.R.R.N. no. 1 Băbeni*). *Recommendation* to the management of centres and D.G.A.S.P.C. Valcea: taking suitable action to prevent abuses against beneficiaries, by:

a) preventing abuses against beneficiaries and the objective investigation of such abuses by the commissions appointed by D.G.A.S.P.C. Valcea, along with the urgent notification of competence bodies and the centre staff's monitoring of beneficiaries who may be a risk for their own health and safety, as well as cases of self- and hetero-aggressiveness, since, on the visit, the team had found fresh traces of blood on their head and arms, scratches and marks of aggression in some beneficiaries.

We mention that, according to standard S.4.3 of Order no. 67/2015 of the Ministry of Labour, Family, Social Protection and Elderly Persons (M.M.F.P.S.P.V.), in special situations, when issues that might represent crimes or infringements were established, any other events affecting the quality of the beneficiaries' life were notified, and the centre informs the competent bodies stipulated by the law (the prosecutor's office, the police, the public health department, etc.);

b) developing sexual education programmes regarding birth control methods, the protection of personal dignity and integrity and taking the required actions to protect beneficiaries against possible sexual and physical abuse (D.G.A.S.P.C. Vâlcea). *Answer* of the management of DGASPC Vâlcea: a. The beneficiaries of residential centres are protected against abuse, neglect, discrimination or degrading or inhuman treatment. All forms of abuse or neglect against beneficiaries are forbidden, as they are encouraged and supported to observe any kind of abuse from the staff, from other beneficiaries in the centre or other persons outside the centre. Each centre draws up and enforces, according to the legislation in force, the procedure on cases of abuse and neglect according to which all identified situations of abuse, negligence, discrimination are notified to the relevant bodies/institutions; they are also stipulated in the Register of cases of abuse, negligence and discrimination. b. Forms of abuse against beneficiaries are forbidden, the staff of centres was trained in 2017 regarding the rules of organization and operation of the unit. The official procedures enforced in the centre, respect for the principle of human dignity regarding the persons admitted to the unit. D.G.A.S.P.C. Valcea, in partnership with the SERA Romania Foundation, was implementing a project aimed at preventing unwanted pregnancies and reducing the number of abandoned children, with the support of the mobile abandon prevention

team developing informative activities on unwanted pregnancy prevention and birth control education in residential centres subordinated to D.G.A.S.P.C. Valcea county.

- aspects regarding the *implementation of the recommendation to draw up work procedures ensuring the safety of beneficiaries and employees* (since several violent incidents had occurred), found out on the occasion of the visit to the “Balaceanca” Centre of Neuropsychiatric Recovery and Rehabilitation

An internal note was drawn up setting a commission to check abuses against the beneficiaries and the register of complaints and proposals, but no work documents (procedures, protocols, etc.) of this commission for the period 2015-2016 were submitted. There was a special event register, but no events were included there starting July 2015, which raised suspicions regarding the accuracy of the register, considering the specificities of this centre that had almost 200 beneficiaries.

Regarding the *recommendation* to increase the efficiency of the activity of the commission for checking abuses against beneficiaries, the management of D.G.A.S.P.C. Ilfov *answered* that, pursuant to the reassessment of the health state of beneficiaries, internal protocols would be drawn up to prevent violent incidents between beneficiaries of the centre, by the specialist physician, considering the legislation in force.

***Other issues:***

- registers were not registered with D.G.A.S.P.C., some were not numbered, and were inaccurately filled in (*C.R.R.N. Nr. 1 Băbeni, C.I.A. Milcoiu, C.I.A. Bistrița, C.R.R.N. Sinersig, C.R.R.N. Videle*); ● the Register on information to beneficiaries regarding the rights they have in the centre and the Register of notices and complaints were not drawn up (*C.R.R.N. Sinersig*). *Recommendation:* drawing up and filling in all registers according to the standards stipulated by the legislation in force; registering all registers with D.G.A.S.P.C. and numbering them, as well as training staff regarding the content, necessity and method of elaboration and filling in, according to the legislation in force. *Answer:* all registers used in the centre were reviewed, registered and filled in up-to-date, according to the received recommendations.

- during visits to neuropsychiatric recovery and rehabilitation centres subordinated to D.G.A.S.P.C. Vâlcea (*C.R.R.N. Măciuca, C.I.A. Milcoiu, C.R.R.N. No. 1 Băbeni, C.R.R.N. No. 2 Băbeni, C.I.A. Zătreni, C.I.A. Bistrița, the Centre of Crisis and Respite Care Băbeni*), it was found that:

- during 2015-2017, 40 deaths occurred in the 7 centres; according to documents, the deaths were caused by the beneficiaries' age, the complications of their chronic diseases or acute disorders against the background of preexisting chronic diseases;

- in the case of some deaths, the physicians decided that criminal prosecution bodies had to be notified; it was observed that these special events were superficially and incompletely recorded, with almost no records of the intervention of responsible staff, according to the operational procedure applicable in case of death;

\* In our opinion, the centres should notify the relevant bodies (the prosecutor's office, police) in all cases of death, so that the current legislation has to be amended, since, presently, it regulates the notice to relevant bodies only in case of suspicions regarding the causes of deaths of beneficiaries (Standard 3.S4.3 (Section 5) of the Order of M.M.F.P.S.P.V. No. 67 of January 21, 2015 on the approval of minimum quality standards for the accreditation of social services for disabled adults).

*Recommendation* to the Ministry of Labour and Social Justice, the National Authority for Disabled Individuals, D.G.A.S.P.C. Vâlcea, the management of centres: notifying criminal prosecution bodies in case of any death in the centres and *amending the current legislation, that only regulates notices to competent bodies in case of suspicions on the causes of deaths*; prevention of deaths in residential centres, considering their number during 2015-2017 by supplying emergency medical care/assistance; drawing up, filling in and archiving the registers including special events (*C.R.R.N. Maciuca*), including detailed information on the beneficiaries' deaths. *Answer* of the D.G.A.S.P.C Vâlcea: In the case of all deaths occurring in the centres managed by D.G.A.S.P.C. Valcea, actions were taken in compliance with the provisions of Law no. 8/2015 on the establishment of mechanisms stipulated by the Convention on the rights of persons with disabilities and the Joint Order of the Ministry

of Justice and the Ministry of Health no. 1134/C-255 of May 25, 2000 on the approval of the Guidelines on the performance of expertises, observations and other medico-legal operations Each death was notified to the Monitoring Council established based on Law no. 8/2016 by phone, within 24 hours, and written notices were thereafter sent with data on the cause of deaths, as well as the conclusions of medico-legal expertise. The same procedure is followed in all centres, as the register includes special events and detailed information on the beneficiaries' death.

- beneficiaries were transferred to other centres without observing their right of being consulted on all decisions regarding them, their right to decide and to take risks, directly or through legal representatives all aspects of their lives, and to freely express their options (for the beneficiaries transferred from C.R.R.N. Maciuca); Standard 3 was not complied with - Termination of services, indicator 3.1 of Order no. 67/2015 of the Ministry of Labour, Family, Social Protection and Elderly Persons, Annex 1 - Minimum quality standards for social services with accommodation organized as residential centres dedicated to disabled adults, as follows; *the Centre establishes and notifies beneficiaries on the conditions for the termination/suspension of services for a definite period*, as well as Standard 3, indicator S3.2 of the same order “*at the recommendation of the residential centres which no longer has the capacity to provide all services suited to the beneficiary's needs or is closed*”, the centre has the following obligation: “*at least 30 days prior to the date when the termination of services is estimated, the centre establishes, together with the beneficiary and the General Directorate for Social Assistance and Child Protection with jurisdiction over the centre, how to solve the situation of each beneficiary (transfer to another centre, sent back to the family for a definite period, etc.)*”. *Recommendation*: observing the rights of disabled beneficiaries to be informed and consulted on all the decisions regarding them (on transfer to other centres as well), to decide and to take risks, directly or through legal representatives, in all aspects of their lives, and to freely express their options; *Answer*: the Beneficiary's Guide and the Charter of the beneficiaries' rights, informative materials including the mission of the centre, services provided within the unit, the beneficiaries' rights and responsibilities. The heads of centres developed

informative sessions on the following topic: the Guide of beneficiaries of social services; abuse or other forms of degrading treatment; ways to file possible complaints/notices; conditions for the termination of services provided to beneficiaries; provided medical assistance; education against smoking; rights of beneficiaries.

We mention that, *pursuant to sending the Visit Report* drawn up regarding the visits performed in the following centres: C.R.R.N. no. 1 of Băbeni, the Centre of Crisis and Respite Care of Băbeni, C.R.R.N. no. 2 of Băbeni, C.R.R.N. Măciuca, C.I.A. Milcoiu, C.I.A. Zătreni C.I.A. Bistrița, *to the National Authority for Disabled Individuals* (the report was sent to the Ministry of Labour and Social Justice, the National Authority for Disabled Persons, D.G.A.S.P.C. Valcea, the management of the concerned centres), *the management of the Authority provided the following information:*

Since a very important part in increasing the quality of social services provided to beneficiaries is played by the social service provider, in the case of the 7 centres of D.G.A.S.P.C. Valcea (subordinated to the County Council), the Authority approached the concerned institution regarding the findings included in the visit report and the measures taken to fulfil quality standards, as well as the National Agency for Payments and Social Inspection.

Furthermore, the NPM report was sent to the County Agency for Payments and Social Inspection of Valcea, an institution with a range of competences to perform controls regarding the check of minimum quality standards stipulated by Order no. 67/2015, as well as the establishment and enforcement of legal sanctions.

The National Authority for Disabled Individuals planned a review of minimum quality standards for the accreditation of social services dedicated to disabled adults; in its annual control plan, it established a set of controls on the observance of standards and the beneficiaries' rights in residential centres, also performing the field assessment of the social services licensed by ANPD in the field of disability.

### **Proposals:**

► **psychiatric hospitals, units for psychiatric treatment and safety measures**

- involving central and local authorities with relevant competences (the Ministry of Labour and Social Justice, County Councils, General Directorates for Social Assistance and Child Protection, etc.) in order to relieve hospitals from their social cases, by transferring them to the medico-social support network, also by promoting the proposal to establish local medico-social centres, that would locally manage some of the county-level cases, thus relieving the hospital from a significant number of patients with less serious cases; when examining each case, priority will be given to the provisions of art. 19 of the Convention on the rights of persons with disabilities (integration in the community);

- the actual and prompt involvement of custody authorities in appointing legal representatives for patients who do not have a legal representative or who have not appointed a conventional representative for lack of psychological capacity;

- the Ministry of Health should support the management of hospital units in the continuous professional training of hospital staff, the implementation of the Guidelines for the enforcement of Law no. 487/2002, republished, occupying vacancies by identifying solutions to ensure an adequate budget, involving the available applicants);

- creating specific legislation for psychiatry and safety hospitals, by consulting their representatives;

- identifying legal measures to cover the expenses incurred by psychiatry and safety hospitals for transporting patients classified under the safety arrangement stipulated by art. 110 of the Criminal Code to courts, to the prosecutor's offices, to county services of legal medicine, etc., as well as other expenses incurred for patients with a legal status;

► **neuropsychiatric recovery and rehabilitation centres**

- promptly involving the competent authorities in the appointment of the legal representatives of incapacitated beneficiaries or persons who may be appointed as their tutors/curators and the regular review of their situation;

- amending *Standard 3.S1.3 of Order no. 67/2015 of the minister of labour, family, social protection and elderly persons (currently, the minister of labour and social justice) on the approval of minimum quality standards for the accreditation of social services dedicated to disabled adults*, stipulating: "The re-assessment shall be performed on an **annual** basis, and whenever required, i.e. in case of significant changes in the beneficiary's health state and physical and/or psychological functional status", and the centre has the obligation to perform a regular re-assessment of beneficiaries **at least every 6 months** and whenever required, in terms of health state and needs, so as to establish whether recovery in a recovery centre is still needed;

- completing relevant legislation with the obligation to apply judicial control to the admission decision and to the results of the beneficiaries' re-assessment (similarly to the procedure for confirming/rejecting the measure of involuntary medical admission stipulated in Law no. 487/2002 on the mental health and the protection of psychologically disordered persons, republished), considering the lack of suitable legal protection for persons in custody in some centres; the request for admission to the centre/the services contract may be signed by the legal representative/may be entered by the centre/provider and the legal representative; the high number of beneficiaries who were incapacitated because of their psychiatric disorders, who did not have an appointed legal/conventional representative; the lack of involvement of some D.G.A.S.P.C. regarding the legal protection of beneficiaries;

- the periodic judicial review of prohibition decisions for incapacitated individuals, considering the provisions of the UN Convention on the Rights of Persons with Disabilities, art. 12, paragraph 4: *all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body;*

- permanent cooperation between neuropsychiatric recovery and rehabilitation centres and public authorities at a county and local level for the family reintegration of as many beneficiaries as possible and, whenever needed, the creation of family services, protected residences and social economy structures for disabled individuals;

When reviewing each case, priority will be given to the provisions of art. 19 of the Convention on the rights of persons with disabilities (integration in the community)

- re-assessment of the organizational charts of all centres by the General Directorates for Social Assistance and Child Protection, by consulting the management of centres, with a view to establishing the required number and positions for the optimal operation of centres; identifying concrete ways to ensure the required budget and to integrate available staff;

- amending the current legislation, that presently regulates the notice to relevant bodies only in case of suspicions regarding the causes of deaths of beneficiaries (based on Standard 3.S4.3 (Section 5) of the Order of M.M.F.P.S.P.V. No. 67 of January 21, 2015 on the approval of minimum quality standards for the accreditation of social services for disabled adults), so that centres might notify the relevant bodies (prosecutor's offices, police) in all cases of death;

For both types of institutions, **the required measures will be identified to ensure accommodation conditions compatible with the respect for human dignity, by relevant public authorities, in cooperation with the management of the concerned units, in compliance with national and international provisions in force**, considering Romania's conviction by the European Court of Human Rights in the case Parascineti versus Romania.

### *III. Residential Centres for Children*

*The child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.* (The Declaration of the Rights of the Child)

For purposes of the Convention on the Rights of the Child, a **child** means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier. According to the same convention, *States parties* (Romania ratified the Convention by Law no. 18/1990, republished, as subsequently amended) *undertake to ensure the child such protection and care as is necessary for his or her well-being, and a child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the state.*

In Romania, children who are temporarily or permanently deprived from the protection of their parents or children who, for their best interest, cannot be left with their parents, based on an individual protection plan (drawn up by the General Directorate for Social Assistance and Child Protection within 30 days after receiving an application for the establishment of a special protection measure or immediately after the director of the Directorate has decided placement of emergency) **special protection measures shall be established and applied:** placement; emergency placement; specialized supervision (Law no. 272/2004 on the protection and promotion of the rights of the child, republished).

**Placement** may be decided with a person or a family, with a foster parent or with a residential service providing hosting for more than 14 hours and licensed according to the law. The measure of placement is established by the commission for child protection for children who, for their best interest, cannot be left with their parents for reasons not related to them, or for children who have perpetrated a deed stipulated by criminal law and who is not criminally liable, with the parents' approval. In the other cases, the measure of placement is taken by the judicial court, upon request of the General Directorate for Social Assistance and Child Protection.

**The measure of placement in a residential service** is only decided if it can meet the children's individual needs for care, education, socialisation, etc., determined pursuant to initial assessment (based on Order no. 21/2004 on the approval of compulsory standards on residential child protection services and Order no. 67/2004 on the approval of compulsory standards on residential child protection services for children with disabilities, issued by the secretary of state of the National Authority for Child Protection and Adoption).

The placement of children who are not 3 years old yet can be decided with a **residential service**, only if s/he has serious disabilities and is dependent from care in specialised residential services.

For children who are abused, neglected or subject to any form of violence, for children who are found or abandoned in medical facilities, as well as children whose only legal tutor or both were detained, arrested, admitted to a hospital or when, for any other reason, they cannot exercise their parental rights and obligations regarding the child, emergency placement shall be decided by the director of the General Directorate for Social Assistance and Child Protection or by the judicial court (by presidential ordinance), as the case may be. The General Directorate for Social Assistance and Child Protection has the obligation to notify the court within 5 days from the date when the director of the Directorate has decided so.

Children shall only benefit from **emergency protection in a specialized centre** if emergency placement with a professional foster parent specialized for such situations is not possible, based on the Order issued by the secretary of state of the National Authority for Child Protection and Adoption no. 89/2004 on the approval of compulsory standards on the emergency reception centre for children who are abused, neglected and exploited.

The circumstances lying at the basis of special protection measures shall be reviewed by the General Directorate for Social Assistance and Child Protection on a quarterly basis. In case of changes, the directorate must immediately notify the commission for child protection or the court, as the case may be, in order to amend or terminate the measure, as applicable.

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.

► In this context, **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.** 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. 29<sup>2</sup> par. (2) of Law no. 35/1997, republished, as subsequently amended and supplemented).

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, based on art. 19 of the Optional Protocol and the provisions of art. 29<sup>2</sup> par. (3) e) and j) of Law no. 35/1997 republished, as subsequently amended and supplemented, **the field regarding prevention of torture in detention places (NPM) monitors the conditions of accommodation and the treatment applied to children in these centres.**

During 2017, the field regarding prevention of torture in detention places (NPM) undertook **14 visits to residential centres for children**: the Placement Centre of Lugoj, Timis county; the Placement Centre for the residential protection of children with disabilities of Targu Jiu, Gorj county; the “Robin Hood” Placement Centre of Bucharest” the “Daniela” family home, Giurgiu county; the “Soarele” family home, Giurgiu county; 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 Targu Frumos, 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; the “Azur” Placement Centre - Victoria Complex of Social Services, Brasov, 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 (visit to check the implementation of recommendations provided pursuant to the visit made in 2016).

► Regarding the respect for children's rights, the field regarding prevention of torture in detention places (NPM) observed *ex officio* in 2017 the case of the Placement Centre of Lugoj and of the Placement Centre for the residential protection of children with disabilities of Targu Jiu, and the provisions of the law regarding notices to criminal prosecution bodies were also enforced, as follows:

- NPM representatives found out about the case of a beneficiary in the "Robin Hood" Placement Centre, who claimed he had been physically injured by police officers, after an altercation with another beneficiary. When the police officers were notified by the staff of the centre, the person was taken to the police accompanied by a staff member; according to the under age person's statement, he was left alone with the policemen in the police department, while he was allegedly injured by them, as he was handcuffed. The Prosecutor's Office attached to the Court of Bucharest was notified on this case. According to the answer provided to the People's Advocate, the notice was sent to the Prosecutor's Office attached to the Court of district 4 of Bucharest, in order to be solved.

- during a visit performed to the "Sfanta Maria" Emergency Admission Centre, an under age person was interviewed by police officers in one of the rooms. The visit team members observed the *attitude of the police officer, who asked questions that were not suitable for discussions with an under age person, in a strong voice, with irony and intending to intimidate the under age person*. The visit team underlined that it was important to ensure a safe and protective framework for the hearings of under age persons by police bodies, so as to avoid the possibility of any negative effect on their psychological state. Regarding this issue, the People's Advocate notified the Police Inspectorate of Calarasi county, so as to take the required legal action.

- during the visit to the Placement Centre for the residential protection of children with disabilities of Targu Jiu (the NPM observed *ex officio* the situation presented in the media regarding the fact that three girls less than 15 years old, subject to placement, had got pregnant in 2016, and one of them went to a physician for pregnancy termination without knowledge of the Directorate management), the NPM representatives found some cases of verbal and physical aggressions between the

beneficiaries, aggressions and use of hallucinogen substances, some beneficiaries were criminally prosecuted, and an under age girl was pregnant. As of the date of the visit, the identity of the person that had gotten the girl pregnant was not known; her statements were contradictory, and her medical records included no documents stamped by the physician who terminated the pregnancy and certifying the performance of this medical operation; this was also confirmed by the physician of the centre.

The management of D.G.A.S.P.C. Gorj notified police bodies to begin criminal prosecution in the case of the pregnant under age girl, and the County Police Inspectorate of Gorj - Criminal Investigation Service answered the notice, stipulating that the criminal prosecution bodies of the Targu Jiu Police - the Criminal Investigation Bureau observed *ex officio* the perpetration of the crime of sex with an under age person, as stipulated by art. 220 (1) of the Criminal Code. The field regarding prevention of torture in detention places (NPM) asked for information from the Prosecutor's Office attached to the Court of Targu Jiu, regarding the results of the investigations performed in the above mentioned cases.

► During 2017, visit reports were drawn up pursuant to visits undertaken in the following centres: the Placement Centre of Lugoj; the Placement Centre for the residential protection of children with disabilities of Targu Jiu; the "Robin Hood" Placement Centre; the "Daniela" family home; the "Soarele" family home; the "Sf. Maria" Emergency Admission Centre; the Social Centre for under age individuals who have perpetrated criminal deeds and are not criminally liable of Targu Frumos; the Emergency Admission Centre for Boys of district 4; the Emergency Admission Centre for abused, neglected and exploited children of Oradea; the visit reports for the other visits undertaken in 2017 are in progress.

**We mention the main aspects notified within the monitoring activity undertaken in residential centres for under age persons, included in the visit reports drawn up during 2017.**

\* The reports drawn up during 2017 pursuant to visits performed during 2016 at the following units were also considered: The "Sfantul Ghelasiu" Family Home of

Stremt, Alba county; the “Universul copiilor” Family Complex of Braila, Braila county; the Emergency Placement Centre for abused, neglected and exploited children of Braila, Braila county; the “Ioana” Home - Complex of Specialized Residential Services for Children, Diosti, Dolj county.

**Positive aspects** were found during the visits, such as: ● documents such as the operational plan, the internal rules, the workchart, the ethical code, the operating license, the child’s rights, the chart of monthly activities were visibly posted in the centre (*the “Soarele” Family Home, the “Daniela” Family Home*); ● the areas of the centre were arranged and equipped with suitable furniture for the children’s needs (the bedrooms included customized, clean and comfortable beds, wardrobes, small tables, chairs, carpets, coloured curtains and TV sets); the children lived in a family environment suitable to their specific needs of living and caring; all children were dressed neatly and diversely (*the “Soarele” Family Home*); ● children helped select the menu, prepare the food, make up the table, serve meals, wash the dishes; they were happy with the food they got and they thought it was enough and tasty (*the Social Centre for under age individuals who have perpetrated criminal deeds and are not criminally liable of Targu Frumos, the “Universul Copiilor” Family Complex of Braila*); ● during January 2016 - September 2017, 12 beneficiaries of the centre were integrated in their families; a range of measures were implemented to support the socio-professional integration of disabled young people who were about to leave the protection system; during 2017, a beneficiary who has completed her education, being integrated in a family, was supported by the staff of the centre in drawing up the application for the unemployment aid (*the Placement Centre for the residential protection of children with disabilities of Targu Jiu*); ● quality standards for emergency admission centres for abused, neglected and exploited children were observed regarding the elaboration and management of the children’s records, as well as the existence of all records stipulated by national legislation (*the Emergency Admission Centre for abused, neglected and exploited children of Oradea*); ● daily activity programmes were drawn up for each day of the week, along with the weekly planning of the children’s involvement in administrative and cleaning activities (*the*

*"Sfântul Ghelasie" Family Home of Stremt*); ● the centre had entered 6 volunteering contracts based on which the children were provided with care, educational therapy, recreation and entertainment, jointly agreed with the management of the home and in agreement with their needs and wishes (*the "Soarele" Family Home*); ● during meetings with the beneficiaries, the latter informed the visit team members that the staff encouraged them to take part in various competitions and activities, to express their tastes regarding clothing, footwear and personal image, and their preferences were taken into account when purchasing items (*the "Daniela" Family Home*); ● the staff (head of the centre, specialized educators, psychologist, social worker) was well prepared, available, interested in ensuring a favourable climate for the proper development of the beneficiaries' personality (*the Social Centre for under age individuals who have perpetrated criminal deeds and are not criminally liable of Targu Frumos*).

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 visit reports. A total number of **131 recommendations** was provided in visit reports drawn up in 2017, of which 99 were drawn up pursuant to visits performed in 2017.

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 Placement Centre of Lugoj; the "Daniela" Family Home; the "Soarele" Family Home; the "Sfantul Ghelasie" Family Home of Stremt; the "Ioana" Home - Complex of Specialized Residential Services for Children, Diosti; the Emergency Placement Centre for abused, neglected and exploited children of Braila; the "Universul copiilor" Family Complex of Braila. The Placement Centre for the residential protection of children with disabilities of Targu Jiu.

► ***Regarding accommodation conditions***: ● the capacity of accommodation of the

centre was exceeded (the centre had a capacity of 25 places, but it provided services to 31 under age beneficiaries as of the date of the visit; for the 5 persons additional to the capacity, sofas in the living room and the related storage areas were used) (*the Emergency Placement Centre for abused, neglected and exploited children of Braila*). Regarding the *recommendation* to observe the accommodation capacity, D.G.A.S.P.C. Braila provided the following *answer*: the Directorate is always concerned to provide optimal accommodation conditions for the beneficiaries, but it is equally focused on securing children; protecting children whose development is endangered in their families is a priority for the institution; ● the living area of at least 6 sqm per child was not ensured in some centres, as based on Annex 1, Standard 23 (Living conditions) of the compulsory minimum standards on residential child protection services, approved by Order no. 21/2004 of the National Authority for Child Protection and Adoption (for instance, in a centre, rooms dedicated to children aged 10-13, with a small area - 13 sqm, accommodated four children or six children in bunk beds) (*the Placement Centre of Lugoj, the Emergency Admission Centre for Boys of district 4, Bucharest*); Regarding these issues, the People's Advocate *recommended* that the management of the centre should ensure an area of at least 6 sqm per child and that rooms should be customized with items and furniture creating a suitable family environment for the children's specific needs in terms of life and care; according to the *answer*, 2 professional foster parents were identified for 4 children, so that standards were fulfilled. ● the furniture was old and worn out and the tapestries of chairs was torn; some of the rooms did not have a family-specific appearance (they were not decorated or did not have enough furniture and customized items); under age persons did not each have their own space to store clothing and personal items (*the "Daniela" Family Home, the Placement Centre for the residential protection of children with disabilities of Targu Jiu*); pursuant to the recommendation to change damaged furniture, to customize rooms with items and furniture creating a family-like environment suited to the children's specific needs of living and care, according to the received answers, the damaged furniture was replaced, coverlets, carpets, decorative pillows, curtains and table cloths were purchased (*the "Daniela" Family Home*); ●

improper hygiene was found in some sanitary facilities and kitchens of centres (*the “Soarele” Family Home, the Placement Centre for the residential protection of children with disabilities of Targu Jiu*); Pursuant to the *recommendation* to properly sanitize the concerned areas, to repair, change damaged sanitary items and facilities, paint, etc., the management of the centres took some *measures*, such as: sanitizing bedrooms, halls and lockers, repairing sanitary facilities, sanitizing the kitchen ceiling, purchasing new kitchen furniture (*the “Soarele” Family Home, the Placement Centre of Lugoj*); ● the daily menu was not established with the support of the physician in charge with the Specific Intervention Plan for children health, so as to ensure balanced nutrition, according to the preferences and specific biological needs of every age, to doctor-recommended diets and to the guidelines in force on the required amount of calories and nutritional elements. Since the provisions of Standard 10.2 of Order no. 27/2004 issued by the Ministry of Labour, Social Solidarity and Family on the approval of the minimum compulsory standards for residential child protection services for children with disabilities were not observed, the management of the centre was *recommended* to establish the daily menu with the physician’s support, consulting the beneficiaries when choosing the dishes, as well as analysing the possibility that children could take part in meal preparation and serving activities in the kitchen area of the centre, according to legal provisions. An answer from the management of the centre was not received as of the date of this report (*the Placement Centre for the residential protection of children with disabilities of Targu Jiu*); ● the water reserve for 48 hours was not secured, as provided by the Order of the National Authority for Child Protection and Adoption no. 21/2004 on the approval of minimum compulsory standards on residential child protection services. Pursuant to the People’s Advocate’s *recommendation* to observe the provisions of the minimum quality standards in force, based on the received *answer*, the amount of water required to secure a backup supply for 48 hours was requested (*the “Universul Copiilor” Family Complex of Braila*).

► **Regarding healthcare:** ● some centres failed to provide healthcare on a permanent basis, and not all positions of nurses were occupied; regarding the *recommendation* to employ medical staff to cover the vacancies, so as to ensure

permanent supply of medical services, considering the various degrees of pathology and disabilities of the beneficiaries of centre-provided services, based on the *answer*, a report was drawn up to organize a selection for covering the vacancies with specialized staff for all structures of the complex (nurse, educational instructor) (*the "Daniela" Family Home*); ● in some visited centres, medicines were not safely stored, and no separate secured cupboards were provided for psychotropic substances, as per Law no. 339/2005 on the legal status of narcotic and psychotropic plants, substances and preparations in force on the date of the visit; the *recommendation* to take action in order to equip the medical practice with a secured cupboard for the storage of psychotropic substances was implemented by the visited centres, as they purchased secured cupboards for the separate storage of psychotropic medicines (*the "Daniela" Family Home*); ● the centre was not equipped with an emergency medical kit; pursuant to the recommendation to take action to equip all the flats in the complex with emergency medical kits, according to the standards and guidelines in force, the management of DGASPC informed the People's Advocate Institution that reports were drawn up after the visit to purchase first aid medical kits, and the purchase procedure was in progress when the answer was sent (*the "Universul Copiilor" Family Complex of Brăila*); ● some centres did not include a specially arranged isolation room where cases of infectious and contagious diseases that could spread to other beneficiaries could be placed in quarantine and treated; in case of such situations, the patients would be taken to hospitals with departments for infectious diseases in the nearby towns, accompanied by medical staff; ● a centre had an isolation room, with its own bathroom, which was occupied by a boy at the moment of the visit (the staff claimed that this was to limit closeness and contact to older girls who were accommodated on the first floor). According to Standard 9, procedure 9.9 annex 3 to Order 89/2004, the isolation room must host children who get a contagious disease and do not need to go to hospital, for a determined period. The room shall only be used for such situations. Hence, the isolation room should only be used for this purpose (*the Emergency admission centre for abused, neglected and exploited children of Oradea*).

► *Regarding the enforcement of restriction of the movement capacity*, according to the staff and the reviewed documents, contention 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 contention 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. Moreover, contention devices admitted for under age persons were not stipulated.

In the case of a centre, the methodology of organization and operation stipulated in the Procedure Controlling the Child's Behaviour, as a permitted sanction, physical intervention for immobilization (done as the child/young person was held by one or several persons, so that s/he could not harm himself/herself or others); the procedure did not mention the provisions of Standard 19 (Behaviour control) par. (5), i.e. *“All cases when restrictive measures are enforced against children shall be recorded in a special report enclosed to the Health PIS and stipulating at least: the child's name, the date, hour and place of the event; the actions taken; the names of staff members who reacted; the names of other witnesses to the event, children included; any consequences of the taken actions; signature of the person authorized to perform records. After the enforcement of the restrictive measure, the child will be seen by a doctor, within 24 hours”* and par. (6): *“The SR coordinator checks on a regular basis - at least once a month, the records of restriction cases in order to properly control and sanction staff (when applicable) and to identify the risk factors of events”*, that could favour the occurrence of situations at risk of abuse or ill treatment. *Recommendations* were made to adapt the Procedure for the enforcement of restriction measures to 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; the supplementation of the Procedure Controlling the Child's Behaviour with the provisions of standard 19 paragraphs (5) and (6) of the minimum compulsory standards for residential child protection services approved by Order of the National Authority

for Child Protection and Adoption no. 21/2004; establishing a clear action protocol for cases when the unacceptable behaviours of children must be controlled in order to prevent abuse. The measures taken to implement recommendations are to be notified (*the "Robin Hood" Placement Centre*).

► **Regarding psychological assistance:** ● most children in the centre were not assessed during 2016-2017; psychological reviews were *recommended* on a regular basis, with a view to identifying the psychological needs of the beneficiaries of the centre and possible risks. According to the received *answer*, the centre would clarify the situation of children who had not been assessed and the required psychological assessments would be planned on a case-by-case basis (*the Placement Centre of Lugoj*); ● as for psychological assessment reports, an identical pattern was seen between teenager reports and child reports, which is not suitable to the teenagers' psychological characteristics; regarding the *recommendation* to provide psychological counselling and individual psychotherapy for beneficiaries whose medical reports included such recommendations, and the pursuit of counselling and group programmes for teenager beneficiaries, the management of the centre stated that the psychologist had drawn up a work chart for each beneficiary with such recommendations and the guidelines regarding the adaptation of the psychological assessment sheet for teenagers were taken into account (*the "Daniela" Family Home*); ● children were not constantly provided with psychological and speech-language therapy programmes; for instance, a pre-school child with language development disorders lived in *the "Soarele" Family Home*, who needed speech-language therapy, had been assigned such therapy in a medical letter, but was not treated by a speech therapist. Considering these aspects, as well as the fact that requests for speech-language therapy were made by the head of the family home, and the speech therapist was an employee of D.G.A.S.P.C. Giurgiu, also operated in the Recovery and Respiro Centre and was a member of the mobile team of D.G.A.S.P.C. Giurgiu, the following *recommendations* were made:

- to the management of the centre, the recommendation to perform a speech-language assessment of beneficiaries needing speech therapy and to establish a

constant speech therapy programme for children with language development disorders, with an implementation deadline of 6 weeks;

- to the management of D.G.A.S.P.C. Giurgiu, the recommendation to recruit a speech therapist for the mobile team, in accordance with the multiple requests from the centres under the jurisdiction of the General Directorate for Social Assistance and Child Protection of Giurgiu, within 4 weeks.

According to the *answer* received from D.G.A.S.P.C. Giurgiu, the child who was recommended to take speech therapy completed a first programme within a private specialized practice, with important progress being seen in the child's evolution; as for the vacant position of speech therapist in the mobile team, according to the requests of the structures of D.G.A.S.P.C. Giurgiu, the selection was launched, but the position was not occupied, so the procedure had to be reinitiated.

► ***Regarding social assistance and activities organized in the centres:*** ● the centre did not have a mapping of the system of social services at a county level, as stipulated by Order no. 89/2004 on the approval of the minimum compulsory standards for emergency admission centres for abused, neglected and exploited children issued by the Ministry of Labour, Social Solidarity and Family and which, according to the same normative act, had to be posted visibly for the staff, beneficiaries and visitors; the People's Advocate's *recommendation* to comply with relevant quality standards, i.e. all documents and information provided by normative acts on child protection (map of county-level social services, the mission of the centre, the presentation of the service, the daily programme, the internal rules, the beneficiaries' rights and obligations, etc.) had to be drawn up, procured, posted or provided to beneficiaries or relatives, was enforced by the management of the centre, who decided to post the concerned documents on the board for documents needed in the activity of educational instructors; ● the case officer in the centre was improperly assigned tasks that were exclusively related to the activity of the case manager, as stipulated in the case management standard; it was *recommended* that social workers - case managers should meet the specific attributions of case managers stipulated in **the Minimum**

**Compulsory Standards on Case Management regarding the Protection of the Rights of the Child, approved by Order of the National Authority for Child Protection no. 288 of July 6, 2006. Answers from the management of the concerned centres are to be received** (*the “Robin Hood” placement centre of Bucharest*); ● the children’s files did not include important events in their life: special successes, spending days with close relatives, various reactions, attitudes, the rejection or refusal of tasks, the failure to observe rules or guidelines for coexistence, etc.; such notes may influence the content of the individualized protection plans as they are reassessed; when *recommended* to write down the significant events in a child’s life in specific instruments such as reports, sheets (for observation, counselling, discussions) or notes for the moments, actions and relevant reactions in the beneficiaries’ life, which would represent the detailed social history in the beneficiaries’ personal files. The case manager may review and plan interventions and services adapted to the beneficiaries’ actual needs, and the management of the centre provided the following *answer*: the significant moments and events in the life of every beneficiary are recorded through the following instruments/documents: activity reports, counselling/meeting reports, the child’s diary and the staff was informed of the importance to record these items and on how to concretely use these work tools (*the “Sf. Ghelasie” Family Home of Stremț*); ● the social worker’s activity only referred to the performance of work procedures for the records and less to direct interaction with the beneficiaries or their families; the study of the beneficiaries’ records showed that quarterly reports and the protocols of team meetings were missing. The *recommendation* to periodically assess beneficiaries in terms of case management procedure and to draw up quarterly reports and the protocols of team meetings was enforced by the management of the centre (*the “Daniela” and “Soarele” Family homes*); ● no cases of family integration/reintegration occurred during 2016-2017 or their number was very low (*in the “Daniela” Family home*, for instance, there was no case of placement in foster care, adoption and no young person was integrated from a socio-professional point of view). A *recommendation* was made to enhance approaches on the family and social reintegration of under age beneficiaries and socio-professional integration for

beneficiaries close to 18 years, by contacting and cooperating with the family, relatives, local authorities, NGOs or other social actors, as applicable; regarding the mentioned example, the management of the centre notified that, for socio-professional integration purposes, the beneficiary of a special protection measure within CTF Daniela was transferred to CPIS Casa Mihail - the ProAct Support Association; ● there was insufficient communication between the staff of the centre and the school (for a centre where one of the beneficiaries did not pass an academic year, regular meetings took place between the case officer and school representatives, but the proposed measures were not efficient) (*the "Ioana" Home - Complex of Specialized Residential Services for Children, Diosti*); the management of the centre was *recommended* to enhance its counselling and educational activities, as well as increase the efficiency of communication with school, with a view to enhancing the children's responsibility in terms of school and professional training, developing school motivation and recovering failures in school training (possibly the involvement of volunteers); according to the *answer*, the quarterly re-assessment of children who are subject to a special protection measure mainly focuses on re-adjusting the educational programme of children with problems in school, by tracing psycho-pedagogical measures of support to correct learning difficulties. It has to be mentioned that the individual school status of each child is influenced by his/her learning capacity, by the level of acquisitions and knowledge, by the assimilation of knowledge in the school curriculum, by his/her educational and professional interests and aspirations. The re-assessment of the complex situation of each child aims at outlining specific recommendations and measures to develop the children's motivation for school; ● educational instructors could not take part in parent sessions organized by the educational facilities attended by beneficiaries since there was no one to replace them at work (the organizational chart included an insufficient number of positions) and they could not neglect other beneficiaries in the centre. Since this goes against the provisions of Order no. 21/2004 regarding the full integration of children in the educational system and the cooperation between the person in charge with him/her and the teaching staff, as well as the parents of other pupils, the management of the centre was *recommended* to identify solutions

so that the staff in the apartments/cottage could take part in the parent sessions organized by the educational facility attended by beneficiaries. The *answer* stipulated that a solution was identified, i.e. the social worker/specialized inspector or the psychologist of the complex, as applicable, would take part in the sessions (*the “Universul Copiilor” Family Complex of Braila*); ● the daily routine (both on weekdays and weekends or holidays) did not constantly include individual or group-level entertainment activities; moreover, various situations were found: educational materials, various books were locked in a closet; the centre developed no educational programmes and activities for children according to their age and needs (some of the older beneficiaries informed that they were not involved in such activities, as they targeted small children); this went against Standard 12 (entertainment - social activities) of the minimum compulsory standards of July 27, 2004 on emergency admission centres for abused, neglected and exploited children, respectively Standard 15 of the compulsory standards on services for residential child protection, based on which the areas for the development of spare time activities are properly arranged and equipped, secure, functional and accessible to all children and suited to their age, potential, concerns and preferences. The management of the centres was *recommended* to undertake entertainment and socialisation activities in groups, as stipulated by individual protection plans; to set out educational and entertainment programmes and activities for all centre beneficiaries, depending on their age and needs; to equip the club with educational and entertainment materials/items for all age categories of children. According to the *answer* of the management of the centre (an answer is to be provided regarding the other centres), as the centre cannot provide specially arranged playgrounds and spare time areas, children/young people take regular walks in the park accompanied by the staff, also travelling outside the town (*the “Daniela” Family Home*).

► **Regarding the staff of the centre:** ● the employee/beneficiary ratio was 1/1.8, so that the cost standard of 1/1.5 for residential services to children in placement centres stipulated by Government Decision no. 23/2010 on the approval of cost standards for social services was infringed. A *recommendation* was made to adjust the

staff scheme so as to observe the cost standard for residential services for children in placement centres and, according to the *answer*, a report was made for the occupation of vacancies within the Case Management Service for Children Area III, requesting the organization of the competition to occupy vacancies within the Case Management Service for Children Area III (the Placement Centre of Lugoij). Within monitoring visits, even though the management of centres stipulated that all staff members took part in professional training courses, as well as meetings organized in the centre on a regular basis, visit teams were not provided with documents certifying that the staff had taken the courses; in some cases, the management of the centre took action with the human resources department of D.G.A.S.P.C., submitting proposals on the organization of training courses for each category of staff. The management of centres was *recommended* to take the required action to ensure the participation of the staff in continuous professional training courses and the actions taken to implement the recommendations will be notified. During the visits, the involvement of the entire staff was generally observed in the activity developed in the centre. However, in some cases, the head of the centre relied on the professionalism and involvement of staff members and no longer thought they needed to know details on the centre (for instance the number of beneficiaries on the date of the visit, the participation of staff in professional training courses). NPM representatives stipulated that the improper involvement of the management in the activities of the centre could affect relations with staff members and prejudice the optimal operation of the centre.

► ***Regarding the relationship between the staff and beneficiaries:*** ● the beneficiaries of a centre informed NPM representatives that some employees “yelled at them and said bad words”, making them feel humiliated or even relive some emotionally traumatic events experienced in their original families; ● failures were seen in staff training regarding the obligation to supervise beneficiaries as they went outside the centre; the monitoring team was informed of the case of a beneficiary in the “Robin Hood” Placement Centre (included in the register for notices and complaints on cases of intimidation, discrimination, abuse, neglect, exploitation, inhuman or degrading treatment), who claimed he had been physically injured by

police officers (after a fight with other beneficiary, the centre staff notified the police, and the under age person was taken to the police department accompanied by a staff member; based on the child's statements, he was left alone with the policemen at the police and he was injured by them, as he was handcuffed); the management of the centre was *recommended* to better manage the relation between the beneficiaries and staff by drawing up a set of minimal rules set out and agreed by the staff and the children, regarding communication and mutual relations; to establish procedures regarding the supervision of beneficiaries outside the centre, with a view to preventing possible abuses against the beneficiaries, procedures to be notified to the staff and children, as well as organizing training courses on the protection of children against abuse, neglect and exploitation. The People's Advocate institution will receive an answer; • the documents of the centre showed that two cases of the educators being injured by beneficiaries existed (an educator was hit with the fists, an educator was scratched at the nose); some of the beneficiaries of the centre had an improper, frequently conflicting behaviour both with the staff and with other colleagues; the management of the centres was *recommended* to re-assess the relationship between the staff and beneficiaries, with a view to preventing conflicts and discard any form of intimidation, discrimination, abuse, neglect, exploitation, inhuman or degrading treatment stipulated by the standards in force; to include vulnerable beneficiaries in individual or group psychological counselling programmes, with a view to avoiding the deviant behaviours seen at the centre. Based on the *answer*, with a view to improving the relation between the staff and the beneficiaries, a centre proposed that the educational staff should take part in training courses with the following topics during 2017: "Understanding non-cooperating behaviour in children and work methods", "Understanding teenagers and work methods", "The therapeutic approach of emotional and behavioural disorders of children", with proposals for professional training courses being included in the assessment report of each individual employee. Moreover, meetings would be organized between the staff and the psychologists of D.G.A.S.P.C., with a view to improving relations between the beneficiaries and staff (*the Placement Centre of Lugoj*).

► **Regarding the beneficiaries' possibility to submit complaints, notices**, some centres did not have a box where children could submit suggestions or complaints (*the Sf. Maria Emergency Admission Centre*). Some centres did not have special registers for suggestions and complaints or for abuses or special events; in other centres, children were not informed on the existence of the bin and the special registers (*the Emergency Placement Centre for abused, neglected, exploited children of Braila*). During a visit, based on discussions with children, team members found that, even if there was a box for submitting complaints or suggestions, children were reluctant in using this work tool for fear of possible retaliation, so they wanted a way to provide full anonymity. A *recommendation* was made to correct any failures, as well as encourage beneficiaries, along with providing guarantees on confidentiality, to use the procedure for the submission of suggestion and complaints, without fear of retaliation from the staff of the centre. According to the *answers* received by the date of this report, the beneficiaries of the centre were encouraged to freely express their opinions; a special register of suggestions and complaints was established and a mailbox was installed for the children's petitions.

In the following we present some *frequent issues seen during visits*.

***Regarding the monitoring of emergency admission centres for abused, neglected and exploited children***

*A long period of stay of children in emergency admission centres for abused, neglected and exploited children* was found during the visits, as follows:

- *in the "Sfanta Maria" Emergency Admission Centre of Calarasi*: based on the statement of the management of the centre, due to the lack of available places in other placement centres subordinated to the General Directorate for Social Assistance and Child Protection of Calarasi, the presence of beneficiaries in the "Sf. Maria" Emergency Admission Centre was a permanent residence, not a definite, transition period (the Rules of Organization and Operation of the Social Service stipulated that specialized services were provided for a definite period of no more than 6 months).

Regarding the situation of 4 beneficiaries who had entered the centre in 2014, the management of the centre provided the visit team with documents certifying a range of actions taken with the General Directorate for Social Assistance and Child Protection of Calarasi, requesting the identification of alternate solutions in the de-institutionalisation process, i.e. identifying professional foster parents or the appointment of placement centres subordinated to D.G.A.S.P.C. Calarasi where to transfer these children. However, these actions were unsuccessful.

An analysis of the answers provided by the General Directorate for Social Assistance and Child Protection of Calarasi to the “Sfanta Maria” Emergency Admission Centre showed the visit team that the most frequent causes were the lack of families/persons suited to the children’s needs, the absence of professional foster parents and the absence of available places (with the overcrowding of centres being claimed in some cases), according to the records of the specialized service of D.G.A.S.P.C. Calarasi. As for the family reintegration of children, this was not possible since, after monitoring the psycho-social situation at the homes of these beneficiaries, no improvements were found in their living conditions, which is why it was considered that they should be kept under protection at the “Sfanta Maria” Emergency Admission Centre and under the focus of specialized services.

The People’s Advocate *recommended* the visited unit and the General Directorate for Social Assistance and Child Protection of Calarasi to urgently reassess the special protection measure, with a view to reintegrating and placing in residential services those beneficiaries who had exceeded by far the 6-month accommodation period within the C.P.R.U. The visited unit and the General Directorate for Social Assistance and Child Protection of Calarasi will inform the People’s Advocate institution on the enforcement of the recommendation.

- *in the Emergency Placement Centre for abused, neglected, exploited children of Braila*: some beneficiaries were found to have a legally unregulated status, based on the provisions of Law no. 272/2004 on protecting and promoting children’s rights, republished, with some under age persons benefitting from the services of the centre

for a long time (even two years), only based on the provisions issued by the General Director of the General Directorate for Social Assistance and Child Protection.

Therefore, the provisions of article 70 of the previously mentioned law were not observed, i.e. the situation of the under age person had to be presented to the court within 5 days from the establishment of the emergency placement by the director of the General Directorate for Social Assistance and Child Protection of Braila, and the court would “analyse the reasons lying at the basis of the measure taken by the general directorate for social assistance and child protection and shall decide to terminate emergency placement and reintegrate the child with his/her family, replace emergency placement with custody or placement, as applicable”.

The management of the centre was *recommended* to observe the provisions of article 70 of Law no. 272/2004, republished, i.e. present the status of the under age person to the court by the legally established deadline, as well as legally regulate the situation of under age persons already in the centre. According to the *answer* of D.G.A.S.P.C. Braila, the Directorate (and the centre implicitly) always envisages the compliance with legal provisions, including those regarding notices to the court on replacing emergency placement; the recommendation is harmonized with the child’s specificities (age, state of health, education, educational requirements, etc.), as well as the principle of keeping siblings together. Thus, it emphasized the large number of sibling groups protected in the centres, hence the difficulties in identifying solutions compared to the available resources/the capacity of other protection units/number of available places. The directorate mentioned the collaboration between services/centres of D.G.A.S.P.C. Braila, consisting in the communication of free places, information on incomers/outgoers to/from such units, so that special protection measures in the centre could be replaced.

- *in the Emergency Admission Centre for Boys of district 4, Bucharest:* As of the date of the visit, the court had decided to replace emergency placement at the Emergency Admission Centre for Boys by the measure of placement in the same centre, for three children. According to the head of the centre, free places in other placement centres (the “Robin Hood” Placement Centre, the “Sf. Spiridon” Placement

Centre) were not available for the three children. However, a check of the beneficiaries' records does not show that action was taken for the placement of children in the concerned placement centres. The register of the centre for January 2016 - May 2017 includes 9 admissions (3 in 2016 and 6 during January-May 2017) and 2 leaves, by transfer to other residential centre. No cases of family reintegration took place during 2016-2017. When asked by the visit team why the children were kept so long in the emergency admission centre, the head of the centre mentioned that, without beneficiaries, the employed staff would no longer be justified. The management of the centre was *recommended* to take action to transfer the children in whose case the emergency placement measure has been replaced by placement, to a residential centre for under age persons, so that the Emergency Admission Centre for Boys would strictly operate as an emergency placement centre. The actions taken to implement the recommendation are to be notified.

► ***Regarding the supervision of beneficiaries:*** During the performance of visits, visit team found *failures in the compliance with legal safety and security measures*, required for ensuring the protection of children, staff and visitors against potentially harmful events and accidents, based on the provisions of Standard 25 (Safety and Security), **included in Order no. 21/2004 issued by the secretary of state of the National Authority for Child Protection and Adoption. Thus:** • no video surveillance was available (inside the centre and in the outdoor yard) (*the Placement Centre of Lugoj, the "Daniela" Family Home, the Placement Centre for the residential protection of children with disabilities of Targu Jiu*); • some of the centres did not have specialized staff for guard and security or the staff was insufficient; for instance, in the "Robin Hood" Placement Centre, guard was not ensured at all the entrances to the building where the centre operated; the access door to the building of the centre (the "Robin Hood" Placement Centre was located on the 1<sup>st</sup> and 2<sup>nd</sup> floor, while other centre operated at the ground floor) was open and unguarded, and anyone could easily enter or come out of both centres (when the visit team arrived, staff members of the centre at the ground floor requested no information regarding the presence of the team in that place; they just guided it to the centre on the first floor). The absence of proper

supervision is a situation of risk for the children's safety and security, considering the unpredicted situations that may appear. To this purpose, we mention the incident that took place in the Placement Centre of Lugoj during 2017.

The incident involved three beneficiaries of the Placement Centre of Lugoj who went out without permission. As they played on the square of the House of Culture of Lugoj, they threw snowballs at a car that was stopped, with an open window. One of the beneficiaries hit a person who was in the car, and then ran to the centre. The person that was hit found out where the child lived, from his colleagues, and went to the centre. **The person that was hit, together with two other persons, abusively entered the yard of the centre looking for the child**, and were seen by a specialized educator who called the door guard. The child went towards the people who were looking for them, and one of them pushed him. The door guard intervened and evacuated the three person. Then, the child had a nervous breakdown, destroyed several items within the centre, and offended the staff. The educators on duty tried to calm down the boy by talking to him, but eventually had to call the Ambulance and the Police. The police immobilized him and the child was admitted to the Paediatric Psychiatry Department.

Moreover, visit teams found out that improper surveillance facilitated the beneficiaries' runaway from the concerned centres. Thus, in the "Sfanta Maria" Emergency Admission Centre (where difficulties were found in the management of young people who were brought to the centre by the police, young residents who ran from other centres in the county and who would frequently leave the emergency admission centre without permission ), the guard was provided by D.G.A.S.P.C. staff. Since the unit had to be properly guarded, so as to forbid the access of unauthorized persons, and a video surveillance system had to be purchased, with a view to enhancing the children's safety and security, the People's Advocate made the following *recommendations*: analysing the possibility to install a video surveillance system both for the common areas inside the centre and for the outdoor yard, so as to increase the children's safety and security; identifying the required actions to permanently ensure the guard of the centre by the responsible staff, so that unauthorized persons could not access the unit. According to the answer received from the Placement Centre of Lugoj,

a public procurement contract award was in progress for the purchase of works: performance and assembly of the surveillance and anti-break-in system; the guard of the centre is permanently ensured and a request was made for the approval of an additional guard position. The “Daniela” Family Home set out safety measures such as securing the access door and purchasing a doorbell. An answer will be provided for the other centres.

► *Regarding special events taking place in the centres*

● **a variable number of beneficiaries missing from the centre without permission was found**, in most centres, e.g.:

- *the Lugoj Placement Centre*: six children were missing from the centre without permission as of the date of the visit, and their disappearance had been notified to the police. The location of one child was known, but he refused to come back to the placement centre. The other children had been missing for a longer time: two were at the home of one of their biological parents and refused to go back to the centre, and the location of four children for whom the territorial police unit had been notified was unknown.

- *the “Daniela” Family Home*: a review of the documents and statements of the representatives of the residential structure showed that the same or other beneficiaries repeatedly left the home without permission. The visit team found out that the procedure for leaving the centre without permission was not known by all the staff, and those who did know it failed to enforce it properly. The police had been notified in each case, and some teenagers were brought back to the home by the police. The event register included cases when the beneficiaries would leave the home and go begging in the street.

- *the “Robin Hood” Placement Centre*: during January-September 2016, 9 children ran away from the centre (some of them came back and ran away again), and the centre has 3 to 5 children running away/missing every month (data known by D.G.A.S.P.C. District 4). Most frequently, the children would run away from school or ask for permission for a certain amount of time and then failed to come back to the centre. As of June 2017, 6 children had run away from the centre. Children would jump

over the fence of the centre to a private property in an area that was easy to climb on, even for small children. Accidents also occurred, as one of the children hurt his feet in the pieces of glass on the neighbouring property. According to the management of the centre, works would be initiated to repair the fence. Moreover, to prevent such incidents, the guarding staff (employees of a guard company under contract with the Municipality of District 4) had to patrol around the yard, not simply observe it from the post located at the entrance to the yard.

- *the "Sfanta Maria" Emergency Admission Centre*: The Centre had difficulties in managing the cases of young people who were brought to the centre by the police, young residents running away from other centres in the county. They would frequently leave the centre, without the permission of the representatives of the emergency admission centre. According to the information provided by the management of the centre, 7 cases of leave from the centre without permission, by under age persons who were not residing in the emergency admission centre, sometimes the same young people, beneficiaries of other residential centres, took place during January-July 2017.

The police was immediately notified on this unmanageable situation. As of the date of the visit, two beneficiaries of other centre, brought to the emergency admission centre three days before, had left the centre on the same morning, and a police agent was already present to collect statements. In some cases, according to the management of the centre, teenagers brought by the police would be aggressive to the staff as they did not want to stay in the centre and committed theft. In order to manage any situations of conflict, the risks of physical conflict between temporarily accommodated young people and the staff of the centre or other beneficiaries, the head of the centre notified the management of D.G.A.S.P.C. Calarasi regarding the difficulties in hosting the under age persons running away from the centres subordinated to D.G.A.S.P.C. Calarasi.

The centres were found to have a special procedure on the absence of children without permission: police bodies, the ambulance service, the specialized services of D.G.A.S.P.C., the case manager, the Institute of Legal Medicine, educational facilities, the family, the direct manager were notified as applicable. As they came back to the

centre, they were subjected to a medical and psychological review and a special counselling programme was set out. *Recommendations* were provided to the management of the centres regarding the established aspects: the proper management of the cases when the centre was abandoned without permission, with a special focus of the staff (especially the psychologist, the physician, the social worker) on the beneficiaries who tended to run away from the centre, i.e. support them in defining and enforcing their life values and principles; identifying solutions to increase the child's feeling of belonging in the centre and to increase cohesion between the children and educators; performing regular psychological reviews, with a view to identifying the psychological needs of the beneficiaries of the centre and possible risks; processing the procedure regarding the leave of the centre without permission, to be acknowledged and enforced by the entire staff.

Some of the centres *answered* that children were involved in joint activities with the educational staff, so as to develop a friendship between the child and the educator, mutual respect, to create a securing environment for the child, awareness raising activities for categories of persons by age groups, activities to develop communication and civilized attitudes in the relation with others, activities to adapt children at the group and community level, meetings of psychologists by small groups of children and educators. (*the Placement Centre of Lugoj*) Furthermore, safety measures were established (securing the access gate, purchasing a doorbell) and, on the last work session, the staff of the home was trained on the enforcement of the procedure regarding the unauthorized abandon of the location by beneficiaries (*the "Daniela" Family Home*). Answers are to be received from the management of other centres as well.

► during visits to the *Placement Centre for the residential protection of children with disabilities of Targu Jiu*, the *"Robin Hood" Placement Centre*, **cases of under age girls who had sex with other beneficiaries or persons outside the centre, under age girls who were pregnant or gave birth, as well as beneficiaries who used alcohol or drugs, were found.** Based on the discussions with the staff of centres and document reviews, the following approaches taken by most centres were found:

- whenever an under age person who had been missing without authorization came back to the centre, they were subjected to a medical and psychological review and a special counselling programme was set out. Girls were even subjected to a pregnancy test and, if they stated they had begun their sexual life, it was checked whether they had been victims of abuse or not (the police was also notified and asked for support to prevent possible corruption of under age girls and involvement in illegal activities), they were provided with counselling on the psychological implications of beginning one's sexual life, the physician of the centre informed them on the risks involved by beginning the sexual life, also about preventing sexually transmitted diseases and unwanted pregnancies.

- beneficiaries who were pregnant were supervised and subject to regular medical examinations, both by the general practitioner and by the gynaecologist, to follow up the pregnancy and to get suitable treatment.

- as for cases of alcohol and drug use (confirmed by laboratory analyses), some of the beneficiaries were admitted to the hospital for specific treatment. The management of a centre drew up notices to the relevant bodies (D.I.I.C.O.T.) and actions were taken with the Anti-Drug Prevention, Assessment and Counselling Centre so that all cases could receive counselling. Under age persons were assessed by a psychologist and were registered with a counselling programme.

- some beneficiaries took part in informative sessions on the risks of drug use.

- the centre had no structured informative programmes undertaken by staff of the centre regarding the risks of alcohol and drug use.

Considering the established aspects, a range of *recommendations* were provided to the management of centres, according to the established failures: including vulnerable beneficiaries in individual or group psychological counselling programmes, with a view to avoiding the deviant behaviours found in the centre; identifying specific intervention measures to optimize the beneficiaries' behaviour (discarding the risk of pregnancy in under age girl, doing away with the use of alcohol and ethno-botanic substances); organizing courses for the entire staff of the centre to allow for the

recognition of the first symptoms of drug and alcohol use in children, as well as training courses on protecting children against abuse, neglect and exploitation.

According to the *answers* received by the date of this report, psychological assessments shall establish the beneficiaries' need for psychological counselling, so as to be included in a psychological counselling programme; if several children have similar issues, psychological counselling groups shall be established, but this requires the presence of all children in the group (on a certain day and a certain hour), which is difficult in most cases; the beneficiaries will have meetings with the representatives of the National Anti-Drug Agency, to become aware of the risks of drug and alcohol use; to prevent unwanted pregnancies, meetings will be organized between medical staff and girls, on birth control methods and pregnancy prevention; educators/reference persons will have individual and group activities with children on these topics; informative sessions for the beneficiaries of the centre in cooperation with the responsible police officer regarding sanctions for criminal deeds; including civic education activities in the beneficiaries' educational programme; organizing events such as the "Living Library", where beneficiaries come into contact with successful persons or persons who have faced various problems, to promote human diversity and dignity and encourage dialogue between people.

### **Proposals:**

- ensuring medical assistance on a permanent basis, in all residential services, by taking the required action to: increase the number of positions in the case of centres whose organizational chart includes an insufficient number of positions of nurses; recruiting nurses for the vacant positions and involving all decision makers, with a view to establishing attractive work conditions and wages;

- assessing all the centres subordinated to the directorate, together with the head of the centres, at the level of the D.G.A.S.P.C., regarding the unauthorized leave of the

centre by beneficiaries, identifying the causes of such incidents and establishing a complex action plan for their prevention;

- a review by D.G.A.S.P.C. of the compliance with safety and security measures in all the subordinated residential centres for children/young people and taking the required actions to solve the observed failures;

- the periodic organization of continuous professional training courses for staff, that must include courses on how to protect children against abuse, neglect and exploitation;

- developing programmes and activities for sexual education, periodic counselling and giving out means of birth control to beneficiaries with an active sexual life, as recommended by the physician, with a view to preventing unwanted pregnancies;

- ensuring efficient and sustained counselling to beneficiaries with a view to preventing and discarding situations of drug and alcohol use;

- analysis of the situation of emergency admission centres, by the relevant authorities, to identify cases when the legal provisions and standards in force are not met, regarding: providing suitable space for each child, notifying the court on the special protection measure, family integration/reintegration, etc. and supplying the required assistance for the management of centres in order to solve any found failures;

- taking stronger approaches for the family integration/reintegration of as many beneficiaries as possible, by involving all relevant authorities.

#### ***IV. Retirement Homes***

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.

**Elderly persons represent a vulnerable category of population with particular 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<sup>1</sup>, 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, 323 retirement homes (public and private) have an operating license (more details here:) <http://www.mmuncii.ro>).

► ***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,

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<sup>1</sup>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.

ratified by Romania by Law no. 109/2009; • the Charter of Fundamental Rights of the European Union.

**2. National regulations:** • the Romanian Constitution, republished; • 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. 197/2012 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. 29<sup>2</sup> of Law no. 35/1997 on the organization and operation of the People's Advocate institution, republished, as subsequently amended and supplemented, 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; psychiatric and safety units, psychiatric hospitals, any other place meeting the requirements above *or included in the health or the social support 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. 14 (1), art. 29<sup>1</sup> (1), art. 29<sup>3</sup> (a) and art. 29<sup>7</sup> (3) of Law no. 35/1997 on the organization and operation of the People's Advocate institution, republished, as subsequently amended and supplemented, 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 2017, the field regarding prevention of torture in detention places performed **8 visits to residential homes/centres for elderly people:** the Centre for Elderly Persons of Mironesti, Giurgiu county; the Centre for Elderly Persons of Furculesti, Teleorman county; the “Casa Sfântul Iosif” Retirement Home of Iasi, Iasi county; the “Sf. Dumitru” Retirement Home of Voluntari, Ilfov county; the Retirement Home of Baia Sprie, Maramureş county; the “Academician Nicolae Cajal” Retirement Home of Bucharest; the “Floriana House” Retirement Home, Voluntari, Ilfov county; the “Sf. Maria” Residential Centre of Talpa, Teleorman county **The visits were not announced and aimed** at checking accommodation conditions, monitoring the treatment applied to beneficiaries and checking the enforcement of applicable legal provisions.

**As for the exercise of attributions to visit places where public or private social assistance is granted, respectively centres for elderly people, the visit teams faced a range of difficulties from some of the visited institutions in 2017, as they claimed that they were not envisaged by the attributions of the field regarding prevention of torture in detention places. Thus:**

◆ The “Sf. Dumitru” private residence of Voluntari, Ilfov. In 2017, the vice-president of the administration of the centre for elderly persons initially asked the visit team to leave the centre and did not allow their access on site, stating that the centre did not fall within the jurisdiction of the National Prevention Mechanism, as it was not a detention place. Subsequently, after he agreed to the NPM visit, he obstructed its development and threatened the members of the team, interfered in discussions between visit team members and beneficiaries, so that confidentiality could not be observed and information could not be obtained reflecting the actual situation in the centre. Moreover, he asked team members to leave the facilities, and team members had to end their visit earlier than necessary.

◆ The “Casa Sfântul Iosif” Elderly Residence of Iasi, where the management of the private centre considered that the visit was not welcome and refused to show the registers and documents regarding the provided services.

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

- **regarding the awareness of the attributions of the field regarding prevention of torture**, the People’s Advocate asked the Ministry of Labour and Social Justice to take the required legal actions to disseminate the attributions of the People’s Advocate institution as an autonomous constitutional public authority, independent from any other public authority, *the only national structure designated to exercise the specific attributions of a National Mechanism for Prevention of Torture in detention places, through the field regarding prevention of torture in detention places.*

Furthermore, the People’s Advocate asked that legal action should be taken to inform the units holding places where the People’s Advocate institution exercises its attribution on prevention of torture regarding the competence of the field regarding prevention of torture in detention places to monitor the treatment applied to persons in public or private detention places on a regular basis, with a view to reinforcing their protection against torture and inhuman or degrading punishment and treatment, and the indiscriminate exercise of their fundamental rights and freedoms (*the “Casa Sfântul Iosif” Retirement Home of Iasi*).

The Ministry of Labour and Social Justice answered the People’s Advocate that it had notified public social assistance services on the competences held by the People’s Advocate institution in the exercise of attributions regarding prevention of torture in any place included in the social assistance system, as well as their obligation to provide the requested information to institutions/structures with attributions on monitoring and controlling the respect for human rights, while monitoring the use of procedures for the prevention and fighting of any forms of abusive, negligent, degrading treatment against beneficiaries of social services and institutions/structures with attributions on prevention of torture, also providing support for the performance of monitoring visits, according to the law.

Moreover, in a different notice, the Ministry of Labour and Social Justice stipulated that **the draft Government Decision on the approval of master agreements for the organization and operation of public social assistance services and the indicative staff structure, currently under endorsement, explicitly included the obligation of the public social assistance service within the administrative/territorial unit to communicate or provide the requested information to institutions/structures with attributions on prevention of torture, as the case may be, providing support in the performance of monitoring visits.**

► In order to disseminate the attributions of the field regarding prevention of torture, the Bacau local centre organized a workshop on the “TORTURE PREVENTION CONCEPT” at the Retirement Home of Bacau. On this occasion, 15 employees of the residence received information on the concepts of torture, inhuman or degrading treatment, human dignity and the activity of the field regarding prevention of torture and the applicable legislative framework. Folders were given out with information on the previously mentioned topics, as well as ECHR practices on deeds that may be classified as torture, inhuman or degrading treatment. Discussions were held on the situations that could be classified as torture, inhuman or degrading treatment. The purpose of the event was to outline the activity of the field regarding prevention of torture and ensure the respect for the fundamental rights and freedoms of persons in the custody of the Bacau Residence for Elderly Persons.

► During 2017, the People’s Advocate institution observed *ex officio* the situation of several residential homes, which resulted in visits and investigations. To this purpose, we mention: *the Retirement Home of Solca, Suceava county; the Vintila Voda Retirement Home, Buzau county, the Retirement Home for Elderly Persons of Fantanele, Prahova county.*

► ***Furthermore, in 2017, the People’s Advocate institution notified criminal prosecution bodies pursuant to one of its visits. Thus:***

The Prosecutor’s Office attached to the Court of Giurgiu ***was notified*** pursuant to the spot visit to the **Centre for Elderly Persons of Mironesti, Giurgiu county**. The visit team found out that, in July 2017, a 95-year-old beneficiary 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. Moreover, the visit team did not find the the results of the medical examination undertaken by the ambulance staff among the subsequently deceased patient's medical records, except for her vital parameters (blood pressure, pulse, blood oxygen level). In the following days, the beneficiary's health worsened, and then she died. From this point of view, the medical staff of the centre should have taken additional diligences to take the patient to a specialized examination and notify her general practitioner, as monitoring was only performed by the medical staff of the centre. Moreover, it was found that no action was taken regarding the beneficiary's health state Therefore, the medical staff should have taken all actions in case of damages in the beneficiaries' state of health, considering the case of the 95 year-old person who died 5 days after the 112 call, though she was conscious at the time of the incident. Additionally, standard 4 of the Order no. 2126/05.11.2014 issued by the Ministry of Labour, Family, Social Protection and the Elderly stipulates that the competent legal bodies (prosecutor's office, police, public health department, etc.) should be notified in special situations, in case of suspicions regarding the beneficiary's death or in case of a significant injury or accident; these aspects will be included in the Register of special events.

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

● **regarding the beneficiaries and the monthly contribution:** ● the services of retirement homes/centres targeted elderly people who had no family and lived by themselves, who had no home, were abandoned by their families and lived in the street or in precarious conditions, who had no income or insufficient income to cover their basic needs, as well as persons who were ill and needed permanent assistance where the family or other persons could not meet care needs for various medical issues, the precarious economic situation or family tasks, or persons who needed certain types of particular services, such as: physiotherapy, permanent medical assistance that could not be provided at home, special food, etc.; ● elderly persons in situations of dire need,

generated by poverty or disease, were admitted with priority; ● elderly persons were admitted to the homes/centres after consulting the multidisciplinary team, after an assessment of the individual's socio-economic and medical status; ● the situation of applicants was assessed by order of registration of applications, but special situations had priority; then, if the outcome of the decision was positive, the contract for the award of social services would be signed and the beneficiary's personal records would also have to include a social investigation, the assessment grid for the needs of the elderly person, the socio-medical assessment grid, the individual assistance and care plan and the internal rules; ● the beneficiary's contribution to the socio-medical services received in the Home was established by the management of the home pursuant to the applicant's analysis, in agreement with the elderly person and/or his/her legal/conventional representative/a family member; ● if the elderly person had no income or could not cover monthly maintenance costs, the management of the Home and the legal/conventional representative/a family member had to agree on an amount representing the monthly contribution for the maintenance of the admitted individual; ● the contribution of the beneficiary did not have an impact on the award of social services (*the Centre for Elderly Persons of Mironesti, Giurgiu county; the Centre for Elderly Persons of Furculesti, Teleorman county; the "Casa Sfântul Iosif" Retirement Home of Iasi, Iasi county, etc.*).

● **regarding accommodation conditions:** ● each beneficiary had his/her personal accommodation space, according to his/her own needs (*the Centre for Elderly Persons of Mironesti*); ● all areas allowed the access of beneficiaries in a wheelchair (*the Centre for Elderly Persons of Mironesti*); ● pavilions had access ramps to facilitate the access of beneficiaries with locomotor issues (*the Centre for Elderly Persons of Mironesti*); ● a pavilion was equipped with a raising platform to facilitate the access of persons with such issues (*the Centre for Elderly Persons of Mironesti*); ● each bedroom had a bathroom propriu (*the Centre for Elderly Persons of Mironesti; the Centre for Elderly Persons of Furculesti*); ● beneficiaries could arrange their rooms according to their own taste; ● halls were very clean, spacious, well-lit, with many places for socialisation (covered terraces, outdoor terraces, benches, armchairs, tables,

etc.), with a welcoming atmosphere, similar to a family environment; ● cold water and electricity were distributed with no interruption based on a central system; ● the home had a direct phone line, and relatives could get in contact with the beneficiaries and send documents by fax (*Căminul de bătrâni „Casa Sfântul Iosif” Iași*); ● the building was cleaned, well maintained, equipped with insulated windows and doors, sandstone, ceramics, access ramp for people who use a wheelchair (*the “Casa Sfântul Iosif” Retirement Home of Iasi, the Centre for Elderly Persons of Singureni, Giurgiu county, the Centre for Elderly Persons of Furculesti, Teleorman county*); ● the outdoor area was arranged with terraces, places for prayer, alleys with stone slabs, benches and green areas (*the “Casa Sfântul Iosif” Retirement Home of Iasi, the Centre for Elderly Persons of Furculesti, etc.*); ● a new heating power plant was purchased; it was functional at the moment of the visit and occupied a specifically established area (*the “Sf. Maria” Retirement Home of Talpa, Teleorman county*).

● **regarding food preparation conditions:** ● the kitchen of the home was clean and roomy, well equipped (*the “Casa Sfântul Iosif” Retirement Home of Iasi, the Centre for Elderly Persons of Furculesti, etc.*).

● regarding the staff scheme: ● the number of employees was enough to provide suitable services to the beneficiaries (*the “Casa Sfântul Iosif” Retirement Home of Iasi*);

● employees were familiar with work procedures (for admission to the home, FPE, administration of medicines, identifying, notifying and solving cases of abuse and negligence among beneficiaries, etc.) (*the “Casa Sfântul Iosif” Retirement Home of Iasi*).

● **regarding the supply of medical assistance:** ● assuring medical assistance and services on a permanent basis (*the Centre for Elderly Persons of Mironesti*); ● the home had a sanitary operating permit (*the “Casa Sfântul Iosif” Retirement Home of Iasi*); ● based on the Rules of Organization and Operation of the Home, the declared purpose of the socio-medical service was to ensure current social and medical needs for persons aged more than 65, in order to overcome situations of difficulty, to prevent and fight the risk of social exclusion, promote social inclusion and increase life quality;

- upon admission to the Home, the applicant would perform a summary of his/her state of health, so that care needs for the residence at the home could be identified (*the “Casa Sfântul Iosif” Retirement Home of Iasi*);
- current medical services were provided by two nurses, and all beneficiaries were registered with a general practitioner, who would visit them according to their medical needs;
- the nurses followed the medical indications and administered treatment to patients suffering from chronic diseases, also supervising their state of health
- the 112 single emergency number was called for medical emergencies;
- the medical practice was equipped with the furniture required to perform examinations;
- the information provided by the nurse showed that a kinesic therapist performed physio- and kinetic therapy based on the indications of the specialist physician;
- regarding the hygiene and sanitation conditions of the institution, it was found that basic rules of hygiene were observed in common areas (halls, access stairs, reception room, medical practice) (*the “Casa Sfântul Iosif” Retirement Home of Iasi*);
- the circuits for the sterilization and destruction of contaminated materials, as well as for securing and storing cutting and pricking materials, were observed(*the Centre for Elderly Persons of Furculesti*).

- **regarding psychological assistance:** ● the information provided by the staff of the home and the discussions with the beneficiary of the home showed that a psychologist was employed by the Congregation of the Daughters of St. Mary of the Divine Providence, who fulfilled attributions at the level of all social services involving psychological assistance for the elderly persons assisted in the home (*the “Casa Sfântul Iosif” Retirement Home of Iasi*).

- **regarding the social assistance activity:** ● the “Casa Sfântul Iosif” Retirement Home of Iasi employed a social worker, member of the National College of Romanian Social Workers since 2010, in compliance with the provisions of Law no. 466/2004 on the status of social workers (*the “Casa Sfântul Iosif” Retirement Home of Iasi*);
- internal rules were drawn up including a set of rules regarding the compliance with the principle of non-discrimination and the discard of any form of infringement of dignity, of the employer’s and the employees’ rights and obligations,

rules that had to be obeyed by beneficiaries and volunteers (*the “Casa Sfântul Iosif” Retirement Home of Iasi*).

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

► **regarding vacancies**, the People’s Advocate recommended that the management of the home should take legal action with superior authorities for the employment or contracting of staff required to cover medical and psychological services according to contractual obligations, in accordance with the purpose of the residence and the beneficiaries’ needs (physician, psychologist). The visited unit answered that the staff was enough to provide medical and psychological services (*the “Casa Sfântul Iosif” Retirement Home of Iasi*).

► **regarding continuous staff training**, the People’s Advocate recommended that the management of the home should consider continuous staff training, since, on the date of the visit, the staff of the centre was not aware on the institutions of the Romanian state with attributions of visiting/controlling/monitoring the activity of public/private retirement homes. The visited unit answered that the Training and Professional Training Plan for Employees for 2018 also included training courses for a better awareness of the institutions of the Romanian state (*the “Casa Sfântul Iosif” Retirement Home of Iasi*).

► **regarding the quality and transportation of food**, the People’s Advocate recommended that the management of the centre should identify solutions to improve food quality and properly ensure transportation and storage containers, so that the food reached the beneficiaries at a suitable temperature for being served. The visited unit answered that the food provided a calorie intake of 2332-3352, according to the regulations in force, and was suitably kept in containers. Daily food was properly heated with the equipment available at the centre, i.e. stove, electric oven, microwave oven (*the Centre for Elderly Persons of Mironesti, Giurgiu county*).

► **regarding healthcare supply:** ● the People’s Advocate recommended that the management of the centre should complete the actions for registering all

beneficiaries with a general practitioner, who would be able to properly provide medical services, also to travel to the centre for examinations; that all diligence should be taken by the medical staff in case of damage in the beneficiaries' health state; that the relevant bodies stipulated by the law (the prosecutor's office, the police, the public health department, etc.) should be notified in case of special situations, in case of suspicions regarding the beneficiary's death or when a significant injury or accident has occurred; such issues will be recorded in the Register of special events; **to notify the general practitioner** and fulfil all obligations to take the patients to the relevant specialist that can establish the disorders and related causes; **to compulsorily include in the beneficiaries' medical records** all the results of medical examinations undertaken by medical staff from outside the centre, certified by signature, as well as the reasons for which the beneficiaries do not need to be taken to a hospital. The visited unit answered that all beneficiaries were registered with a general practitioner, who was present on a weekly basis or whenever needed, mentioned that they had asked for the inclusion of a general practitioner position in the organizational chart as of this year; the medical staff was informed and acknowledged, by signature, the work procedure in case of damages to the beneficiaries' health state; the register of special events was drawn up; the staff is aware of and notifies the types of incidents stipulated by the law. No cases of major injury, accident or outbreak of transmitted diseases were notified, which may represent a crime or an infringement, and the events occurring during 2017 were not notified to the relevant bodies stipulated by the law (the prosecutor's office, the police, the public health department), but were solved within the centre. An exception was made for the beneficiary who died in the centre; in that case, the police was notified through the 112 emergency phone number, along with the general practitioner; as stipulated by the procedure, the representatives who came at the centre found that the prosecutor's office need not be notified, since the death was due to natural causes; all routine and specialized medical examinations were recorded in the medical records of every beneficiary (*the Centre for Elderly Persons of Mironesti, Giurgiu county*).

- The People's Advocate recommended that the management of the centre should employ a physician and healthcare professionals. Since the visited unit did not have enough financial resources to pay a full-time physician, it entered a healthcare services contract with an accredited medical practice; the physician would provide healthcare to beneficiaries on a weekly basis (two days or whenever needed) and the local voluntary nurse performed visits to the unit. Furthermore, the unit entered a volunteering contract with a medical nurse. The Municipality of Talpa did not provide an answer to the People's Advocate regarding the actions taken to solve the deficiencies established pursuant to the visit. The relevant authority was notified, i.e. the Municipality of Talpa, Teleorman county (*the "Sf. Maria" Residential Centre of Talpa, Teleorman county, a visit undertaken in 2017 with a view to checking the implementation of recommendations resulting from the 2016 visit to the same facility*).

- ▶ **regarding the lack of specialist medical staff** for supplying healthcare to these categories of beneficiaries, the People's Advocate recommended that the management of the centre should examine the possibility of employing medium-level and auxiliary medical professionals by organizing selections according to the legislation in force. The visited unit had not provided an answer by the date of this activity report (*the Centre for Elderly Persons of Furculesti, Teleorman county*).

- ▶ **regarding the supply of psychological assistance:** ● The People's Advocate recommended to the management of the centre that the psychologist should attend the centre on a weekly basis and fulfil his/her specific attributions in the job description, with a view to covering the main activities for supplying social services; drawing up psychological reports confirming that the psychological recommendations in individual plans have been met, also for beneficiaries with a psychiatric diagnostic, as well reports pursuant to the performance of activities included in the activity plan; performing functional recovery/rehabilitation activities included in individual plans. The visited unit notified that the activities for the beneficiaries' assessment and counselling took place within the centre according to the standards in force and the identified needs, by a psychologist appointed by decision of the institution's director. Counselling reports are drawn up for beneficiaries in a counselling programme, and

recovery activities are recorded in individual programmes (*the Centre for Elderly Persons of Mironesti, Giurgiu county*).

- The People's Advocate recommended that the management of the centre should provide psychological services for each beneficiary, assess the psychological functional status of the beneficiaries, their communication capacity, their special needs for treatment and recovery, as well as draw up the beneficiaries' psychological assessment and provide psychological counselling on a regular basis, according to the individual intervention plan. The visited unit informed that the psychologist will be more involved in providing psychological services to the beneficiaries of the home. (*the "Casa Sfântul Iosif" Retirement Home of Iasi*).

► **regarding the elaboration of the required registers and documents:** ● The People's Advocate recommended that the management of the centre should draw up the medical records and registers stipulated by the Order of the Minister of Labour no. 2126/2014 on the approval of minimum quality standards for the accreditation of social services dedicated to elderly persons, since no registers were provided to the team on the date of the visit and their existence could not be established. The visited unit answered that the registers stipulated by the Order of the Minister of Labour no. 2126/2014 had been drawn up (*the "Casa Sfântul Iosif" Retirement Home of Iasi*).

- The People's Advocate recommended that the management of the centre should draw up the following registers: register for the administration of psychotropic medicines, register of examinations, register of the beneficiaries' personal medicines, register of traumas/hetero- and self-aggressions, complaints register. The visited unit drew up all the registers recommended in the report - the register for the administration of psychotropic medicines, the register of personal examinations of beneficiaries, register of the beneficiaries' personal medicines, register of traumas/hetero- and self-aggressions, complaints register. On the visit performed in 2017, the visit team found that the recommendation was implemented partially, i.e. the registers stipulated in the recommendation were drawn up, except for the register of traumas/hetero- and self-aggressions and the complaints register. The relevant authority, i.e. the Municipality of Talpa, Teleorman county, was notified. The Municipality of Talpa is going to

provide an answer regarding the actions taken to solve the deficiencies established pursuant to the visit. (*The “Sf. Maria” Residential Centre of Talpa, Teleorman county, a visit undertaken in 2017 with a view to checking the implementation of recommendations resulting from the 2016 visit to the same facility*) • The People’s Advocate requested that the management of the home should complete the beneficiaries’ records, based on the minimum quality standards for the accreditation of social services with accommodation organized as residential centres for elderly persons, approved by Order of the Ministry of Labour no. 2126/2014, i.e. Module I, Standard S2.3. The visited unit did not provide an answer to the People’s Advocate regarding the actions taken to solve the deficiencies established pursuant to the visit (*the “Sf. Dumitru” Retirement Home of Voluntari, Ilfov county*).

- The People’s Advocate recommended that the management of the home should draw up a preset timeline to reassess the beneficiaries’ needs, based on Module II, Standard S1.3 (*the “Sf. Dumitru” Retirement Home of Voluntari, Ilfov county*). The visited unit is going to provide an answer to the People’s Advocate regarding the actions taken to solve the deficiencies established pursuant to the visit; • The People’s Advocate recommended that the management of the home should draw up the assessment/reassessment report and attach it to the beneficiaries’ records, based on Module II, Standard S1.4 (*the “Sf. Dumitru” Retirement Home of Voluntari, Ilfov county*). The visited unit did not provide an answer to the People’s Advocate regarding the actions taken to solve the deficiency established pursuant to the visit.

► **regarding sanitary facilities:** • The People’s Advocate recommended that the management of the centre should equip all sanitary facilities with grab bars for beneficiaries with locomotor difficulties. The visited unit informed that actions were taken to equip all sanitary facilities with grab bars (*the Centre for Elderly Persons of Mironesti, Giurgiu county*).

- The People’s Advocate recommended that the management of the centre should equip sanitary facilities with grab bars and special sanitary equipment for beneficiaries with locomotor disorders. The visited unit informed that actions were taken to equip sanitary facilities with grab bars and special sanitary equipment for

beneficiaries with locomotor disorders. During the 2017 visit, the visit team found that the recommendation had been implemented partially, the management of the centre had compiled the required amounts of products to develop the activity, including 21 bathtubs and showers properly equipped, with the relevant grab bars, and had sent the list to the Municipality of Talpa. The relevant authority, i.e. the Municipality of Talpa, Teleorman county, was notified. The Municipality of Talpa did not provide an answer to the People's Advocate regarding the actions taken to solve the deficiencies established pursuant to the visit. (*The "Sf. Maria" Residential Centre of Talpa, Teleorman county, a visit undertaken in 2017 with a view to checking the implementation of recommendations resulting from the 2016 visit to the same facility*);

- The People's Advocate recommended that the management of the home should equip all bathrooms with grab bars and special sanitary equipment for beneficiaries with disabilities or locomotor disorders (*the "Sf. Dumitru" Retirement Home of Voluntari, Ilfov county*). The visited unit did not provide an answer to the People's Advocate regarding the actions taken to solve the deficiency established pursuant to the visit.

- ▶ **regarding the assignment of beneficiaries with locomotor disorders**, the People's Advocate recommended that the management of the centre should assign beneficiaries with locomotor disorders in room on the ground floor. The visited unit informed that the medical state of each beneficiary was assessed, and they would be sorted into rooms and floors depending on their locomotor issues in the shortest delay. On the visit performed in 2017, the visit team found that the recommendation was implemented partially, i.e. in some cases the beneficiaries were accommodated depending on "sympathies and forms of violence". The relevant authority, i.e. the Municipality of Talpa, Teleorman county, was notified. The Municipality of Talpa did not provide an answer to the People's Advocate regarding the actions taken to solve the deficiencies established pursuant to the visit. (*the "Sf. Maria" Residential Centre of Talpa, Teleorman county, a visit undertaken in 2017 with a view to checking the implementation of recommendations resulting from the 2016 visit to the same facility*)

- ▶ **regarding the improper layout of rooms:** ● The People's Advocate requested that the management of the centre should equip each room with a panic

button. In the 2017 visit, the visit team found that **the recommendation had not been implemented**, panic buttons had not been mounted in the rooms, but discussions with the management of the centre showed that this will be included in the future procurement project for 2018, since the current project does not include expenses for purchasing and mounting panic buttons. The relevant authority, i.e. the Municipality of Talpa, Teleorman county, was notified. The Municipality of Talpa did not provide an answer to the People's Advocate regarding the actions taken to solve the deficiencies established pursuant to the visit. *(the "Sf. Maria" Residential Centre of Talpa, Teleorman county, a visit undertaken in 2017 with a view to checking the implementation of recommendations resulting from the 2016 visit to the same facility);*

- The People's Advocate recommended that the management of the home should provide enough anti-eschar mattresses for the needs of beneficiaries immobilized in bed for longer periods *(The "Sf. Dumitru" Retirement Home of Voluntari, Ilfov county)*. The visited unit did not provide an answer to the People's Advocate regarding the actions taken to solve the deficiency established pursuant to the visit.

- ▶ **regarding the operation of the heating power plant**, the People's Advocate recommended that the management of the centre should repair and commission the heating power plant, for the proper distribution of heat and for heating the beneficiaries' rooms, considering the low outdoor temperature. The visited unit purchased a new heating power plant, and a special area was built for it; a solar panel installation was mounted *(the "Sf. Maria" Residential Centre of Talpa, Teleorman county, a visit undertaken in 2017 with a view to checking the implementation of recommendations resulting from the 2016 visit to the same facility)*.

- ▶ **regarding the improper food provided to beneficiaries:** ● The People's Advocate recommended that the management of the centre should examine the possibility to provide the beneficiaries with one or two snacks, so as to reduce the time between two meals to less than 12 hours, according to international guidelines. The visited unit informed that a snack was introduced at 10 a.m. And 4 p.m. On the visit performed in 2017, the visit team found that the recommendation was implemented partially, i.e. a check of the menus provided for the period November 1-13, 2017

showed that the 4 p.m. Snack had not been implemented. The relevant authority, i.e. the Municipality of Talpa, Teleorman county, was notified. The Municipality of Talpa did not provide an answer to the People's Advocate regarding the actions taken to solve the deficiencies established pursuant to the visit; • The People's Advocate recommended that the management of the home should provide a menu with blended food for beneficiaries with swallowing issues (*the "Sf. Dumitru" Retirement Home of Voluntari, Ilfov county*). The visited unit did not provide an answer to the People's Advocate regarding the actions taken to solve the deficiency established pursuant to the visit.

► **regarding the lack of specific equipment** for the needs of persons with locomotor disabilities, the People's Advocate recommended that the management of the centre should equip all bathrooms with grab bars and special sanitary equipment for persons with locomotor issues, to equip each room with its own sanitary facility, considering the old age and dependency of many beneficiaries. The visited unit had not provided an answer by the date of this activity report (*the Centre for Elderly Persons of Furculesti, Teleorman county*).

► **regarding the absence of a room for medical recovery/medical gymnastics/kinesic therapy**, the People's Advocate recommended that the management of the centre should review the possibility to arrange a room for medical recovery/medical gymnastics/kinesic therapy and hire a physiotherapist. The visited unit had not provided an answer by the date of this activity report (*the Centre for Elderly Persons of Furculesti, Teleorman county*).

► **regarding the activity programme**, the People's Advocate recommended that the management of the centre should draw up an activity programme, based on Module III, Standard 4 (*the "Sf. Dumitru" Retirement Home of Voluntari, Ilfov county*). The visited unit did not provide an answer to the People's Advocate regarding the actions taken to solve the deficiency established pursuant to the visit.

► **regarding common areas:** • The People's Advocate recommended that the management of the home should facilitate the beneficiaries' unrestricted access to common areas, based on Module IV, Standard S2.1 (elevator or moving the

immobilized beneficiaries to the ground floor, *the “Sf. Dumitru” Retirement Home of Voluntari, Ilfov county*). The visited unit did not provide an answer to the People’s Advocate regarding the actions taken to solve the deficiency established pursuant to the visit; ● The People’s Advocate recommended that the management of the home should maintain the cleanliness of common areas on a permanent basis, based on Module IV, Standard S2.4 (*the “Sf. Dumitru” Retirement Home of Voluntari, Ilfov county*). The visited unit did not provide an answer to the People’s Advocate regarding the actions taken to solve the deficiency established pursuant to the visit.

Furthermore, 13 visits were performed to retirement homes during 2016. 8 visit reports were drawn up in 2016 pursuant to the performed visits, **and 5 visit reports were drawn up in 2017**: the “Odai” Retirement Home of Bucharest; the “Sfantul Mucenic Fanurie” Retirement Home of Bucharest; the “Maria” Retirement Home of Brasov; the Centre for Elderly Persons of Singureni, Giurgiu county; the Retirement Home of Gherla, Cluj county.

In the visit reports drawn up in 2017, the People’s Advocate issued **118 recommendations** to the management of retirement homes/centres for elderly persons and the relevant authorities.

In the following we present the **aspects found** pursuant to visits performed to retirement homes by the field regarding prevention of torture in detention places, the **recommendations** to the visited detention places and the **actions taken** pursuant to recommendations drawn up by the People’s Advocate to remedy the deficiencies found on the occasion of visits (the visited authorities drew up and notified to the People’s Advocate the measures taken pursuant to the recommendations issued by the latter, except the “Maria” Retirement Home from Brasov, which has not notified the measures to the People’s Advocate so far).

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.

**Positive aspects** were found during the visits, such as:

► **regarding accommodation conditions:** ● the home provided the beneficiaries with a safe environment, adapted to their needs; rooms were clean, neat, with heating and illumination installations, as well as natural lighting and ventilation; they were equipped with the required furniture (beds, mattresses, bedside tables, tables, chairs, cupboards), and the beneficiaries had the possibility to customize their own space with personal items (paintings, religious images, photographs) or electronic appliances (radio, TV, cd player) and keep a minimum of personal items nearby (*the Retirement Home of Gherla, the "Maria" Retirement Home of Brasov, the "Sfantul Mucenic Fanurie" Retirement Home, the Centre for Elderly Persons of Singureni*), and each room of the the "Maria" Retirement Home of Brasov was equipped with an alarm button; ● sanitary facilities worked properly; hot and cold water were distributed with no interruptions, and heating during winter was ensured by the facility's own heating plant (*the Retirement Home of Gherla, the "Maria" Retirement Home of Brasov, the "Sfantul Mucenic Fanurie" Retirement Home*); ● sanitary facilities had proper hygiene, with sandstone and ceramics; suitable equipment, i.e. special chairs for persons with locomotor disabilities, grab bars for persons with locomotor disorders (*the Retirement Home of Gherla, the "Maria" Retirement Home of Brasov*); ● the home provided the beneficiaries with special areas to keep their clothing, underwear, footwear, as well as personal items (*the Retirement Home of Gherla, the "Maria" Retirement Home of Brasov, the "Sfantul Mucenic Fanurie" Retirement Home*)

► **regarding the food:** ● areas for preparing and storing food were properly separated and arranged, and in a good state of cleanliness and hygiene; the daily menu and the meal serving hours were posted, the weekly menus were diverse, observing the number of calories and established with the physician's approval (*the Retirement Home*

of Gherla, the “Maria” Retirement Home of Brasov, the “Sfantul Mucenic Fanurie” Retirement Home); the food was catered (the “Maria” Retirement Home of Brasov);

- water dispensers were installed on the halls of the centre (the “Maria” Retirement Home of Brasov);
- the kitchen of the home was clean and organized in compliance with the relevant circuits, equipped with modern furniture and devices. The dining room was equipped with recently purchased furniture and dishware. The hygiene of the kitchen and dining room was very good (the Retirement Home of Gherla, the Centre for Elderly Persons of Singureni);
- the daily calorie intake was ensured according to the guidelines (the “Maria” Retirement Home of Brasov, the “Sfantul Mucenic Fanurie” Retirement Home, the Centre for Elderly Persons of Singureni, the “Odai” Retirement Home of Bucharest).

► **regarding healthcare:**

- permanent medical assistance was provided by means of the facility’s own medical practices (the “Maria” Retirement Home of Brasov, the “Sfantul Mucenic Fanurie” Retirement Home, the Centre for Elderly Persons of Singureni, Giurgiu county, the “Odai” Retirement Home of Bucharest, the Retirement Home of Gherla, Cluj county);
- elderly persons benefitted from medical and specialized examinations; a neurological recovery department was also operational in the same location (the “Maria” Retirement Home of Brasov);
- the medical practice was properly equipped (the “Maria” Retirement Home of Brasov, the “Sfantul Mucenic Fanurie” Retirement Home, the Centre for Elderly Persons of Singureni, Giurgiu county, the “Odai” Retirement Home of Bucharest, the Retirement Home of Gherla, Cluj county);
- the facility had enough stocks of medicines to provide primary assistance, perfusing solutions and vials to administrate parenteral treatment, and emergency devices were placed in visible and accessible places, minimally equipped (the “Maria” Retirement Home of Brasov, the “Sfantul Mucenic Fanurie” Retirement Home);
- treatments were administered correctly, according to the protocols in force, and nursing and the provided care were efficient (the “Sfantul Mucenic Fanurie” Retirement Home);
- a room ensuring permanent medical assistance for palliative and pre-terminal medical care was arranged, with beds, basins and an adjacent lavatory (the “Odai” Retirement Home of Bucharest);
- the purchased medicines were kept in

medical practices and given out to beneficiaries according to the physician's indications, and the records of treatments were kept in the registers of the medical practices, in an accurate manner and according to the guidelines in force (*the "Maria" Retirement Home of Brasov, the "Sfantul Mucenic Fanurie" Retirement Home, the Centre for Elderly Persons of Singureni, the "Odai" Retirement Home of Bucharest, the Retirement Home of Gherla*);

► **regarding the staff:** ● the staff met the requirements and was aware of the work procedures regarding admissions and exits from the home, administration of medicines, identifying, notifying and solving cases of abuse and negligence among the beneficiaries, etc. (*the Centre for Elderly Persons of Singureni, the "Odai" Retirement Home of Bucharest*); ● the staff took part in professional training programmes on topics specific to their scope of activity, as well as informative meetings on the respect for the beneficiaries' rights; preventing, fighting and identifying cases of negligence, abuse against the beneficiaries; the importance of notices regarding the events affecting the beneficiary or involving him/her; the approach and relation with beneficiaries, adaptation to particular situations (*the "Maria" Retirement Home of Brasov, the "Sfantul Mucenic Fanurie" Retirement Home, the "Odai" Retirement Home of Bucharest*); ● volunteer nurses and kinesic therapists in traineeships developed their activity in the centre (*the "Maria" Retirement Home of Brasov*)

► **regarding the beneficiaries:** ● beneficiaries were admitted to the extent of the available places, based on the application submitted by the beneficiary/legal representative (*the "Maria" Retirement Home of Brasov, the "Sfantul Mucenic Fanurie" Retirement Home, the Centre for Elderly Persons of Singureni, the "Odai" Retirement Home of Bucharest, the Retirement Home of Gherla*); ● beneficiaries were assigned to pavilions and rooms based on a socio-medical assessment, considering the physical and psychological health of a beneficiary who had previously visited the home and based on the initial examination performed upon admission by the multidisciplinary team including a physician, a nurse, a social worker and a psychologist (*the "Odai" Retirement Home of Bucharest, the "Sfantul Mucenic Fanurie" Retirement Home, the Centre for Elderly Persons of Singureni*); ● the

beneficiary and the service provider entered a social service agreement and the beneficiary or his/her relatives, as applicable, paid a monthly maintenance contribution, established by decision of the county council/council of Bucharest on an annual basis (*the “Sfantul Mucenic Fanurie” Retirement Home, the Centre for Elderly Persons of Singureni, the “Odai” Retirement Home of Bucharest, the Retirement Home of Gherla*), except for the “Maria” Retirement Home of Brasov, where the maintenance contribution was established by the representatives of the association; ● suitable clothing and footwear was provided to each beneficiary, taking into account the beneficiaries’ preferences when purchasing such items and doing the best to avoid the uniformization of their outer appearance (*the “Sfantul Mucenic Fanurie” Retirement Home, the “Maria” Retirement Home of Brasov, the “Odai” Retirement Home of Bucharest*); ● hygiene and sanitary items were provided in a sufficient amount for the daily needs, as well as diapers and bed protection pads for urinary incontinence, as well as urinary devices for persons immobilized in bed (*the “Odai” Retirement Home of Bucharest, the “Sfantul Mucenic Fanurie” Retirement Home, the “Maria” Retirement Home of Brasov*).

► **regarding socialization and spare time activities:** ● the beneficiaries of homes took part in socialization activities, competitions and entertaining games, in trips and open air walks, as well as birthdays (*the “Odai” Retirement Home of Bucharest, the Retirement Home of Gherla, the Centre for Elderly Persons of Singureni, the “Sfantul Mucenic Fanurie” Retirement Home, the “Maria” Retirement Home of Brasov*); ● the beneficiaries kept in touch with the family and the people close to them, received visits and went for walks outside or talked by phone (*the “Odai” Retirement Home of Bucharest, the Retirement Home of Gherla, the “Maria” Retirement Home of Brasov*);

● the beneficiaries could practice their religion, and a Christian-Orthodox chapel was arranged within the home (*the “Odai” Retirement Home of Bucharest, the Retirement Home of Gherla, the Centre for Elderly Persons of Singureni*); ● the beneficiaries had the possibility to spend their time outdoors, and the home had green areas with benches, bungalows and pavilions (*the “Odai” Retirement Home of*

*Bucharest, the Retirement Home of Gherla, the “Maria” Retirement Home of Brasov).* The Retirement Home of Gherla purchased some fowls and rabbits to diversify the range of recreational activities of the beneficiaries; ● socialization, cultural, educational or spare time activities took place within the club (*the “Odai” Retirement Home of Bucharest, the Retirement Home of Gherla, the “Maria” Retirement Home of Brasov).*

► **regarding activities for maintaining or readjusting the beneficiaries’ physical or intellectual capacities:** ● recovery activities were performed together with specialists in kinesic therapy, aiming at restoring motricity and treating aphasia through speech exercises. The psychologist counselled beneficiaries for their entire period of accommodation in the centre, counselled the members of the beneficiary’s family for a more accurate understanding of the diagnostic and its implications (*the “Maria” Retirement Home of Brasov*); ● psychological intervention also included counselling in situations of crisis, counselling and supportive therapy, recovery and re-education or counselling that was specific to medical objectives (*the “Maria” Retirement Home of Brasov*).

The visit reports included the **encountered deficiencies** and **recommendations**, and the answer of authorities stipulated the **actions** they had taken:

► **regarding accommodation conditions:** ● beneficiaries were not properly assigned to pavilions/rooms, depending on their degrees of dependency (*the “Odai” Retirement Home of Bucharest, the “Sfantul Mucenic Fanurie” Retirement Home, the Centre for Elderly Persons of Singureni*). The People’s Advocate recommended that beneficiaries should be assigned to pavilions/rooms according to their degrees of dependency. The visited unit answered that the beneficiaries would be moved to rooms depending on their degree of dependency, after the completion of rehabilitation works (*the “Odai” Retirement Home of Bucharest*), also stipulating that the medical staff supervised dependent beneficiaries on a permanent basis (*the “Sfantul Mucenic Fanurie” Retirement Home, the Centre for Elderly Persons of Singureni*); ● the areas were not maintained and needed cleaning, hygienisation, modernisation and changing

of furniture (cupboards, beds, bedside tables) and doors; objects were thrown away in hardly accessible spaces (behind the cupboards, under the beds), along with a thick layer of dust, which showed that the rooms had not been sanitized for a long time and daily cleaning was superficial; some windows did not have curtains, which did not ensure the privacy of the persons in the room or their protection during summer (*the "Odai" Retirement Home of Bucharest*). The People's Advocate recommended that all spaces should be rehabilitated and sanitized, that furniture should be repaired/replaced and completed according to the beneficiaries' number and needs, as well as mount curtains on the windows. The visited unit answered that sanitization, painting, re-assignment and furniture assembly works were performed at that time, in order to adapt the centre to the beneficiaries' needs, according to the recommendations;

- the pavement was covered in soiled, sometimes damaged, linoleum
- sanitary facilities were damaged (missing or damaged sandstone and ceramics, faulty, damaged or missing showers, basins or water closets), the pavement was soiled and not sanitized (*the "Odai" Retirement Home of Bucharest*) or showering facilities, shower curtains and non-slide mats were missing (*the Centre for Elderly Persons of Singureni*).

The People's Advocate recommended to examine the possibility to equip all sanitary facilities with the required equipment. The visited unit answered that, after the completion of modernisation and improvement works, the supply of all required equipment is envisaged;

- the lack of adaptation of sanitary facilities for the needs of persons with locomotor disorders, i.e. they did not have enough room to allow access with wheelchairs for persons with disabilities (*the Retirement Home of Gherla*) or did not have grab or movement bars (*the "Sfantul Mucenic Fanurie" Retirement Home of Bucharest, the Centre for Elderly Persons of Singureni, Giurgiu county, the "Odai" Retirement Home of Bucharest*). The People's Advocate recommended that sanitary facilities should be arranged so as to ensure the access of immobilized persons in wheelchairs and the assembly of grab and travel bars in sanitary facilities for the needs of persons with locomotor issues. The visited unit answered that the sanitary facilities will be arranged after the completion of improvement and upgrade works;
- the lack of grab bars on all corridors, of access ramps to facilitate the access of beneficiaries

with locomotor disabilities and non-slide adhesive strips on the stairs, as well as the existence of high thresholds in the doors of bedrooms, limiting the access of persons in a wheelchair (*the Centre for Elderly Persons of Singureni, Giurgiu county*). The People's Advocate recommended to examine the possibility to build several access ramps to facilitate the access of beneficiaries with locomotor disabilities and to place non-slide adhesive strips on the stairs, to mount grab bars also to orient people with impaired vision, and adjust the height of thresholds at the doors of bedrooms. The visited unit answered that the measure would be implemented during 2017; ● in certain pavilions, the number of beds in a room exceeded the maximum number of beds stipulated by the legislation in force, and the area of the room limited the beneficiaries' freedom of movement (*the "Odai" Retirement Home of Bucharest*). The People's Advocate recommended to examine the possibility to reduce the number of beds in rooms where the maximum number of four beds was exceeded. The visited unit answered that rooms will be redimensioned after the completion of improvement and upgrade works in the complex; ● rooms were not equipped with panic buttons (*the Centre for Elderly Persons of Singureni*). The People's Advocate recommended that the beneficiaries' rooms should be equipped with panic buttons in a visible and accessible place, so that the beneficiaries may announce the staff in case of need or urgency. The visited unit answered that panic buttons with light-based warning had been purchased, and sound-based warning would be added during 2017; ● no video surveillance was ensured on the halls of pavilions and common areas (*the "Odai" Retirement Home of Bucharest*). The People's Advocate recommended that video surveillance cameras had to be mounted on the halls of pavilions and in common areas. The visited unit answered that surveillance cameras would be mounted after the completion of improvement works; ● nets for insects were missing at the windows and some curtains were dirty (*the "Odai" Retirement Home of Bucharest*). The People's Advocate recommended to install nets for insects and curtains at all windows. The visited unit answered that nets and curtains would be installed/mounted at all windows after the completion of improvement works; ● there was not enough room to store the items of residents, including food, which was stored under the beds; bags, plastic bags

and boxes belonging to beneficiaries were stored on some wardrobes; not all rooms had refrigerators and, if any, they were not properly maintained (*the “Odai” Retirement Home of Bucharest*). The People’s Advocate recommended to arrange sufficient cupboards for the storage of items, and also to provide refrigerators and maintain them in suitable conditions, so that food can be stored properly. The visited unit answered that cupboards and refrigerators would be installed/mounted after the completion of improvement works. The refrigerators will be properly sanitized on a regular basis; • improper maintenance of the drying room, which was damp due to water infiltrations (*the Retirement Home of Singureni*). The People’s Advocate recommended that the drying room should be remodelled, and the suitable repairs had to be performed to stop water infiltrations (hydro-insulation) and to paint the room. The visited unit answered that the drying room would be remodelled during 2017.

► **regarding the food:** • the absence of diet menus for beneficiaries with a certain diet and the failure to adapt food to the need of toothless beneficiaries/beneficiaries with swallowing issues, as well as the lack of a diet for diabetics (*the “Odai” Retirement Home of Bucharest, the “Sfantul Mucenic Fanurie” Retirement Home of Bucharest, the “Maria” Retirement Home of Brasov*). The People’s Advocate recommended to adjust the food to the needs of toothless beneficiaries/beneficiaries with swallowing issues: using blenders, blending solid food, semi-solid menus, possibly supplementing the diet with enteral preparations and establishing a diet for diabetics. The visited unit answered that the required action was taken so as to provide food according to the beneficiaries’ needs, except for the “Maria” Retirement Home of Brasov, that provided no answer.

► **regarding healthcare:** • no efficient means were shown for the beneficiaries to request the intervention of staff in case of emergency and no schedule of the medical nurse for monitoring persons immobilized in bed (*the “Sfantul Mucenic Fanurie” Retirement Home of Bucharest*). The People’s Advocate recommended that the emergency interventions of staff should be recorded and to draw up a schedule of the medical nurse who monitors persons immobilized in bed. The visited unit answered that the situation of beneficiaries was monitored on a permanent basis, with records

being made on the interventions of staff; ● records on the performance of contentions were not endorsed by the physician, so that it could not be checked whether this was made upon the physician's indication, the contention period was not mentioned, nor whether it had been notified to the relative/legal representative of the beneficiary after each enforcement, according to legal provisions in force (*the "Maria" Retirement Home of Brasov*). The People's Advocate recommended that the performance of contentions should be recorded, accompanied by the signature of the physician deciding the contention, the period of contention, and notified to the relative/legal representative of the beneficiary after each enforcement, according to legal provisions in force. The visited unit provided no answer.

► **regarding psychological assistance:** ● the psychologist performed his/her activity in an office that was improper in terms of organization and did not hold the required arrangements (*the Retirement Home of Gherla*), or in an office located in a nearby building, which created difficulties in providing psychological assistance, due to the distance that had to be covered by the beneficiaries and because they had to be accompanied (*the "Odai" Retirement Home of Bucharest*). The People's Advocate recommended that the psychological assistance office should be organized in a suitable space, properly equipped from both a technical and a methodological point of view (*the Retirement Home of Gherla*) and to identify a space to be used as a psychological office within the complex, allowing the easy access of beneficiaries to the psychologist's service, duly observing the confidentiality of psychological assistance (*the "Odai" Retirement Home of Bucharest*). The visited unit answered that a space was identified for providing psychological assistance in proper conditions (*the Retirement Home of Gherla*), and psychological assistance was provided in the psychological practice, while for beneficiaries who had difficulties in moving or could not move at all it was provided either in the club, or at their beds, duly observing the privacy and the required framework for counselling (*the "Odai" Retirement Home of Bucharest*); ● no accurate and complex psychological assessment of the beneficiaries was made and no psychological counselling was provided according to a psychological intervention plan (*the Centre for Elderly Persons of Singureni, the "Sfantul Mucenic*

*Fanurie*” Retirement Home of Bucharest). The People’s Advocate recommended an accurate and complex psychological assessment of beneficiaries and psychological counselling according to a psychological intervention plan. The visited unit answered that the psychological assessment was performed using methods and techniques specific to the specialist’s activity; ● the assessment and re-assessment reports were superficially filled in (*the “Odai” Retirement Home of Bucharest*) and no standardized psychological tools were used (*the “Sfantul Mucenic Fanurie” Retirement Home of Bucharest, the Centre for Elderly Persons of Singureni*). The People’s Advocate recommended that re-assessments had to be filled in on an individual basis, specifying services for each beneficiary. The visited unit answered that the assessment and re-assessment reports were reviewed and include individual measures for each beneficiaries, and interventions complied with their wishes and involvement capacities;

- the psychologist did not hold a practice license (*the Retirement Home of Gherla*). The People’s Advocate recommended that action should be taken for the employee of the home to obtain the practice license as a psychologist. The visited unit answered that the psychologist had been informed to take this action.

**Regarding the staff:** ● the absence of the required staff for the performance of activities, as applicable, physicians, nurses, physical therapy nurses, social workers, psychologists, kinesic therapists, masseurs, carers, guards (*the “Odai” Retirement Home of Bucharest, the Centre for Elderly Persons of Singureni, the “Sfantul Mucenic Fanurie” Retirement Home of Bucharest, the Retirement Home of Gherla*), or the existence of social workers who were not entitled to draw up specific documents since they did not hold a practice license (*the “Sfantul Mucenic Fanurie” Retirement Home of Bucharest*) or the required competence level (*the Retirement Home of Gherla*). The People’s Advocate recommended to examine the possibility of ensuring the permanent presence of physicians and a higher number of medium-level medical staff, as well as care and supervision staff, specialists and auxiliary staff. The visited unit answered that the following staff categories had been employed: nurse, carers (*the “Odai” Retirement Home of Bucharest*), psychologist (*the “Sfantul Mucenic Fanurie”*

*Retirement Home of Bucharest*) or service agreements were entered with physicians (*the Centre for Elderly Persons of Singureni*), the selection procedure will continue for positions already published and not occupied (masseur, kinesic therapist, social worker, psychologist, physical therapy nurse (*the Centre for Elderly Persons of Singureni, the Retirement Home of Gherla*)). Given the impossibility to hire a physician and a kinesic therapist for the performance of medical assistance and recovery activities, cooperation was established with specialists employed in units with specific activity (*the “Sfantul Mucenic Fanurie” Retirement Home of Bucharest*), or the job description of the social worker who did not hold the specific level of competence to draw up certain documents was reviewed (*the Retirement Home of Gherla*). Adding guard positions would overload the organizational chart with 5 guards who would work in shifts, which is hard to implement given the budget restrictions, so that the guard will be ensured by the available staff (power plant worker, driver, non-qualified worker) until the required financial resources are identified, especially since the activity of power plant workers only took place during winter, so that their wages were justified by the performance of guard activities (*the Centre for Elderly Persons of Singureni*). Upon recommendation of the People’s Advocate regarding the supply of social assistance services by a specialized individual, the “Sfantul Mucenic Fanurie” Retirement Home of Bucharest informed that social assistance can be delivered by an employee who is a graduate of law and has an MA degree in social work, who has performed such activities since 2003 and who cooperates with the other specialists and takes part in the meetings of the multidisciplinary team on a permanent basis, getting involved in the specific actions for each individual case, thus failing to observe the recommendation. The relevant authority - the Local Council of District 6 of Bucharest - will be notified in this case, for the failure to observe the recommendation; ● the staff could not be trained on a regular basis on topics regarding the supervision of the hosted elderly persons and the procedure in the case of situations when beneficiaries could endanger themselves or people around them (*the “Odai” Retirement Home of Bucharest*). The People’s Advocate recommended to organize informative meetings with all the members of the medical and care staff, on a regular basis, regarding the

supervision of the hosted elderly persons and the procedure in the case of situations when beneficiaries could endanger themselves or people around them. The visited unit answered that the medical and care staff was trained on a regular basis regarding the respect for the fundamental rights and freedoms of the persons hosted in the centre, with no discrimination, as well as their right to self-determination by directly involving them in the decisions regarding the social intervention they are subject to.

► **Regarding activities for maintaining or readjusting the beneficiaries' physical or intellectual capacities, socialization and spare time activities:** • no social rehabilitation and reintegration programmes were implemented, as stipulated in the individual service plan, and neither other activities with external collaborators, non-governmental organizations, volunteers, sponsors, etc. (*the "Sfantul Mucenic Fanurie" Retirement Home of Bucharest, the Centre for Elderly Persons of Singureni*). The People's Advocate recommended that the beneficiaries should be included in recreational and/or socialization activities and to provide social rehabilitation and reintegration programmes. The visited unit answered that social rehabilitation and reintegration programmes had been designed, and that beneficiaries would be included in recreational and/or socialization activities and social rehabilitation and reintegration programmes would be provided, provided that the beneficiaries wanted to get involve and their state of health allowed it; • recovery programmes were not drawn up individually, the texts drawn up by the multidisciplinary team were general, simple and non-specific, with no details on the content of such services, their duration and specificities and they were identical in most cases (*the "Odai" Retirement Home of Bucharest, the "Sfantul Mucenic Fanurie" Retirement Home of Bucharest, the Centre for Elderly Persons of Singureni*). The People's Advocate recommended that individual assistance and care plans had to be drawn up, as well as accurate and suitable regular reviews, showing the individualization of measures for each beneficiary. The visited unit answered that individual assistance and care plans had been drawn up, with specific, adaptable and timely activities, in an individual manner; • the beneficiaries' service records, including all records and specific instruments from the activity of the specialized staff were missing (*the Retirement Home of Gherla*), along with the service

follow-up report including three sections: the state of health and treatments performed, functional recovery/rehabilitation services and a part regarding social integration/reintegration services (*the “Sfantul Mucenic Fanurie” Retirement Home of Bucharest*). The People’s Advocate recommended that a service record should be available for each beneficiary, including all records and specific instruments from the activity of the specialized staff (e.g. observation report, service report, service follow-up report, assessment, re-assessment report, counselling, meeting, discussion or findings report, records of the relevant moments, actions and reactions), to compile the detailed social history of a beneficiary’s life and duly fill in the service follow-up report. The visited unit answered that each beneficiary had a service record (*the Retirement Home of Gherla*) and a service follow-up report (*the “Sfantul Mucenic Fanurie” Retirement Home of Bucharest*); ● the beneficiaries were not involved in activities regarding their spare time and a daily/weekly programme of activities involving them, as well as methods to spend their spare time were not compiled (*the “Odai” Retirement Home of Bucharest, the “Sfantul Mucenic Fanurie” Retirement Home of Bucharest*). The People’s Advocate recommended to organize involvement activities, as well as draw up a daily/weekly schedule of activities involving beneficiaries and the ways to spend spare time. The visited unit answered that it had a programme of activities, a cognitive stimulation programme, medical and sanitary activities, social activities, whose implementation mostly depended on the beneficiaries’ will to get involved and on their state of health; ● there was no space where the beneficiaries could have an area to spend spare time, though a space that was not arranged or equipped with specific facilities was indicated for a club and a library (*the “Odai” Retirement Home of Bucharest*). The People’s Advocate recommended that the club should be arranged and equipped so that it could sustain various cultural, educational and recreational activities and ensure the beneficiaries’ access to the library. The visited unit answered that the club was remodelled as a space of recreation and visit; ● the absence of outdoor areas for rest and/or outdoor entertainment, as well as the staff’s lack of involvement in providing all beneficiaries, including the immobilized ones, with the possibility of going outdoors and the lack of

a space arranged for visits, that would ensure privacy (*the “Odai” Retirement Home of Bucharest, the Centre for Elderly Persons of Singureni*). The People’s Advocate recommended to arrange outdoor areas for rest and/or outdoor entertainment, to make sure that beneficiaries who cannot move are taken outdoors on a regular basis and to arrange a space for the relatives’ visits, that would ensure the privacy of beneficiaries and visitors. The visited unit answered that a visit area had been arranged, as well as outdoor areas with bungalows with wood and fabric furniture (tables and chairs), as well as swing seats; • the absence of recreational programmes for going to the community and the organization of trips, as well as the beneficiaries’ involvement in making certain decisions regarding them directly (*the “Maria” Retirement Home of Brasov, the “Odai” Retirement Home of Bucharest*). The People’s Advocate recommended that the beneficiaries should be involved in various activities, to organize trips and to involve them in making certain decisions regarding them directly, as well as initiate actions to enter collaboration protocols with institutions, NGOs, organizations or associations, on various fields of interest, with a view to improving and diversifying the services provided to beneficiaries. The visited unit answered that activities had been planned involving the beneficiaries, trips had been organized and collaboration protocols had been entered with institutions, NGOs, organizations or associations, with a view to improving and diversifying the services provided to beneficiaries, except for the “Maria” Retirement Home of Brasov, which provided no answer.

► **Regarding the absence of registers and other documents**, according to legal provisions:

- The register of special events, notified to all staff members (*the “Maria” Retirement Home of Brasov*); the Register of incoming and outgoing beneficiaries (*the Centre for Elderly Persons of Singureni*); the Register of special events (and duly filling in the Register of suggestions and complaints (*the “Odai” Retirement Home of Bucharest*)). The People’s Advocate recommended that a Register of special events should be drawn up, to be notified to all staff members, a Register of incoming and outgoing beneficiaries, considering that, on the date of the visit, the home had a

notebook named “Register of permissions for leave of beneficiaries”, which did not show clearly the hour when the beneficiaries entered/left the home, as it only stipulated the duration/time of the permission, without certainly knowing whether the beneficiaries complied with it or not (*the Centre for Elderly Persons of Singureni, Giurgiu county*), to fill in the Register of suggestions and complaints, since only one record was included, without the applicant’s signature, to draw up a Register of special events (*the “Odai” Retirement Home of Bucharest*). The visited unit answered that all the registers stipulated by the legislative guidelines in force had been duly filled in/drawn up, except for the “Maria” Retirement Home of Brasov, which did not provide an answer; ● the failure to update specific procedures and the Rules of Organization and Operation according to the legislation in force (*the “Maria” Retirement Home of Brasov, the “Sfantul Mucenic Fanurie” Retirement Home of Bucharest*) The People’s Advocate recommended to draw up protocols and procedures for intervention, management and prevention of substance abuse, self-injury or suicide, as well as draw up the unit’s own procedure for identifying, signalling and solving cases of abuse and negligence among its own beneficiaries. The visited unit answered that the specific procedures and the Rules of Organization and Operation had been updated according to legal guidelines, except for the “Maria” Retirement Home of Brasov, which provided no answer; ● the faulty elaboration of the Questionnaire to measure the beneficiaries’ satisfaction, by including a question regarding the beneficiaries’ names (*the Centre for Elderly Persons of Singureni, Giurgiu county*), except for the “Maria” Retirement Home of Brasov, which provided no answer;. The People’s Advocate recommended to remove questions regarding the beneficiaries’ names and signatures in the questionnaire for the assessment of provided services, in order to ensure the beneficiaries’ anonymity and the accuracy of information obtained through this method. The visited unit answered that the question regarding the beneficiary’s name and signature was removed from the Questionnaire measuring the beneficiaries’ satisfaction.

► **Regarding other aspects:** ● a custodian was not established for an incapacitated person (*the Retirement Home of Gherla*). The People’s Advocate

recommended to accelerate the procedure for setting a custodian for the incapacitated person. The visited unit answered that the procedure was accelerated for setting a custodian for the incapacitated person; ● no hearing aids were provided for beneficiaries with hearing impairments (*the Centre for Elderly Persons of Singureni, Giurgiu county*). The People's Advocate recommended to examine the possibility of purchasing hearing aids for beneficiaries with hearing impairments, since many of them had this impairment on the date of the visit and, in time, this could affect their relations with the people around them. The visited unit answered that cooperation with a specialized clinic was initiated and hearing aids were purchased; ● some rooms of the visited pavilions hosted people immobilized in bed, in a very serious/terminal state, along with persons with a different state of health. There was no separating screen or curtain (*the "Odai" Retirement Home of Bucharest*). The People's Advocate recommended that people who are in a very serious/terminal state should be accommodated separately or, in case they were accommodated with other persons, to place separating screens or curtains. The visited unit answered that two separating screens were used to ensure the privacy of beneficiaries in a terminal state; ● the number of anti-eschar mattresses was low compared to the number of beneficiaries who might have needed them (*the Centre for Elderly Persons of Singureni, the "Odai" Retirement Home of Bucharest*). The People's Advocate recommended to purchase and provide enough anti-eschar mattresses for the needs of beneficiaries immobilized in bed for a longer time. The visited unit answered that enough anti-eschar mattresses were provided; ● not enough prevention materials - extinguishers (*the Centre for Elderly Persons of Singureni, Giurgiu county*). The People's Advocate recommended that the complex should be equipped with enough prevention materials (extinguishers). According to the answer of the visited unit, it was equipped with enough extinguishers; ● some of the beneficiaries informed that hygiene and sanitation items, disinfectants and diapers were not enough (*the "Odai" Retirement Home of Bucharest*). The People's Advocate recommended to provide hygiene and sanitation products according to the beneficiaries' needs. The visited unit answered that enough hygiene and sanitation products were provided.

*Measures taken by the visited institutions pursuant to recommendations of the People's Advocate:*

► **Regarding the beneficiaries' assignment to pavilions/rooms, their categories of dependency should be taken into account, based on the provisions of Government Decision no. 886/2000** on the approval of the National Grid for the assessment of the needs of elderly persons (since beneficiaries who could not move, depending from medical and care services, were assigned to all pavilions of the home), *the visited units answered:* ● pursuant to the recommendations of the People's Advocate, the multidisciplinary team of the centre assigned the rooms of beneficiaries hosted in Pavilion IV (recently painted and adapted to the needs of elderly persons) depending on their degree of dependency, based on the National Grid for the assessment of the needs of elderly persons (an answer provided in 2017 by *the "Odai" Retirement Home of Bucharest*, after the 2016 visit).

► **Regarding the recommendation that the beneficiaries' rooms should be equipped with panic buttons in a visible and accessible place**, so that the beneficiaries may announce the staff of the home/centre in case of need or urgency, since the rooms did not have such buttons at the moment of the visit, *some of the visited institutions answered:*

● since CPV Singureni was a social, not a medico-social service, the supervision of beneficiaries is provided by the staff on duty on a permanent basis. Panic buttons with light-based warning are provided, and sound warning will be implemented in 2017 (an answer provided in 2017 by *the Centre for Elderly Persons of Singureni, Giurgiu county*, after the 2016 visit); ● The plan for the improvement and adaptation of the environment was updated, given the need to equip rooms with a panic button to alert the staff in case of need (*the Assistance and Support Centre for Elderly Persons of Fitionesti, Vrancea county*).

► **Regarding the beneficiaries' assignment in rooms according to their degree of autonomy and independence, so that, in case of need or emergency, at least a beneficiary could be able to request the intervention of the medical**

**assistance and care staff**, since, on the date of the visit, there were some rooms where all beneficiaries were immobilized in bed, *the visited institutions answered*: ● pursuant to the visit of the People’s Advocate, actions were taken to reorganize the beneficiaries’ accommodation so that a person with a high level of skills was accommodated in every bedroom with a person with a significant degree of dependency, so that the capacitated person could timely notify the need for staff intervention (an answer provided in 2017 by *the Centre for Elderly Persons of Singureni, Giurgiu county*, after the 2016 visit); ● the elderly persons in the centre were assigned in rooms according to their degree of dependency. Since the activity of nurses takes place in day-night shifts, beneficiaries are supervised on a permanent basis (24 hours/day) by the staff in the centre; therefore, all residents are carefully supervised by the staff of the centre, according to the attributions in the job descriptions, and interventions to persons with problems are done whenever needed, not only based on a preset schedule (*the “Sfantul Mucenic Fanurie” Retirement Home of Bucharest*).

► **Regarding the equipment of all sanitary facilities with grab bars and special sanitary equipment for people with disabilities or locomotor issues**, since their absence could generate accidents among beneficiaries, *the following answers were received from the visited units*:

● during May-July we shall ensure full accessibility of sanitary facilities (an answer provided in 2017 by *the Centre for Elderly Persons of Singureni, Giurgiu county*, after the 2016 visit); ● actions were taken to request the purchase, respectively the assembly of such devices; such actions are currently in progress (*the “Sfantul Mucenic Fanurie” Retirement Home of Bucharest*); ● a request was made to equip all sanitary facilities with grab bars (*the Centre for Elderly Persons of Mironesti, Giurgiu county*).

► **Regarding the purchase and assembly of grab bars on all corridors of the pavilions, the visited centres/homes answered as follows**: ● the action will be implemented during 2017, depending on the available budget (an answer provided in 2017 by *the Centre for Elderly Persons of Singureni, Giurgiu county*, after the 2016 visit).

► **Regarding the adjustment of the height of thresholds at the doors of the beneficiaries' bedrooms**, based on the Guideline of February 12, 2013 on the adaptation of civil buildings and of the urban space to the individual needs of persons with disabilities, the visited units answered: ● the height of thresholds will be adjusted during May-July 2017 (an answer provided in 2017 by the *Centre for Elderly Persons of Singureni, Giurgiu county*, after the 2016 visit).

► **Regarding the review of the opportunity to increase the number of specialists** (psychologists, social workers, kinesic therapists, masseurs, etc.) **for the performance of specific activities**, *the visited homes/centres answered as follows*: ● in progress (in 2014 we entered a services agreement with the local general practitioner, who met all our requests); the position of physical therapy nurse was published, but no one submitted an application. The positions were published in 2013, 2014, 2015, but no specialists submitted an application; efforts will be made in the following (an answer provided in 2017 by the *Centre for Elderly Persons of Singureni, Giurgiu county*, after the 2016 visit); ● the “Sfantul Mucenic Fanurie” Retirement Home provides each beneficiary with the possibility of pursuing physical therapy and spa recovery procedures within the “Floare Rosie” Centre for Elderly Persons, subordinated to D.G.A.S.P.C. District 6 as well, or at the head office of the centre - including specific recovery procedures performed by a specialist kinesic therapist employed by C.P.V. “Floare Rosie” (*the “Sfantul Mucenic Fanurie” Retirement Home of Bucharest*); ● a kinesic therapist employed by the centre and a psychologist working based on a services agreement work in the centre. Furthermore, a recovery physician employed by DGASPC District 1 provides examinations to the beneficiaries of the centre, based on which the recovery plan is established and performed (an answer provided in 2017 by the *“Odai” Retirement Home of Bucharest* after the 2016 visit); ● functional recovery/rehabilitation activities take place according to individual plans and capacities, to the extent of the human and material resources of the centre, i.e. psychological therapy, music therapy, occupational therapy, relaxation therapies. In order to optimize recovery services, we requested that a masseur position should be included in the organizational chart (*the Centre for Elderly Persons of Mironesti*,

*Giurgiu county*); ● the unit employed staff for the vacancies to the extent of the approved budget. Moreover, the 2017 budget included amounts required for employing staff under the heading “staff expenses” (an answer provided in 2017 by the *Centre for Elderly Persons of Bacau* after the 2016 visit);

- actions were taken with the General Directorate for Social Assistance and Child Protection of Cluj to approve the publication of a position of kinesic therapist (an answer provided in 2017 by the *Retirement Home of Gherla, Cluj county*, after the 2016 visit).

► **Regarding the individual elaboration of individual assistance and care plans**, with specific, adaptable and achievable activities, helping improve the beneficiaries’ life quality, *the visited institutions answered*: ● achieved (*the Centre for Elderly Persons of Singureni, Giurgiu county*); ● pursuant to re-assessment sessions, the multidisciplinary team reviewed the individual care and assistance plans, which included individual measures for each beneficiary, as interventions matched their wishes and capacity of involvement (*the “Sfantul Mucenic Fanurie” Retirement Home of Bucharest*).

### **Proposals:**

- Matching the provisions of Law no. 17/2000, republished, on social assistance to elderly persons, with those of Law no. 292/2011 on the national social assistance system regarding the definition of elderly persons;

- Amending/supplementing Law no. 17/2000, republished, on social assistance to elderly persons, since it only refers to public residential centres, not those which are private or developed in a public-private partnership, as well as aspects regarding the assessment on the approval/rejection/suspension or termination of the right to social assistance services for elderly persons;

- Seeing the contradiction between the provisions of art. 25 par. (1) of Law 17/2000, republished on social assistance to elderly persons, stipulating: “the monthly average maintenance cost is established by local and/or county councils” and the provisions of art. 1 par. (1) of the Methodological Guidelines for establishing the

average monthly cost of maintenance in retirement homes, adopted by Government Decision no. 1021/2000 and stipulating “the monthly average maintenance cost in retirement homes is established by the Ministry of Labour and Social Protection on an annual basis”, these articles have to be correlated, so as to adopt a unitary solution;

- Reviewing Government Decision no. 886/2000 on the approval of the National Grid for the Assessment of the Needs of elderly people lying at the basis of the admission to centres for elderly people, i.e. updating it;

- Developing programmes of national interest, providing financial support to local communities in the rural environment in particular, with a view to ensuring the applicability of Law no. 17/2000, republished, on the social assistance of elderly persons.

- Amending legislation on the financing sources of centres for elderly persons established at the level of local authorities, i.e. they are supported from the state budget as well, from sums deriving from value added tax, by transfer to the budgets of local councils, specially opened to this purpose, as in the case of residential centres for persons with disabilities and for children, which are managed by county councils.

### *V. Asylum Seekers/Migrants*

The year 2017 was a year of significant evolutions for international migration. The main causes of migration were political and military crises, the unequal distribution of natural resources, demographic pressure, the development deficit, the failure to respect human rights and citizen freedoms in countries of origin and, last but not least, a cultural tradition to valorize migration.

The events in Europe and the neighbouring Mediterranean countries, as well as Central America, South-East Asia and Africa, proved that human mobility is an inevitable feature of the contemporary world. These events have also shown that, **at the global level, migration has reached a particular extension and complexity, and efficient solutions can only be provided through a coherent answer of all involved**

**parties.** Considering the current trends of migration, **international cooperation is highly necessary not only in terms of distribution of migrants in need of assistance, but also regarding the number of involved stakeholders and the complexity of challenges.** This aspect requires additional efforts to draw up integration policies that respect the dignity, health and safety of migrants as major objectives.

The current economic crisis, the constantly rising unemployment rate and the local political changes, the worsening of living conditions, serve as pretexts for the governments to exclude their responsibilities regarding human rights-related obligations.

However, these obligations cannot be avoided, amended or postponed for better times, as they have to be observed at times of crisis or austerity. In difficult times, **governments should place more priority on resources for vulnerable persons, also for refugees and persons in need of international protection. Human right should not be observed only in situations of harmony and prosperity, but also in complicated times.**

**International bodies involved in the issue of migration, all countries of origin, of transit or destination should adopt a joint approach of migration, since a situation covering all continents cannot be treated individually, but only collectively.**

From this point of view, we underline that Government Decision no. 1251/2006 on the approval of the Methodological Guidelines for the enforcement of Law no. 122/2006 transposed the Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) and Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast).

Based on the migration report published by UNICEF, **about 50 million children in the world are taken away from their homes**, 28 million because of conflicts, and 22 million children leave their homes in the hope of a better and safer

life. According to the report, Turkey hosts most refugees in the entire world and, implicitly, the most children. Compared to the country's population, Lebanon hosts the most refugees, so that one person out of five in Lebanon is an immigrant. In the United Kingdom, one person out of 530 is an immigrant, and one person out of 1200 is an immigrant in the United States. Looking at the income of the countries hosting refugees, the Democratic Republic of Congo, Ethiopia and Pakistan are countries with a low living standard, hosting a large number of refugees. **The UNICEF report on children migration called attention to the children's increased need for protection, motivated by the fact that they are subject to the risk of exploitation and any kind of abuse to a higher extent.**

Within the International Summit on the topic "Human Right Challenges Related to Recent Migrant and Refugee Flows, organized during September 7-8, 2016 in Tirana, Albania, Mr Markus Jaeger, representative of the Council of Europe, **ombudsman institutions are highly reliable and should get involved in the fight for ensuring an equal treatment of migrants in all countries, since they have the possibility to react in the case of migrants, to be proactive, to be close to the victims, to be quick in their actions, as they need no permits, they can make changes.**

The contribution of ombudsmen and National Prevention Mechanism is unlimited in the issue of migration, as they make a connection between public institutions, **the update of relevant legislation and the observance of international standards.** In this context, we mention that, based on the recommendations submitted by the field regarding prevention of torture found in practice on the material assistance to persons accommodated in centres, **changes were made in 2017 to the the Order of the Minister of Internal Affairs and Administrative Reform no. 269/13.08.2007 as subsequently amended and supplemented, which defined ensuring conditions for accommodation, material goods for each accommodated person, maintenance and hygiene materials, the material goods for preparing and serving food, the raw duration of use, as well as the maximum quantitative amounts and cleaning materials needed to maintain accommodation centres.** Thus, the Order no.

113/2017 was issued, on the amendment and supplementation of the Order of the Ministry of Internal Affairs and Administrative Reform no. 269/13.08.2007 on ensuring material assistance for persons accommodated in the centres subordinated to the General Inspectorate for Immigration, i.e. introducing new goods and reducing the duration of use of others.

**Ombudspersons should raise alerts regarding the infringement of children's rights, family unification, attendance of classes, employment of young persons.** From this perspective, it has to be said that the monitoring visit performed by the visit teams of the Field regarding prevention of torture resulted in recommendations to establish a special room for breastfeeding mothers or mothers with babies, with suitable bathtubs and changing tables, scales, possibly for food preparation (*the Regional Centre of Procedures and Accommodation for Asylum Seekers of Galati*). The visit to check the implementation of the recommendation showed that it had been effectively implemented, as the accommodation pavilion included a mother-and-child room, with a cot, chairs, changing table, kitchen appliances, sink, dishware.

Moreover, during the 2017 visit, the visit team identified an autistic young girl who was supported with medicines, but was not integrated in a therapeutic recovery programme. The visit team recommended that the persons with various functional deficiencies, especially children, should be integrated in suitable therapy programmes, with a view to recovering and reinforcing their functional capacity, as well as to observe national legislation on persons with disabilities; the psychological assessment and an individual intervention plan had to be drawn up for the recovery of a young girl with autism; cooperation with a specialized centre for the recovery of children with autistic disorders.

► **In terms of migration, we remind the correspondence held by the Field regarding prevention of torture and the Human Rights Commissioner of the Council of Europe, Mr Nils Muižnieks, who asked for information regarding the performance of the asylum procedure in Romania, the enforcement of the readmission agreement with Serbia and accommodation conditions in alien centres. The answer sent to this request included information regarding the Protocol of June 8, 2011**

between the Romanian Government and the Serbian Government on the enforcement of the Agreement between the European Community and the Serbian Government on the readmission of people staying illegally, as well as information notified by the General Inspectorate of the Border Police and the General Inspectorate for Immigrations, for the requests to readmit applicants from a third country or stateless individuals and requests for land transit.

In this context, we emphasize the high number of asylum applications received by the Regional Centre of Procedures and Accommodation for Asylum Seekers of Timisoara starting with the fourth quarter of 2016 (for instance, an average of 20 asylum applications a day was reached in March 2017). It was found that most asylum applicants crossed the frontier illegally from Serbia to Romania.

During **January 1 - May 31, 2017**, based on the information provided by the General Inspectorate for Immigration, **1163 applications for the award of a form of protection in Romania were registered** in the Regional Centre of Procedures and Accommodation for Asylum Seekers of Timisoara, especially from aliens coming illegally to Serbia, detected in the frontier area and taken over from the territorial units of the General Inspectorate of the Border Police. Based on the *Protocol between the Romanian Government and the Government of Serbia*, signed in Bucharest on June 8, 2011 and the *Agreement between the European Community and the Republic of Serbia on the readmission of persons staying illegally*, signed in Brussels on September 18, 2007, according to the General Inspectorate of the Border Police, **during January 1, 2017 - July 31, 2017, the Romanian Border Police drew up and sent to Serbian authorities readmission applications for 1126 persons who had illegally crossed the border from Serbia to Romania.**

Of the 1126 readmission requests that were sent, Serbian authorities provided a positive answer to 90, but only 6 persons were returned, since the other 84 persons with a positive answer requested a form of protection in Romania. Based on the information provided by the General Inspectorate for Immigration, 132 asylum applicants received a positive solution during August-October 2017, 343 asylum

applications were rejected, and 136 under age persons that were not accompanied submitted an asylum application during August-October 2017.

Furthermore, **Mr Markus Jaeger, Department for Human Rights Policy and Cooperation, Council of Europe**, asked for information on the visit reports drawn up by NPM pursuant to monitoring visits undertaken to centres where migrant children are being held in custody.

► Regarding the cooperation between the field regarding prevention of torture in detention places and non-governmental organizations monitoring the respect for the migrants' rights, we mention that, pursuant to the meetings performed in 2017, a **Collaboration Protocol with the ICAR Foundation was entered at the beginning of 2018**, based on which the parties will cooperate for promoting and respecting the migrants' rights (*in terms of non-constitutionality of laws and ordinances on the migrants' rights and freedoms; collaboration on situations of torture or cruel, inhuman or degrading treatment in migrant centres, staff training*) and **a first meeting took place with Mr Eduardo Yrezabal, the UNHCR representative to Romania**, where issues of common interest regarding migrants were discussed and the basis for future cooperation was laid.

► We also mention the enforcement of the provisions of art. 98 of the Government Emergency Ordinance no. 94/2002 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.**

For instance, we mention the monitoring reports sent by the Foundation of the Romanian National Council for Refugees (CNRR) regarding the monitoring of forced return under escort from the Romanian territory of migrants staying illegally, as performed by the General Inspectorate for Immigration. ● In one case, the migrant was taken through the public space in the airport immobilized, **with his hands forward and the immobilized area clearly visible**. Since the airport was not crowded at that time, few passengers saw the migrant being immobilized. It was also shown that, after

the migrant and the escort boarded the aircraft, the representatives of the airline who were standing at the gate were notified that the escort team boarded, through the walkie talkies which were quite loud. **Thus, some passengers who waited to board found out that the escort was on board.**

At the same time, the Monitoring Report stipulates that the immobilization of the migrant was not an infringement of fundamental rights, considering his behaviour; however, **in such situations, it was recommended to try to hide the migrant's immobilized areas or to get him to the aircraft by completely avoiding public areas of the airport, so that the migrant is not seen immobilized by other passengers at the airport.**

The People's Advocate Institution notified the General Inspectorate for Immigration mentioning that, based on the Rules of the European Committee for Prevention of Torture and Inhuman or Degrading Treatment (CPT), one of the major issues arising during a deportation is the use of force and constraint by persons in the escort. CPT recognizes that sometimes these people have to use force and means of constraint for the completion of the operation; however, force and means of constraint should not be used more than necessarily. CPT observed with interest the directives in force in certain countries, based on which means of constraint have to be removed during the flight (as soon as the plane has taken off). If, exceptionally, means of constraint had to be used since the deported person kept having an aggressive behaviour, the members of the escort were trained to cover the foreign citizen's limbs with a blanket (like those usually given out to passengers), to hide the means of constraint from the sight of other passengers.

The General Inspectorate for Immigration notified that the additional safety measures applied to the alien who would be returned were taken based on a risk analysis performed during his entire accommodation in the I.G.I. public custody centre.

Thus, where elements of the risk of avoiding removal, such as improper behaviour, enticing other aliens to rebellion and, implicitly, to infringe the obligations stipulated in the Order of the Minister of Internal Affairs no. 121/2014 during accommodation in the custody centre, are identified, safety measures are taken to

immobilize the alien, observing fundamental rights and freedoms, implicitly through their gradual enforcement. In this context, the rule is that, from the moment the migrant is taken out of custody and until boarding, immobilized areas are hidden from the passengers in the airport. Regarding the transfer of the escort within the airport, travel to the aircraft is made on the route dedicated to the passenger flow, avoiding contact with them as far as possible.

As for the exchange of information between the members of the aircraft crew regarding the boarding of the escort team, the IGI staff was not responsible for the enforcement of the airline's internal boarding procedures, since tickets are usually reserved on the last row of the plane, without possibility to interact with crew team members. The rule is that the escort boards through the back door of the aircraft and before passengers are allowed to enter.

- In another case, the CNRR monitoring report holds that the General Inspectorate for Immigration has forcibly removed a Moldovan woman from the Romanian territory, by taking her to the land border between Romania and Moldova. However, it was seen that no member of the escort had the same sex with the forcibly removed person. Pursuant to the monitoring activity, it was recommended that, if a female person is returned, at least one member of the escort should have the same sex.

We mention that, according to CPT rules, mixed staff is a significant guarantee against ill treatment in detention places. The presence of male and female staff may have beneficial effects both in terms of ethnicity, and to favour a degree of normality in a detention place.

Regarding this case, according to the answer of the IGI, the membership of the escort team is established by the management of the Otopeni Public Custody Centre, according to legal provisions in force, considering that at least one member of the escort should have the same sex as the escorted alien.

► Based on Law no. 35/1997 on the organization and operation of the People's Advocate, republished, as subsequently amended and supplemented, **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. 29<sup>2</sup> 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).

**In 2017, in the performance of monitoring visits, members of the visit team faced difficulties in exercising their attribution of consulting documents provided to the visited units.**

We mention that, based on art. 4 and art. 29<sup>8</sup> of Law no. 35/1997 on the organization and operation of the People's Advocate institution, republished, as subsequently amended and supplemented: art. 4 – *“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”*. art. 29<sup>8</sup> – *“The visited institutions have the obligation to provide the*

*representatives of the visit team, according to the law, prior, during or after the performance of the visit, any documents or information held by them or that they may procure, as requested by such representatives with a view to fulfilling their legal attributions”.*

Thus:

- the management of the Territorial Service of the Border Police of Radauti Prut provided the visit team with the requested documents for study/analysis, **but failed to issue copies of the System Procedure on the organization and operation of the sorting room, invoking its secrecy and the organizational rules of the Border Police.** The requested documents were provided to the visit team after the visit. ***The People’s Advocate recommended:*** to observe the legal provisions stipulated under art. 4 and art. 29<sup>8</sup> of Law no. 35/1997 on the organization and operation of the People’s Advocate institution, republished, as subsequently amended and supplemented,

- the management of the centre failed to provide the information and documents requested by the visit team (*the Centre of Accommodation and Procedures for Asylum Seekers of Timisoara*). ***The People’s Advocate 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). ***The visited unit will provide an answer to the recommendation.*** Since the requested documents were not provided and the visit report was drawn up without information on psychological assistance provided to asylum seekers in the Regional Centre of Accommodation and Procedures for Asylum Seekers of Timisoara, Timis county, the People’s Advocate institution addressed the management of the General Inspectorate for Immigration with the request to examine the situation, to take the required legal action and inform the People’s Advocate;

- the representatives *of the Sector of the Calarasi Border Police* provided the visit team with some of the documents it had requested, for study purposes, and failed to provide copies of the requested documents, invoking their secrecy, but without

proving it. *The People's Advocate recommended* to observe the provisions of art. 4 and art. 29<sup>8</sup> (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 will provide an answer to the recommendation;*

- the refusal of the management of the Territorial Service of the Border Police of Teleorman to provide the visit team with some of the requested documents for study/analysis and did not want to issue copies of the requested documents or of the presented ones, invoking their secrecy and the organizational rules of the Border Police. *The People's Advocate recommended* to observe the legal provisions stipulated under art. 4 and art. 29<sup>8</sup> of Law no. 35/1997 on the organization and operation of the People's Advocate institution, republished, as subsequently amended and supplemented. Moreover, *since a punctual answer to the recommendations of the People's Advocate was not provided, but the answer was incomplete, inaccurate and generic, approaches were pursued to inform the superior authority, i.e. the Ministry of Internal Affairs.*

- ▶ Regarding the status of migrants on the Romanian territory, considering the situations presented in the media, information was requested to competent authorities, such as:

- ▶ **Based on the information provided by the General Inspectorate for Immigration, 132 asylum applicants received a positive solution during August-October 2017, 343 asylum applications were rejected, and 136 under age persons that were not accompanied submitted an asylum application during August-October 2017.**

- ▶ During 2017, the representatives of the field regarding prevention of torture performed **13 visits** to the following units: the Regional Centre for accommodation and procedures for asylum applicants of Timisoara (2); Bthe Regional Centre for accommodation and procedures for asylum applicants of Giurgiu (2); the Regional

Centre for accommodation and procedures for asylum applicants of Radauti, Suceava county; 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 (2); the Regional Centre for accommodation and procedures for asylum applicants of Bucharest, the Centre for accommodation of aliens in public custody of Arad, the Centre for accommodation of aliens in public custody of Otopeni; the triage centre of the Border Police of Radauti-Prut, Botosani county; the Sector of the Border Police of Calarasi.

Based on art. 14, art. 29<sup>3</sup> and art. 29<sup>7</sup> (3) of Law no. 35/1997, republished, as subsequently amended and supplemented, the People's Advocate institution **observed ex officio the situation presented in the media regarding the large inflow of migrants entering the Romanian territory in 2017 and decided to perform spot visits to accommodation centres for aliens in public custody and asylum seekers.** The purpose of the visits was to check accommodation conditions, the treatment applied to aliens, the respect for their rights and freedoms, also to check the aspects notified by the media and the implementation of previous recommendations.

***Positive aspects were found during the visits performed in 2017, such as:***

**► regarding healthcare supply:**

- a services agreement was entered with a general practitioner who provided primary medical assistance to asylum seekers in the *Centre for accommodation and procedures for asylum applicants of Timisoara*, since the General Inspectorate for Immigration published two vacancies to recruit a physician and a nurse during 2016, but no one applied for the positions;
- a selection was organized for the position of specialized physician in the *Regional Centre for accommodation and procedures for asylum applicants of Giurgiu (pursuant to the recommendation included in the visit report)*, so that a physician was organized at the beginning of 2017 who, as of the date of the report, had managed to optimally and efficiently organize the medical activity. Moreover, the physician has performed epidemiological triage and screening procedures to detect the specific infectious-contagious pathology of the areas asylum applicants originated from, in a systematic and accurate manner, in compliance with

medical examination algorithms; ● it was decided that a physician should provide medical services (the *Centre for accommodation and procedures for asylum applicants of Timisoara*), through the project “Adapted and accessible health services for Romanian asylum applicants”, ● the centre had a physician and medical staff or 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 Giurgiu*);

● the aliens accommodated in the centre received medical examinations, additional paraclinic investigations and specialized medical examinations with public medical facilities, as well as free of charge medicines based on a medical prescription issued by the physician of the centre (*the Centre for accommodation and procedures for asylum applicants of Timisoara, the Centre for accommodation and procedures for asylum applicants of Giurgiu*);

● psychotropic medicines were kept in a separate secured cabinet and were only administered upon strict indications of a specialist physician (*the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu, the Centre for accommodation and procedures for asylum applicants of Timisoara*);

● the medical practice was properly arranged, equipped with furniture and devices and met the hygiene and sanitation guidelines in force (*the Centre for accommodation and procedures for asylum applicants of Timisoara, the Centre for accommodation and procedures for asylum applicants of Giurgiu, the Regional Centre for accommodation and procedures for asylum applicants of Radauti*); ● the medical department also included a treatment room and an isolation room with a sanitary facility for the temporary accommodation of persons diagnosed with infectious-contagious diseases (*the Regional Centre for accommodation and procedures for asylum applicants of Galati*);

● the medical reports and records of asylum seekers were kept securely and confidentially, according to the provisions of the legislation in force on the confidentiality of medical data and the access to the medical records of a person (*the*

*Centre for accommodation and procedures for asylum applicants of Timisoara, the Centre for accommodation and procedures for asylum applicants of Giurgiu);*

- the centre was equipped with its own ambulance (*the Centre for accommodation and procedures for asylum applicants of Timisoara);*

- the immunization of children accommodated in the centre, according to the National Immunization Programme, was performed at the practice of the unit, by medical staff. The required vaccine was distributed by the Timis Public Health Department, upon weekly request of the physician in the centre (*the Centre for accommodation and procedures for asylum applicants of Timisoara);*

► **legal counselling and information:** ● the regional centres of procedures and accommodation for asylum beneficiaries benefitted from the services of non-governmental organizations based on partnerships entered with the General Inspectorate for Immigration (*the Centre for accommodation and procedures for asylum applicants of Timisoara and the Centre for accommodation and procedures for asylum applicants of Giurgiu);* ● asylum applicants were counselled on their rights and obligations during the asylum procedure, by relevant staff, after their accommodation in the centre, and, as a person accommodated in the facility, received an informative material edited in 12 foreign languages. *Legal counselling* was mainly provided by the Romanian National Council for Refugees based on the performed projects (*the Centre for accommodation and procedures for asylum applicants of Giurgiu);* ● the waiting room was equipped with a monitor showing information on the rights and obligations of beneficiaries in several languages (*the Centre for accommodation and procedures for asylum applicants of Galati).*

► **psychological counselling:** ● the psychological practice of the centre was properly equipped from a technical and methodological point of view (*the Centre for accommodation and procedures for asylum applicants of Timisoara);* ● vulnerable persons, who benefitted from individual and group-level psychological counselling, were identified pursuant to the psychological assessment. Depending on their emotional state and needs, asylum applicants took part in psychological counselling sessions with a higher or lower frequency. The purpose of individual psychological

counselling was to improve the existing psychological symptoms and prepare the persons for the interview (*the Centre for accommodation and procedures for asylum applicants of Timisoara*); ● the psychologist also organized group counselling sessions on various topics and workshops of therapy through art; this therapeutic method was indicated, as it facilitated the spontaneous expression of emotions through the creation act and, implicitly, a decrease in the level of tension, it facilitated communication and increased group cohesion (*the Centre for accommodation and procedures for asylum applicants of Timisoara*);

► **socio-educational activities:** ● recreational activities were organized by the *Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare, Maramures county*, in partnership with education institutions (regular thematic discussions between pupils, teachers and beneficiaries of international protection, meetings organized with the occasion of important holidays in the community, sports activities, educational, cultural, artistic activities, etc.); the mentioned activities were included in a partnership entered in a cross-county educational project; ● twice a week, a Romanian language teacher appointed by the County School Inspectorate of Baia Mare went to the centre and delivered Romanian language classes in order to facilitate communication between the beneficiaries of the centres and members of the local community (*the Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare, Maramures county*); ● the indoor entertainment area was remodelled and an outdoor playground for children was arranged (*the Regional Centre for accommodation and procedures for asylum applicants of Radauti*);

► **ensuring hygiene and sanitary conditions:** ● partial repair works of showers had been performed (*the Regional Centre for accommodation and procedures for asylum applicants of Radauti*); ● artificial illumination had been improved by placing additional light fixtures and by mounting stronger bulbs (*the Regional Centre for accommodation and procedures for asylum applicants of Radauti*); ● all accommodated persons were provided with free of charge HIV/AIDS testing (*the Regional Centre for accommodation and procedures for asylum applicants of Galați*); ● the centre had a mother-baby room, with a cot, chairs, changing table, kitchen

appliances, basin, dishware, etc., free of charge) (*the Regional Centre for accommodation and procedures for asylum applicants of Galați*);

***As for migrant centres visited in 2017, the following deficiencies were found:***

***Regarding accommodation conditions:*** • the lack of proper hygiene in common areas (bathrooms, kitchens, hallways) and the lack of cooperation of asylum seekers to maintain a normal state of cleanliness (*the Centre for accommodation and procedures for asylum applicants of Timisoara, the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu, the Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare, Maramures county*).

***The People's Advocate recommended that the Regional Centre for accommodation and procedures for asylum applicants of Timisoara should:*** • continue the sanitation of sanitary facilities in building B, as well as repair or replace the faulty sanitary facilities; • identify methods to stimulate asylum seekers so that they could be more involved in maintaining their areas in the centre in a proper state of hygiene; • identify more efficient solutions to permanently maintain and ensure cleanliness in the kitchens of the centre. ***The management of the Regional Centre for accommodation and procedures for asylum applicants of Timisoara answered that:*** • the central body (the Logistic Support Department) would be requested to allocate financial resources to take action for the sanitation of accommodation areas, planning the activity by the end of 2017; • repair works were performed and faulty sanitary items were replaced, and their use would be followed; • the cleaning schedule was posted and checks in the accommodation area of asylum seekers were made on a daily basis, and the officer on duty recorded the cleanliness in a register; • it was decided that the officer on duty, together with an NGO representative, would travel to accommodation areas on a daily basis, to follow up whether asylum seekers observed the regulations of the centre, especially in terms of cleaning and maintaining cleanliness, both in bedrooms and common areas. The management of the centre mentioned that asylum applicants who do their best to maintain cleanliness will

potentially be rewarded, through the supply of food products with the support of NGOs in the centre.

*As for the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu*, auxiliary staff had been employed to ensure cleaning in the centre, the hygiene and maintenance of areas. However, on the date of the visit, it was found that the general state of the centre in the accommodation area of asylum seekers still lacked hygiene in the rooms and in some common areas (sanitary facilities, showers, food preparation areas). *The People's Advocate recommended* that repair works and sanitation of common areas should be performed, and a cleaning schedule should be drawn up, translated into the foreign languages spoken by asylum applicants, so as to ensure order and cleanliness in common areas. *The management of the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu will answer the recommendations;*

As for cleaning, *the People's Advocate recommended* that the *Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare, Maramures county*, the constant supervision of the state of cleaning and hygiene of areas occupied by persons in custody in rooms, sanitary facilities, corridors, kitchen. *The management of the Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare, Maramures county will answer the recommendations;*

- there were no accommodation rooms for potential detained persons, only the triage room (*the triage centre of the Territorial Service of the Border Police of Radauti Prut*). The People's Advocate recommended:
  - to arrange the triage room within the Territorial Service of the Border Police of Radauti Prut, based on system procedure no. 940/2016 on the organization and operation of the triage room, issued by the General Inspectorate of Border Police, since it was only furnished with a wooden bench on the date of the visit;
  - to identify means to arrange another triage room within the Territorial Service of the Border Police of Radauti Prut, with a view to observing the system procedure on the organization and operation of the triage room in the Border

Police, stipulating that persons are introduced separately, according to their gender, behaviour, etc. ***the visited unit will provide an answer to the recommendation;***

- an accommodation room was available, with an area of about 12 sqm, equipped with two beds with new facilities and a sanitary facility, which was not enough to accommodate more migrants (*the Sector of the Border Police of Calarasi*). ***The People's Advocate recommended*** to identify solutions to increase the accommodation capacity depending on the available area in the Sector of the Border Police of Calarasi, so as to accommodate more people. ***The visited unit will provide an answer to the recommendation;***

- regarding overcrowding and the accommodation of several families in a room in the Regional Centre for Accommodation and Procedures for Asylum Seekers Timisoara (*observation ex officio*), ***the People's Advocate recommended*** to avoid overcrowding in accommodation rooms and to meet the legal criteria for the assignment of asylum seekers into rooms. ***The visited unit will provide an answer to the recommendation;***

- the stoves were in an advanced state of wear, no shelves were provided for the storage of food, the kitchen was not clean and the pavement and ceramics were old, broken and not sanitized (*the Regional Centre for accommodation and procedures for asylum applicants of Radauti, Suceava county*). ***The People's Advocate recommended that the General Inspectorate for Immigration*** should take the required legal action to improve accommodation and treatment conditions in the Regional Centre for accommodation and procedures for asylum applicants of Radauti, Suceava county by allocating the required funds to provide the kitchen with the required devices and furniture to prepare, store and serve food in suitable conditions of hygiene and sanitation: refrigerator, freezer, slicer, juice maker, electrical or outdoor grill, shelves; Furthermore, ***the People's Advocate recommended that the management of the Regional Centre for accommodation and procedures for asylum applicants of Radauti, Suceava county,*** should also take the required legal actions in the relevant situation. ***The visited unit and the General Inspectorate for Immigration did not provide an answer by the date of this report;***

- a special room for breastfeeding mothers and mothers with babies was not arranged (*the Regional Centre for accommodation and procedures for asylum applicants of Radauti, Suceava county*). ***The People's Advocate recommended that the General Inspectorate for Immigration*** should take the required legal action to allocate funds for the equipment of a special room for breastfeeding mothers and mothers with babies, with suitable bathtubs and tables for weighing, changing, as well as to prepare food in sterile conditions; the medical staff should especially monitor this situation. Furthermore, ***the People's Advocate recommended that the management of the Regional Centre for accommodation and procedures for asylum applicants of Radauti, Suceava county*** should take the required legal action in the relevant situation. ***The visited unit and the General Inspectorate for Immigration did not provide an answer by the date of this report.***

- the centre did not have a suitable area for entertainment and socialisation activities (*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 Galati*** should identify a space to serve as a club and to remodel it so as to meet the needs for the performance of common activities, for the residents' socialisation and entertainment. ***The visited unit will provide an answer to the recommendation.***

► ***Regarding the lack of specific equipment for persons with disabilities:*** ● *the Regional Centre for accommodation and procedures for asylum applicants of Giurgiu* did not implement the recommendation resulting from the previous visit, regarding the construction of access ramps to the centre, as well as the assembly of grab and movement bars on the corridors and in sanitary facilities, in compliance with the regulations in force on assistance for persons with disabilities. ***The People's Advocate asked that the visited unit should implement the recommendation. The visited unit will provide an answer to the recommendation.***

► ***The following deficiencies were established regarding healthcare supply:***

- the lack of specialized staff to provide permanent medical service to the beneficiaries accommodated in *the Centre for accommodation and procedures for*

*asylum applicants of Timișoara*, the position chart was occupied to an extent of 65% (60 positions, of which 39 taken and 21 vacant), ***the People's Advocate recommended*** to take urgent action to employ staff, including medical staff on the vacant positions, considering the constantly increasing number of asylum applicants, the high number of activities undertaken to fulfil asylum procedures and the need to ensure permanent medical service. ***The visited unit informed*** that it had sent a notice to the central structures (Human Resources Service) asking to resume actions to cover vacancies and to employ a physician and a nurse. With the support of the management of the General Inspectorate for Immigration and the management of the Department for Asylum and Integration, workers from other centres in the country were relocated to the Regional Centre of Timisoara, to help register and process asylum applications, as well as analyse the material status of the asylum applicants accommodated in the centre. At the same time, it mentioned that medical activity was covered by a physician who had a services agreement with the centre and was present 4 times a week, while the fifth day of the week was covered by another physician with a schedule funded through a project of the General Inspectorate for Immigration.

- the absence of addenda to contracts entered with some hospitals of Timisoara with a view to providing specialized healthcare for asylum seekers (*the Centre for accommodation and procedures for asylum applicants of Timisoara*). ***The People's Advocate recommended*** to take the required action to extend the validity of the deadlines stipulated in the contracts for the supply of specialized healthcare for asylum seekers in hospitals. ***The answer of the visited institution stipulated*** that, with a view to solving the situation on the extension of some contracts (entering addenda) by medical units and the Centre for accommodation and procedures for asylum applicants of Timisoara, contact was made with the relevant units and the relevant documents would be drawn up by August 31, 2017. We mention that medical units provide emergency and specialized healthcare in case of need, at the present time;

- 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 visited unit will provide an answer to the recommendation;***

- there was no medical practice and no employed physician (*the Centre for detention and triage within the Border Police of Radauti-Prut, Botosani county*). ***The People's Advocate recommended*** to take legal action with the relevant authorities with a view to meeting the provisions of art. 17 (m) of Law no. 122/2006 on asylum in Romania, as subsequently amended and supplemented, so as to ensure the right to healthcare of persons in the triage room, by entering a collaboration protocol with a general practitioner. ***The visited unit will provide an answer to the recommendation;***

- ▶ ***the supply of psychological assistance:***
  - the centre did not have an employed psychologist - the position was vacant (*the Centre for accommodation and procedures for asylum applicants of Giurgiu, the Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare*). ***The People's Advocate recommended*** that the vacant position of psychologist and the attributions of psychological assessment and assistance, based on Order no. 23/2015 on activities of psychology within the Ministry of Internal Affairs should be covered (*the Centre for accommodation and procedures for asylum applicants of Giurgiu*) or that the centre should employ a freelance psychologist, specialized in psychological counselling, clinical psychology or psychotherapy, who would strictly manage the issue of psychological assistance, and psychological activities provided by volunteers or NGOs should be subsidiary to that (*the Centre for accommodation and procedures for asylum applicants of Somcuta Mare*). ***The visited unit will provide an answer to the recommendation;***

- some reluctance regarding the possibility to approach aliens by psychological services. In the opinion of the visit team, the causes for such reluctance could also be found in the diverse range of activities (besides psychological activities) developed by the physician in the centre, as all these needed significant resources of time and energy from the psychologist, to the detriment of specific psychological assistance activities and contributing to creating an improper perception of the work of a psychologist and its importance (*the Centre for accommodation and procedures for asylum applicants*

of Somcuta Mare). **The People's Advocate recommended** that psychological assistance should be the main activity of the psychologist in the centre, and the other subsidiary activities should be performed by staff qualified in the relevant field. It also recommended that the staff of the centre and collaborators should perform a sustained campaign on the benefits of psychological assistance services within the accommodation and social and cultural integration of migrants in general, and those from the Middle East and the Near east in particular (*the Centre for accommodation and procedures for asylum applicants of Somcuta Mare*). **The visited unit will provide an answer to the recommendation;**

► **the supply of social assistance:** ● the position chart did not include a social worker position (*the Regional Centre for accommodation and procedures for asylum applicants of Galati*). **The People's Advocate recommended that the General Inspectorate for Immigration should take the required legal action** to complete the position chart with a social worker position and to employ a social worker who would provide social assistance services to the beneficiaries of *the Regional Centre for accommodation and procedures for asylum applicants of Galati*. **The General Inspectorate for Immigration will provide an answer to the recommendation;**

● the centre did not have sports materials and items to be provided to beneficiaries (*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 Galati should take the required legal actions to ensure sports activities by providing sports materials and items to be provided to beneficiaries. **The visited unit will provide an answer to the recommendation.**

● the existence of an internet access room with two non-functional computers, that did not allow access to information (*the Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare, Maramures county*). **The People's Advocate recommended** to solve the deficiencies or purchase equipment (computers) that would allow the persons in the centre to access information. **The visited unit will provide an answer to the recommendation.**

***Regarding other aspects:***

● in *the Regional Centre for accommodation and procedures for asylum applicants of Somcuta Mare, Maramures county* some asylum seekers were accompanied by under age persons who acquired a form of protection, i.e. the status of refugee on May 19, 2017. Based on art. 1 of Emergency Ordinance no. 44/2004 as subsequently amended and supplemented, if they wanted to benefit from the rights awarded by the Romanian state, they had to apply for the integration programme by June 19, 2017, which did not happen. Thus, it was found that the Government Ordinance no. 44/2004 did not provide exceptional situations on the application for the integration programme over the 30 days deadline, not even for special cases. ***The People's Advocate recommended*** that the Ministry of Internal Affairs should take the required legal action to complete art. 16 of the Government Ordinance no. 44/2004, as subsequently amended and supplemented, on the social integration of aliens who acquired a form of protection or a right to stay in Romania, as well as citizens of member states of the European Union and the European Economic Area, with the provision that, for the persons who acquired international protection in Romania and belong to a category of vulnerability stipulated by Law no. 122/2006 on asylum in Romania, the 30-days deadline for submitting an application for admission in the integration programme may be extended on a case by case basis. ***The Ministry of Internal Affairs will provide an answer to the recommendation.***

***\* Two visit reports were completed in 2017 regarding visits performed in 2016:*** to the *Centre for detention and triage within the Border Police of Turnu Magurele, Teleorman county*, with a view to checking the detention conditions and treatment of illegal migrants and to the *Centre for accommodation of aliens in public custody of Otopeni*, for the check of accommodation conditions and the treatment applied to beneficiaries. ***The reports drawn up after the visits were performed included the following positive aspects:***

► ***accommodation conditions:*** ● accommodation rooms were equipped with proper facilities, with natural light and suitable artificial lighting, had TV sets with

access to foreign television stations, the privacy of the persons in custody in the sanitary facilities was ensured (*the Centre for accommodation of aliens in public custody of Otopeni*);

► **counselling:** ● the aliens in custody were entitled to daily visits by their legal representatives, by the representatives of diplomatic and consulate missions, the representatives of national and international governmental and non-governmental organizations and by their relatives three times a week (*the Centre for accommodation of aliens in public custody of Otopeni*);

► **medical assistance:** allocation to a diet was made at the physician's indication, according with the existing pathology, religious beliefs and diet preferences (vegetarians, vegans). This was stipulated in the register for diets; ● the centre had a physician and employed medical staff or had entered a services agreement with a physician; ● aliens accommodated in the centre benefitted from medical examinations, additional paraclinic investigations and specialized medical examinations in public medical facilities, they received medicines free of charge, based on a medical prescription issued by the physician of the centre; ● the centre was equipped with its own ambulance (*the Centre for accommodation of aliens in public custody of Otopeni*);

► **psychological assistance:** ● the centre had employed a full-time psychologist, specialized through postgraduate professional training courses in the field of alien custody ● covering prophylactic psychological assistance services for aliens accommodated in the centre (*the Centre for accommodation of aliens in public custody of Otopeni*).

*A range of deficiencies resulted from the visits 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.

► **accommodation conditions:** ● the room for the accommodation of women had two beds with new bedsheets, pillows and blankets, in sealed bags, two large windows, with no curtains that would ensure suitable privacy and its own sanitary facility, without lighting, only equipped with a toilet and a basin, with no shower cabin providing minimum individual hygiene for the detained persons (*the Centre for*

*detention and triage within the Border Police of Turnu Magurele, Teleorman county;*

***the People's Advocate recommended:*** ● to arrange the triage room in the Crossing Point of the Border Police of Turnu Magurele, according to the system procedure on the organization and operation of the triage room no. 490 of September 1, 2016, first edition, issued by the General Inspectorate of the Border Police, since, on the date of the visit, it was not arranged/furnished, with no conditions and with a careless appearance; ● to remodel the sanitary facilities in both rooms for illegal migrants, i.e. the women's room and the men's room, to purchase and mount a shower cabin in each room, since no shower cabin was provided within the sanitary facility as of the date of the visit, and the detained persons were not provided with the possibility of minimum individual hygiene; ● to purchase and mount curtains that would provide suitable privacy in the room for the accommodation of women (illegal migrants) in the triage room in the Crossing Point of the Border Police of Turnu Magurele, since there were none as of the date of the visit; ● ensuring illumination in the sanitary facility of the room dedicated for the accommodation of women (illegal migrants) within the Crossing Point of the Border Police of Turnu Magurele; ● the room for the accommodation of women was not furnished and had a careless aspect (e.g. mouldy carpet, rubbish cluttered in a corner of the room, dust and spider webs), it had its own sanitary facility only equipped with a water closet and a basin, with no shower cabin to provide the detained with minimum individual hygiene. The area of the room was so small (a visually determined aspect) that only a one-person bed could have been placed (*the Centre for detention and triage within the Border Police of Turnu Magurele, Teleorman county*);

***The People's Advocate recommended:*** ● to arrange and sanitize the room for the accommodation of men (illegal migrants) of the Crossing Point of the Border Police of Turnu Magurele; ● to arrange the triage room of the Crossing Point of the Border Police of Turnu Magurele according to the System procedure on the organization and operation of the triage room no. 490 of September 1, 2016, edition 1, issued by the General Inspectorate of Border Police, since it was not arranged/furnished on the date of the visit, with no conditions and with a careless aspect;

● the triage room was not arranged/furnished, with no conditions and with a careless aspect; it was locked and sealed (*the Centre for detention and triage within the Border Police of Turnu Magurele, Teleorman county*); ***the People's Advocate recommended:*** ● to arrange the triage room of the Crossing Point of the Border Police of Turnu Magurele according to the System procedure on the organization and operation of the triage room no. 490 of September 1, 2016, edition 1, issued by the General Inspectorate of Border Police, with a view to ensuring natural light and artificial lighting, since it had no windows and artificial illumination system on the date of the visit: it was obscure and equipped with some wooden benches.

● the rooms were not heated on the date of the visit (*the Centre for detention and triage within the Border Police of , Turnu Magurele, Teleorman county*). ***The People's Advocate recommended:*** ● to provide thermal comfort with suitable temperatures depending on the season (warm or cold) in the part of the building where the Crossing Point of the Border Police of Turnu Magurele operates, respectively in the rooms where detainees were accommodated and in their triage room, as well as the office of the employees, as they were not heated on the date of the visit; ● to arrange a new accommodation room, depending on the available area of the Crossing Point of the Border Police of Turnu Magurele, to provide accommodation for as many people as possible (illegal migrants), equipped with furniture, facilities and its own sanitary facilities, since 14 persons trying to cross the border were held in October 2016 and the accommodation capacity at that time was of only three places, of which two in the women's room and one in the men's room, where no beds were installed ● to arrange the triage room of the Crossing Point of the Border Police of Teleorman according to the System procedure on the organization and operation of the triage room no. 490 of September 1, 2016, edition 1, issued by the General Inspectorate of Border Police, with a view to ensuring natural light and artificial lighting, since it had no windows and artificial illumination system on the date of the visit: it was obscure and equipped with some wooden benches.. ***The visited unit answered that:*** the recommendations regarding the supply of thermal comfort, the arrangement of the triage room, the arrangement of sanitary facilities in the triage room of the Turnu Magurele Border

Crossing Point cannot be met, since improvement or addition works are needed in the area, and the building is not held by the Ministry of Internal Affairs: it is only managed by the Local Council of Turnu Magurele (through S.C.Eurobac SRL); the recommendations on the sanitization of the room for the accommodation of men (illegal migrants) and the replacement of the broken bulb in the triage room of the Turnu Magurele Border Crossing Point were met. ***Since a punctual answer to the recommendations of the People's Advocate was not provided, but the answer was incomplete, inaccurate and generic, approaches were pursued to inform the superior authority, i.e. the Ministry of Internal Affairs.***

► ***regarding healthcare:*** the existence of a vacant position as a nurse, which made impossible to ensure permanent service on some days (*the Centre for accommodation of aliens in public custody of Otopeni*). ***The People's Advocate*** recommended that the vacant position as a nurse should be covered, in order to fully cover the shifts, even on holidays. ***The visited unit answered*** that various efforts were made to occupy the position of principal nurse, since November 2016, in order to provide continuous and specialized medical services on all four shifts (the mentioned position was published from an external source on November 26, 2016, but it could not be covered; the two applicants did not meet the application requirements and no nurse from an internal source had been identified by the date of the answer, who could occupy the mentioned position). The efforts were resumed after receiving the recommendation from the People's Advocate institution;

► ***Regarding the brief psychological assessments performed by the psychologist (the Centre for accommodation of aliens in public custody of Otopeni), the People's Advocate recommended*** to amend and supplement the psychological observation sheet by introducing essential headings for the psychologist's results, conclusions and recommendations, along with the actions to be taken pursuant to the assessment. ***The visited unit answered that a new work procedure on psychological assistance*** in public custody centres subordinated to the Department for Migration - General Inspectorate for Immigration ***had been approved and introduced in the activity of psychological assistance.*** This procedure included all the elements and

recommendations issued by the People's Advocate institution. ● ► **Regarding staff training** (*the Centre for accommodation of aliens in public custody of Otopeni*), **the People's Advocate recommended** to train the staff of the centre so as to recognize the residents' possible symptoms to stress reactions. **The management of the centre answered** that additional training sessions aimed at recognizing and promptly signalling possible stress symptoms of the residents in custody have been performed, are performed and are scheduled to be performed, within the monthly training activity with the staff of the centre.

► **Regarding other aspects notified** pursuant to the visit to *the Centre for accommodation of aliens in public custody of Otopeni*, **the People's Advocate also issued two recommendations that the centre should supply clothing**, since this was only acquired by means of non-governmental organizations or by migrants as of the date of the visit and **to take action with the superior authority, for including a position of social worker in the organizational chart of the centre**. Since both the management of the Centre for accommodation of aliens in public custody of Otopeni, and the management of the General Inspectorate for Immigration failed to acknowledge the recommendations, the efforts shall be pursued.

### **Proposals:**

- to complete art. 16 of the Government Ordinance no. 44/2004, as subsequently amended and supplemented, on the social integration of aliens who acquired a form of protection or a right to stay in Romania, as well as citizens of member states of the European Union and the European Economic Area, with the provision that, for the persons who acquired international protection in Romania and belong to a category of vulnerability stipulated by Law no. 122/2006 on asylum in Romania, the 30-days deadline for submitting an application for admission in the integration programme may be extended on a case by case basis.

- to adopt coherent legal provisions on the supply of medical assistance by amending 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 acquiring some form of protection;

- to employ specialized staff for the supply of medical services to beneficiaries accommodated in centres for accommodation and procedures, so that medical activities performed by workers in other centres in the country or abroad or by employees of NGOs are subsidiary thereto;

- to cover the vacant positions of psychologist and the attributions of psychological assessment and assistance, based on Order no. 23/2015 on activities of psychology within the Ministry of Internal Affairs by employing a freelance psychologist, specialized in psychological counselling, clinical psychology or psychotherapy, who would strictly manage the issue of psychological assistance, so that psychological activities provided by volunteers or NGOs should be subsidiary to that;

- to arrange triage rooms within the Territorial Services of the Border Police, based on the system procedure no. 940/2016 on the organization and operation of the triage room, issued by the General Inspectorate of the Border Police, since they were not properly equipped on the date of the visits;

- to provide suitable accommodation conditions by performing the cleaning and sanitization and repairs of sanitary facilities, replacing worn facilities, purchasing furniture and devices for rooms, sanitizing mattresses;

- to disseminate the attributions of the People's Advocate institution as an autonomous constitutional public authority, independent from any other public authority, the only national structure designated to exercise the specific attributions of a National Mechanism for Prevention of Torture in detention places, through the field regarding prevention of torture in detention places;

- that the General Inspectorate for Immigration should inform the units holding places where the People's Advocate institution exercises its attribution on prevention of torture regarding the competence of the field regarding prevention of torture in detention places to monitor the treatment applied to persons in public or private

detention places on a regular basis, with a view to reinforcing their protection against torture and inhuman or degrading punishment and treatment, and the indiscriminate exercise of their fundamental rights and freedoms.

### ***VI. 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 lawsuit, 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 lawsuit.

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.

Persons who are detained or subject to preventive arrest in preventive detention and arrest centres are subject to a distinct execution status, with a view to a proper development of the criminal process, with the observance of fundamental rights,

consisting in ensuring measures for the guard, supervision, escort and restraint of the freedom of movement of persons in custody, as well as maintaining order and discipline.

Preventive detention and arrest centres must be organized and arranged so as to ensure the required conditions for the enforcement of the execution of preventive freedom-depriving measures during criminal prosecution, the performance of accommodation, feeding, equipment, supply of medical assistance and epidemiological triage, individual and collective hygiene.

The execution of punishments and freedom-depriving measures in preventive detention and arrest centres subordinated to the Ministry of Internal Affairs is supervised by the supervisory judge for freedom deprivation, designated by the chair of the Court of Appeal with jurisdiction over preventive detention and arrest centres, on an annual basis.

The structure coordinating preventive detention and arrest centres is organized and operates within the General Inspectorate of Romanian Police and is represented by the Service for the Coordination of Preventive Detention and Arrest Centres (art. 234 par. (1) of the Rules for the enforcement of Law no. 254/2013 on the execution of punishments and freedom-depriving measure decided by legal bodies within the criminal lawsuit approved by Government Decision no. 157/2016).

At a territorial level, preventive detention and arrest centres are organized and operate within the General Police Department of Bucharest and within each County Police Inspectorate, being managed by a head. The specific attributions of preventive detention and arrest centres are performed based on the Rules of organization and operation of the units, along fields of activity, by means of the departments in the organizational structure.

The rules on the organization and operation of preventive detention and arrest centres, as well as the required measures for their safety, **have not been drawn up so far**, which is why the provisions of **Order no. 988/2005 on the approval of the Regulation on the organization and operation of preventive detention and arrest places in the police units of the Ministry of Administration and Internal Affairs**

are still applicable (the provisions of this latter normative act are applicable provided that they do not infringe superior regulations).

***Based on the rules of the European Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)***, police custody is or should be for a short time. Conditions of detention in the accommodation rooms of the police should meet certain elementary requirements.

Preventive arrest rooms must be clean and reasonably sized, considering the number of persons that can be held in custody and they should have proper and sufficient lighting; preferably, natural light. Moreover, rooms should be arranged so as to allow rest (for instance a chair or a fixed sofa), and persons who have to spend the night in detention must be provided with their own mattress and blanket. Persons in police custody should have access to clean toilets, in decent conditions, as well as suitable means to wash themselves, access to potable water at any time and receive food at suitable hours. Persons who are detained in police custody for at least 24 hours should be provided with the possibility of outdoor exercise on a daily basis, whenever possible.

If the conditions in preventive detention and arrest centres fail to meet these minimum standards, prejudices are caused to the persons in custody. The obligation of the police to look after the persons in its custody includes its responsibility of securing their security and physical integrity. Therefore, the adequate supervision of detention spaces is an inherent component of this obligation undertaken by the police. 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, in a 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 taken by legal bodies during the criminal lawsuit • Decision of the Romanian Government 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 legal bodies during the

criminal lawsuit; • Law no. 169 of July 14, 2017 on the amendment and supplementation of Law no. 254/2013 on the execution of punishments and freedom-depriving measures taken by judicial bodies in the criminal lawsuit; • Order no. 988/2005 of the ministry of Administration and Internal Affairs on the approval of the Regulation on the organization and operation of preventive detention and arrest places in the police units of the Ministry of Administration and Internal Affairs; • Activity-specific procedures (Procedure on medical activities in preventive detention and arrest centres, procedure on the psychological assistance of persons in the custody of preventive detention and arrest structures of the Romanian Police, Procedure on the integrated assistance of persons deprived from freedom who use drugs and are held in preventive detention and arrest centres, etc.); • Internal rules drawn up by the management of each detention place, based on the legal criminal framework

*During 2017*, 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 **11 visits** to preventive detention and arrest centres (Romanian abbreviation: C.R.A.P.), i.e.: The Preventive Detention and Arrest Centre of Buzau; the Preventive Detention and Arrest Centre no. 1 of Bucharest; the Preventive Detention and Arrest Centre no. 10 of Bucharest; the Preventive Detention and Arrest Centre of Teleorman; the Preventive Detention and Arrest Centre no. 3 of Bucharest; the Preventive Detention and Arrest Centre of Salaj; the Preventive Detention and Arrest Centre of Cluj; the Preventive Detention and Arrest Centre of Harghita; the Preventive Detention and Arrest Centre of Iasi; the Preventive Detention and Arrest Centre of Vrancea; the “Dr. Nicolae Kretzulescu” Medical Centre for Diagnostic and Treatment of Bucharest.

*In 2017 as well*, answers were provided by the authorities to recommendations included in the visit reports drawn up pursuant to visits performed in 2016 in **7 centres**, i.e.: la C.R.A.P. no. 1 Bucharest, C.R.A.P. no. 5 Bucharest, C.R.A.P. Neamţ, C.R.A.P. Vaslui, C.R.A.P. Mehedinţi, C.R.A.P. Timiş and C.R.A.P. Vâlcea.

In the exercise of the mandate of the National Prevention Mechanism, we remind the event that took place at Police Department 26 of the Police of the 4<sup>th</sup> district of Bucharest, where *the visit team of the People's Advocate institution was denied access to the police department*, though the representatives of the institution *showed their business identifications*, and the representative of the non-governmental organization GRADO showed his *identity document, along with the power of attorney* no. 13973/15.09.2017 issued by the People's Advocate. The visit team explained the purpose of the spot visit, asking that the head of Police Department 26 Bucharest should be notified of the presence of the visit team of the People's Advocate institution at the unit. *Pursuant to the actions taken by the People's Advocate, the General Inspectorate of Romanian Police, through the Service for the Coordination of Preventive Detention and Arrest Centres, send answer no. 656/20 of December 20, 2017, informing that it had sent to all subordinated units benchmarks regarding the activity of the field regarding prevention of torture in detention places, fulfilling the specific attributions of National Preventive Mechanism of torture in detention places, in the meaning of the Optional Protocol, also referring to the inclusion of topics regarding the National Torture Prevention Mechanism in continuous professional training, including representatives of the People's Advocate institution being invited as lecturers.*

Aspects monitored within visits refer to accommodation, hygiene and sanitation conditions, food and water quality, the treatment applied to persons deprived from freedom, medical assistance, psychological and social assistance, informing persons deprived from freedom on their rights, the possibility to make contact with the family and the legal defender, categories of vulnerable persons (women, under age persons, persons with disabilities, LGBT, victims of torture).

► *Positive aspects were found during the visits performed in 2017, such as:*

- *regarding accommodation conditions:* ● the food dispensing room was equipped with a refrigerator and a freezer where persons deprived from freedom could

also store food brought by their families (*C.R.A.P. Iași*);● the centre included a building where the persons held in custody were heard. The same room was used for the visits of elected defenders, of the psychologist, of the priest, the notary public, etc. As for the hearing of persons deprived from freedom by state authorities, based on art. 51 (4) and Law no. 254/2013 on the execution of punishments and freedom-depriving measures decided by judicial bodies during a criminal lawsuit, this was done on a confidential basis (*C.R.A.P. Neamț*);● the centre was undergoing modernization and sanitization, so all the 15 detention rooms were equipped with air conditioning and had been sanitized (*C.R.A.P. Neamț*); ● the centre did not face overcrowding (*C.R.A.P. Teleorman; C.R.A.P. Buzău*);● accommodation rooms were equipped with modern beds with a staircase and drawers (for the persons deprived from freedom to store their luggage), air conditioning, insulated windows with a mesh net and metal grid, etc. (*C.R.A.P. Teleorman*);● most accommodation rooms were equipped with air conditioning, clean and sanitized, provided with suitable furniture (tables to eat, chairs, TV sets, new mattresses and beds purchased in April 2017), every room had basins and mirrors, as well as their own sanitary facility (*C.R.A.P. Buzău*).

● **Regarding healthcare:**● the supply of first aid medical kits and training the employed staff for the application of manoeuvres to ensure vital support in case of emergency (*C.R.A.P. no. 3 Bucharest*);● a medical practice and a dentistry practice operated within the centre. A practice for medium-level and auxiliary medical staff and an area for the supply of medical treatment were also available (*C.R.A.P. No. 1 Bucharest*);● the centre had its own ambulance, used to transport arrested people to examinations and/or admissions to other hospitals, or the 112 service was used in such cases (*C.R.A.P. No. 1 Bucharest, C.R.A.P. Teleorman, C.R.A.P. Buzău*);● ensuring the supply of medical services on a permanent basis (*C.R.A.P. Teleorman, C.R.A.P. Buzău*);● the existence of a physician employed by the centre (*C.R.A.P. Buzău*);● the existence of a collaboration protocol between the centre and the Emergency Unit of the Buzau County Emergency Hospital (*C.R.A.P. Buzău*);● the existence of a register for marks of trauma and physical signs of ill treatment/abuse or torture, as well as clear action procedures for such cases (*C.R.A.P. Buzău, C.R.A.P. No. 3 Bucharest*).

● **Regarding psychological assistance:** ● the management of the centre provided the required space and facilities for the supply of psychological assistance, respecting confidentiality, under direct visual supervision or by means of electronic systems (*C.R.A.P. Buzău*); ● a sign was posted on the doors of detention rooms informing that persons deprived from freedom could benefit from psychological assistance and counselling (*C.R.A.P. No. 3 Bucharest*);

● access to psychological assistance was made upon request of persons deprived from freedom, by two psychologist officers (*C.R.A.P. Teleorman*); ● 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, in force as of January 30, 2012, and are recorded by the psychologist in the register of professional documents (*C.R.A.P. Sălaj*).

► **As for the preventive detention and arrest centres visited in 2017, the following deficiencies were found:**

● **Regarding accommodation conditions:** ● proper lighting was not ensured in some accommodation rooms (*C.R.A.P. Buzău*) or artificial lighting was ensured by neon tubes, placed above the doors of the rooms and failed to provide the required light in all the room, so that one could read in any area of the room while they were turned on (*C.R.A.P. Sălaj, C.R.A.P. Harghita*). **The People's Advocate recommended that C.R.A.P. Buzău** should take action to ensure optimal and suitable artificial lighting in accommodation rooms, and **C.R.A.P. Sălaj and C.R.A.P. Harghita** should solve issues regarding artificial lighting in accommodation rooms, so that they might provide the light required for the proper development of activities such as reading or writing. **The management of C.R.A.P. Buzău informed that** led bulbs were mounted in all areas, providing the persons with the possibility to read or write, **the management of C.R.A.P. Sălaj informed** that it had set March 2018 as the maximum deadline for the completion of works in the recommendation, **and the management of C.R.A.P. Harghita will answer the recommendations;** ● The detention rooms in *C.R.A.P. Iași*

were narrow and dark, as windows were covered with grids that prevented light and proper ventilation. Windows were small, failed to ensure natural light and proper ventilation, and the bulbs placed above the doors were not enough to ensure artificial lighting (*C.R.A.P. Iași*). ***The People's Advocate recommended that C.R.A.P. Iași should solve issues regarding artificial lighting in accommodation rooms, so that it might provide the light required for the proper development of activities such as reading or writing. The management of C.R.A.P. Iași will answer the recommendations;*** • the rooms were not equipped with air conditioning and were improperly sanitized, with dirty walls. They also had no furniture (except for beds and some benches), and the prisoners had to eat in bed. The furniture included metal bunk beds with old and dirty mattresses, in an advanced wear state, and the prisoners were not happy with these conditions (*C.R.A.P. Iași*). ***The People's Advocate recommended that C.R.A.P. Iași should ensure proper natural ventilation and the assembly of air conditioning facilities in all detention rooms; sanitizing detention rooms, sanitary facility and replacing faulty facilities, equipping all rooms with new beds and mattresses, with TV sets, as well as the required furniture for serving meals and keeping personal goods and items, arranging a dining room or providing detention rooms with suitable furniture for serving meals*** ***The management of C.R.A.P. Iași will answer the recommendations;*** • none of the 5 rooms was equipped with specific furniture for the needs of persons with disabilities (*C.R.A.P. no. 3 Bucharest*). The People's Advocate recommended that the management of *C.R.A.P. no. 3 Bucharest* should examine the possibility to equip at least one detention room with specific furniture for the needs of people with disabilities. ***The management of C.R.A.P. no. 3 Bucharest will answer the recommendations;*** • sanitary facilities were not properly equipped (adapted) for persons with locomotor issues or various physical disabilities, also for access to the sanitary facility (*C.R.A.P. Buzău*). ***The People's Advocate recommended that C.R.A.P. Buzău should adapt at least a sanitary facility with special facilities for persons with locomotor issues or various physical disabilities, as well as ensure access to the sanitary facility. The management of C.R.A.P. Buzău informed that, in case of detention of a person with locomotor issues or various degrees of***

disability, under the coordination of the Service for the Coordination of Preventive Detention and Arrest Centres of the General Inspectorate of the Romanian Police, this will be redirected to the closest preventive detention and arrest centre meeting the specific requirements for the accommodation of such a person. Against the same background, the issue of the configuration of the building of the Buzau County Police Inspectorate was raised, as the centre operates in its basement and it does not allow to adapt or arrange additional ways of access for persons with locomotor disabilities; • both sanitary facilities needed improvement works, and the absence of sanitary facilities in detention rooms generated degrading treatment, since a person deprived from freedom should not depend on the staff of the centre to meet his/her physiological needs (*C.R.A.P. Harghita*). ***The People's Advocate recommended that C.R.A.P. Harghita*** should remodel sanitary facilities and repair their installations, as well as gradually arrange sanitary facilities equipped with their own toilets, basins and showers in detention rooms. ***The management of C.R.A.P. Harghita will answer the recommendations***; • a lack of privacy at the common sanitary facility was found (*C.R.A.P. Teleorman*), and the sanitary facilities in the rooms were delimited by the rest of the room with a walled parapet, with a height of about 150 cm, with access being made through a curtain-less door (*C.R.A.P. Sălaj*). ***The People's Advocate recommended that C.R.A.P. Teleorman*** should provide the privacy in the common sanitary facility for male persons, with an access door or a curtain, and ***C.R.A.P. Sălaj*** should fully delimit the sanitary facilities in the rooms from the rest of the room in order to ensure the privacy of persons deprived from freedom. ***The management of C.R.A.P. Teleorman answered*** that it had taken action to mount a curtain to ensure privacy in the common sanitary facility for male persons, and the ***management of C.R.A.P. Sălaj informed*** that December 2017 was set as the maximum deadline for the completion of works in the recommendation; • the common sanitary facility had a concrete-made basin, a shower cabin and a water closet, separated by a separating wall, all in a very advanced state of wear (*C.R.A.P. Sălaj*). ***The People's Advocate recommended that C.R.A.P. Sălaj*** should remodel the common sanitary facility and repairs its installations. ***The management of C.R.A.P. Sălaj informed that the***

common sanitary facility was partly remodelled, but the process was stopped for lack of funds, with March 2018 being set as the maximum deadline for the completion of works; ● the rooms were equipped with a sanitary facility with a shower, a basin and a water closet, but, based on the observations of the visit team members, the sanitary facility was not isolated; it was only separated from the rest of the room through a curtain that did not fully ensure the privacy of persons deprived from freedom and had to ventilation (*C.R.A.P. no. 10 Bucharest*). ***The People's Advocate recommended that C.R.A.P. no. 10 Bucharest*** should pursue the general sanitization, repairs and improvement of the areas of the centre with a view to ensuring optimal hygiene and sanitation conditions. ***The management of C.R.A.P. no. 10 Bucharest will answer the recommendations***; ● detention rooms had no sanitary facilities or showers, but there was another room to this purpose on the hall, where the persons in the centre could shower twice a week, with one hour being allocated for such activity. The bathroom was not properly equipped to cover the needs of the arrested persons, it was not sanitized, it had mould on the walls and rust on the installations. Sanitary installations were old, sometimes rusty, and the hygiene was precarious. The only sanitary facility to be used by prisoners was insalubrious, and women had access to the sanitary facility separated from the men, alternately. The persons held in custody at the centre only had access to the sanitary facilities until 11-12 p.m. After these hours, they had to meet their physiological needs in their rooms, in plastic bottles or buckets (*C.R.A.P. Iași*). ***The People's Advocate recommended that C.R.A.P. Iași*** should sanitize the bathroom and the sanitary facility, replace the faulty installations, as well as ensure the prisoners' access to the toilet at night too, since, according to the Guidelines of the European Committee for Prevention of Torture and Inhuman or Degrading Punishment or Treatment (C.P.T.), "*Persons in custody should be allowed to meet their natural needs when they want to, in decent and cleanliness conditions, as well as be provided with suitable conditions to wash themselves*". ***The management of C.R.A.P. Iasi will provide an answer to the recommendations. The People's Advocate recommended that the Ministry of Internal Affairs*** should take the required legal actions to allocate the required funds to complete investment works in C.R.A.P. Iași, with a view to

ensuring accommodation conditions for prisoners of C.R.A.P. Iași. ***The Ministry of Internal Affairs will provide an answer to the recommendation;*** • the absence of the required equipment in walking yards with benches or chairs for relaxation (C.R.A.P. Buzău, C.R.A.P. Iași). ***The People's Advocate recommended that C.R.A.P. Buzău should equip the walking yard with suitable furniture. The management of C.R.A.P. Buzău informed that*** the Logistic Service of the Buzau County Police Inspectorate will analyse the characteristics of the building and the possibility to install fixed chairs and benches, providing conditions for persons deprived from freedom. ***The People's Advocate recommended that C.R.A.P. Iași should arrange walking yards with the required equipment (tables, chairs, benches, roof) so that they could also be used in unfavourable conditions, as well as arrange toilets and install sources of potable water within their perimeter. The walking yard of C.R.A.P. no. 3 Bucharest was very small, segmented with metal grids, which provided the appearance of a cage, and had no roofing to protect against bad weather. According to the CPT Guidelines on space for persons deprived from freedom, yards for walking and physical exercise must be spacious and properly equipped, to provide persons deprived from freedom with the possibility to perform sports; they should also be properly equipped for rest (benches) and include areas sheltered against bad weather. 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 (rains, strong sun, etc.). The management of C.R.A.P. no. 3 Bucharest will provide an answer to the recommendations;*** • the failure to observe hygiene and sanitary conditions to keep food samples (C.R.A.P. Teleorman). ***The People's Advocate recommended that C.R.A.P. Teleorman should change the location of the refrigerator for the storage of such samples, properly label the containers for the storage of samples with the date and hour of sampling, mount a thermometer inside the refrigerator or post the temperature chart in a visible and accessible place. The management of C.R.A.P. Teleorman answered that*** the place of the refrigerator for the storage of food had been changed, and that containers for the storage of samples were labelled with the date and hour of

sampling on a daily basis; a thermometer was mounted in the sample-storage refrigerator and the temperature chart was drawn up; • no food samples had been taken which would kept a specially dedicated refrigerator for 72 hours, according to the sanitary guidelines in force (*C.R.A.P. Sălaj*). ***The People's Advocate recommended that C.R.A.P. Sălaj*** should take food samples to be kept in a special refrigerator for this purpose, for 72 hours, according to the sanitary guidelines in force. ***The management of C.R.A.P. Sălaj informed*** that the recommendation had been implemented.

• ***Regarding healthcare:*** • the emergency equipment in the medical practice was not provided with all medicines and sanitary materials according to the standards in force (*C.R.A.P. Sălaj*). ***The People's Advocate recommended*** to take the required action to provide the medical practice with emergency equipment with medicines and sanitary materials according to the standards in force. ***The visited institution answered that,*** in cooperation with the Medical Centre of Salaj, July 2018 had been set as the completion deadline; • the centre did not have a medical practice arranged and equipped according to the Order no. 153/2003 issued by the Ministry of Health and Family, but an area for this purpose was arranged, where the medical visits of persons brought to the centre were preformed, and, regarding the medical staff, on the date of the visit, the position of physician included in the staff scheme, in order to supply medical assistance to persons deprived from freedom in custody at the centre, was vacant(*C.R.A.P. Iași*). ***The People's Advocate recommended*** to take the required actions to improve medical assistance to arrested persons by employing medical staff (physician, medical nurses) for the vacancies, as well as by arranging and equipping a medical practice within the centre. ***The management of C.R.A.P. Iasi will provide an answer to the recommendations.*** • The medicines prescribed by the physician to persons deprived from freedom were given out according to the physician's recommendations, by the medical staff or the staff on duty (policemen) in the centre (*C.R.A.P. Iași*). ***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 PS-01-DM drawn up by the Medical Department of the

Ministry of Internal Affairs. ***The management of C.R.A.P. Iasi will provide an answer to the recommendations.*** • no medical practice existed, 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 Minister of Administration and Internal Affairs should take the required legal action to establish a medical practice. ***The Ministry of Internal Affairs will provide an answer to the recommendations.*** • there was no register for the administration of treatments, keeping clear records of the administered medicines, with the names of the persons who receive them, the date and hour of administration, receipt signature (C.R.A.P. no. 10 Bucharest). ***The People's Advocate recommended*** that the management of the centre should draw up a register for the administration of treatments, keeping clear records of the administered medicines, with the names of the persons who receive them, the date and hour of administration, receipt signature. ***The management of C.R.A.P. no. 10 Bucharest will provide an answer to the recommendations.*** • the centre did not have a register for traumas and physical signs of ill treatment/abuse or torture (C.R.A.P. no. 10 Bucharest). ***The People's Advocate recommended*** that the management of the centre should keep a register for traumas and physical signs of ill treatment/abuse or torture. ***The management of C.R.A.P. no. 10 Bucharest will provide an answer to the recommendations.***

• ***Regarding psychological assistance:*** • the persons interviewed in the centre claimed that they had not received information on the possibility to request psychological assistance and that they had not been informed on their rights (C.R.A.P. Buzău). ***The People's Advocate recommended*** that the management of the centre should have a weekly informative meeting with the psychologist and that persons deprived from freedom should be encouraged to request psychological assistance and counselling services during their custody. ***The visited unit informed*** that, when brought to the centre, every person is informed on his/her rights and obligations during

the custody, on a signature basis; these rights and obligations can also be studied both in detention rooms and at the centre's library, and all these areas have a copy of the internal rules which stipulate the Offer of educational, psychological and social assistance programmes and activities; ● the information regarding the possibility to access psychological assistance services was not clearly stated in the protocol informing on rights and freedoms, entered by the management of the centre and the prisoner/arrested person immediately after such arrest, based on the provisions of Law no. 254/2013, art. 111 (2) "Persons in preventive detention and arrest centre are usually accommodated in common areas; they may perform work upon request to the benefit of the centre and may benefit from psychological, moral and religious assistance, within the centre, under guard and surveillance, as stipulated in the rules for the enforcement of this law"(C.R.A.P. Sălaj). *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 answered* that the recommendation was implemented. ● **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 lawsuit. "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. Sălaj). *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. *The visited unit informed* that the recommendation had been implemented; ● **no psychological assistance was provided to all under age persons in custody in the centre**, according to the law (C.R.A.P. Harghita). *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. *The visited unit will provide an answer to the recommendations.* ● no

area was provided as 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 (*C.R.A.P. Harghita*). ***The People's Advocate recommended*** that the management of the centre should provide an area as a psychological practice. ***The visited unit will provide an answer to the recommendations.***

● ***Other issues:*** ● the Order on the establishment, organization and operation of preventive detention and arrest centres 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 lawsuit, as subsequently amended (*C.R.A.P. no. 3 Bucharest*). ***The People's Advocate issued a recommendation to the management of the Ministry of Administration and Internal Affairs, to take the required legal action to adopt the Order of the Ministry of Internal Affairs on the organization and operation of preventive detention and arrest centres,*** to observe 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 lawsuit, as subsequently amended, since, on the date of the visit, the centre was organized and operated based on the Order of the Ministry of Administration and Internal Affairs no. 988/2005 on the approval of the Regulation on the organization and operation of preventive detention and arrest places of the police units of the Ministry of Administration and Internal Affairs. ***The Ministry of Administration and Internal Affairs*** will provide an answer to the recommendation ● the centre 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 in the detention centre, so that persons deprived from freedom could freely exercise their right to petition and their right to correspondence, as well as complete art. 32 of the Internal Rules of *C.R.A.P. no. 3* on

the right to petition, i.e. introduce, after <to the management of the Centre>, the phrase *public authorities, public institutions, judicial bodies, etc.*”, since, on the date of the visit, this stipulated as follows: “In order to defend their rights or interests, persons deprived from freedom or any authorized person, institution, governmental organization may file demands, complaints and notices to the management of the Centre”. Based on art. 63 (2) of Law no. 254/2013 “*the term <petition> includes any request or application addressed to public authorities, public institutions, legal bodies, national and international courts*”, not only to the administration of the detention place. ***The management of C.R.A.P. no. 3 Bucharest will provide an answer to the recommendation.*** • 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*** to visibly display in the centre the 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. ***The management of C.R.A.P. no. 3 Bucharest will provide an answer to the recommendation.***

► ***Positive aspects were found during the 2016 visits where the answer from the visited institutions was received in 2017, such as:***

- ***regarding accommodation conditions:*** • the concern of the management of the centres to improve the custody conditions of prisoners, through various investment requests (C.R.A.P. Timiș, C.R.A.P. Vâlcea); • the replacement of windows and doors, the use of sandstone and ceramics in the sanitary facilities, painting some detention

rooms, purchasing a washing machine to wash bed sheets and the clothes of persons subject to preventive detention and arrest and an automatic dryer, improving the access door to the centre, i.e. it was equipped with an electrically opened system, operated from the office of the head of the shift, providing an interphone with a panic button in the visit room, with a correspondence in the office of the head of the shift (*C.R.A.P. Timiș*); ● separation of accommodation areas and administrative areas. Furthermore, pursuant to the implementation of the Norwegian mechanism for the reinforcement of the preventive detention and arrest capacity, 10 air conditioning devices were mounted in detention rooms and isolated windows were mounted in all detention rooms. The detention area was remodelled according to the specific destinations of the detention areas within the centre, and accommodation could be provided in 10 detention rooms at the moment of the visit, for no more than 30 persons deprived from freedom, ensuring the compliance with the area of 4 sqm/person deprived from freedom (*C.R.A.P. Vâlcea*); ● works for the improvement and separation of the detention area from the administrative area, moving the medical practice and the command office to the administrative area (*C.R.A.P. Mehedinți*); ● the centre was in process of improvement and sanitization, so that all detention rooms were purchased with air conditioning equipment and had been sanitized (*C.R.A.P. Neamț*); ● no overcrowding existed in the visited preventive detention and arrest centres (*C.R.A.P. Timiș, C.R.A.P. Vâlcea, C.R.A.P. Mehedinți*); ● sanitization was made based on a plan of measures after identifying the issues in each detention room (*C.R.A.P. no. 5 Bucharest, C.R.A.P. no. 1 Bucharest*); ● hot water and cold water were supplied on a permanent basis (*C.R.A.P. Timiș, C.R.A.P. Vâlcea, C.R.A.P. Mehedinți, C.R.A.P. no. 5 Bucharest, C.R.A.P. no. 1 Bucharest*); ● all arrest areas were disinfected on a regular basis, according to relevant applicable guidelines (*C.R.A.P. Timiș, C.R.A.P. Vâlcea, C.R.A.P. Mehedinți, C.R.A.P. no. 5 Bucharest, C.R.A.P. no. 1 București*); ● a project was in progress for replacing the central heating system, and two heating power plants would be purchased, of which one would operate in the detention centre (*C.R.A.P. Neamț*); ● detention rooms were equipped with their own sanitary facilities (*C.R.A.P. Vâlcea, C.R.A.P. Timiș*); ● the suitable quality of the facilities (*C.R.A.P. Vâlcea, C.R.A.P. Timiș*); ● floor was prepared

in compliance with the relevant diet guidelines, the religious beliefs and the medical disorders of each person deprived from freedom (*C.R.A.P. Timiș, C.R.A.P. Vâlcea, C.R.A.P. Mehedinți*); ● complying with the guidelines in force on the storage of food products (*C.R.A.P. Vâlcea, C.R.A.P. Mehedinți, C.R.A.P. no. 1 Bucharest, C.R.A.P. no. 5 Bucharest*); ● the kitchen or the food dispensing room was equipped with a stove, shelves, tables, chairs, basin, cupboards and three refrigerators where the prisoners could also store the food brought by their families (*C.R.A.P. Vaslui*).

● **Regarding healthcare:** ● the existence of the medical practice in the centre (*C.R.A.P. Timiș, C.R.A.P. no. 1 Bucharest, C.R.A.P. no. 5 Bucharest*); ● healthcare supply by qualified medical staff (*C.R.A.P. Timiș*); ● healthcare supply on a permanent basis (*C.R.A.P. Timiș, C.R.A.P. Vâlcea*); ● storage of medicines in safety conditions (*C.R.A.P. Timiș, C.R.A.P. Vâlcea*);

● persons deprived from freedom benefitted from free of charge medical treatment (*C.R.A.P. Timiș, C.R.A.P. Vâlcea*); ● the supply of a medical emergency kit (*C.R.A.P. no. 1 Bucharest, C.R.A.P. Timiș*); ● supply of dental healthcare at the practice within the centre (*C.R.A.P. no. 1 Bucharest*); ● equipping the centre with its own mini-van (*C.R.A.P. no. 1 Bucharest, C.R.A.P. no. 5 Bucharest*); ● the centre had a register of traumas and physical signs of ill treatment, abuse or torture and procedures complied with to this purpose (*C.R.A.P. no. 5 Bucharest*); ● the treatment recommended by the physician was administered under strict supervision (*C.R.A.P. Neamț*); ● the absence of cases of death and suicides (*C.R.A.P. Timiș, C.R.A.P. Neamț, C.R.A.P. Vâlcea*).

● **Regarding psychological assistance:** ● psychological assistance was supplied to under age persons counselled in the centre, to persons with difficulties to adapt to the prison environment and those with various psychological deficiencies, upon request of the head of the centre (*C.R.A.P. Neamț*); ● when left in the centre, the under age persons were counselled by the psychologist of the centre. For the other situations, the psychologist would come every two weeks to counsel the persons with psychological issues held in custody (*C.R.A.P. Vaslui*); ● persons deprived from

freedom were informed on their right to psychological assistance, and, as they were introduced to the centre, they signed the Statement of rights, obligations and interdictions during their custody in the centre. The rights of the persons in custody were posted on the hall and in each detention room (*C.R.A.P. Vâlcea*).

► *As for the preventive detention and arrest centres visited in 2016, where the answers from the authorities came during 2017, the following deficiencies were found:*

● **Regarding accommodation conditions:** ● the accommodation capacity of the centre was exceeded (*C.R.A.P. no. 5 Bucharest*). **The People's Advocate recommended** that the accommodation capacity of the centre should be observed and to identify solutions to ensure minimum accommodation area in the detention rooms, where persons deprived from freedom had less than 4 sqm at their disposal. **The management of C.R.A.P. no. 5 Bucharest** informed that, regarding the compliance with guidelines on prison space, compared to the number of persons deprived from freedom, based on the Order of the Minister of Justice no. 433/C/2010, the General Police Department of Bucharest - the Independent Service for Preventive Detention and Arrest - was informed so that, when the persons subject to a freedom-depriving measure (detention ordinance, preventive arrest warrant, preventive arrest warrant for extradition) would be assigned, the previously mentioned legal provisions would be met. At the same time, the centre was equipped with new mattresses and beds, provided with areas for the storage of personal items for persons deprived from freedom. On this occasion, the number of detention places was reduced, i.e., in room no. 1, which previously to the visit of the People's Advocate representatives had 10 beds, there are now 8 beds, and room no. 2, which had 6 beds prior to the visit, now has 4 beds; ● meals were served in rooms, as the centre had no dining room. Moreover, the centre did not have a library (*C.R.A.P. no. 5 Bucharest*). **The People's Advocate recommended** to examine the possibility to arrange a dining room and a library in the

centre, since, based on the provisions of art. 232 of 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 lawsuit, an accommodation centre usually has a library. ***The management of C.R.A.P. no. 5 Bucharest informed*** that a room had been equipped with specific devices for the performance of physical exercises and a library was established, accessible to all persons in custody;

- within one department of the centre, it was found that the furniture for keeping personal goods and items in the accommodation rooms was insufficient and the walking yard did not have chairs or benches. The toilets did not ensure the privacy of the detained persons and were not properly ventilated. The investigation room was not equipped with a video surveillance system (*C.R.A.P. no. 5 Bucharest*). ***The People's Advocate recommended*** that the accommodation rooms should be provided with furniture to keep personal goods and items and the walking yard should be provided with chairs or benches; to perform repair and sanitization works in the centre; to amend the toilets in the rooms with a view to observing hygiene and sanitary guidelines and ensuring the privacy of persons deprived from freedom; to improve ventilation and equip the investigation room with a video surveillance system. ***The management of C.R.A.P. no. 5 Bucharest informed*** that a copy of the People's Advocate recommendations had been forwarded to the General Police Department of Bucharest - Logistics Services. ***Considering the answer provided by the management of C.R.A.P. no. 5 Bucharest*** on the recommendations included in the Visit Report and the actions taken for compliance therewith the representatives of the People's Advocate institution proposed, on July 14, 2017, ***to pursue the file on the spot visit performed at C.R.A.P. no. 5 Bucharest by drawing up a notice to the General Police Department of Bucharest for the above mentioned recommendations where answers were unsatisfactory***; ● primary furniture was insufficient for the storage of personal items, for hygiene and for meal serving purposes (*C.R.A.P. Neamț*). ***The People's Advocate recommended*** to ensure suitable detention conditions by providing all rooms

with new beds and mattresses, as well as the required furniture for serving meals and keeping personal goods and items. *In its answer, the management of C.R.A.P. Neamt stipulated* that detention rooms were equipped with 31 new beds and mattresses, with drawers, to provide the possibility to keep personal goods and items; • the absence of a dining room, as the persons in custody have meals in their rooms, as well as the improper quality of food (*C.R.A.P. Neamt*). *The People's Advocate recommended* to examine the possibility of arranging a dining room in the centre and to take the required actions to improve the quality of the food provided to persons deprived from freedom. *The management of C.R.A.P. Neamt* answered that the recommendation was not implemented, as a valid solution for arranging a dining room was not identified in the centre, since there was no area allowing the installation of the required furniture to ensure that meals were served by several persons at the same time. According to the data provided by the management of the centre, food was prepared by specialized staff (2 cooks), meeting the requirements stipulated by the guidelines and being prepared according to recipes (all supplied products); • the restricted access of persons deprived from freedom to sanitary facilities (*C.R.A.P. Neamt*). *The People's Advocate recommended* to identify solutions to ensure permanent access of persons deprived from freedom to sanitary groups considering that, despite the bells for calling staff to sanitary facilities, the presence of buckets in the rooms certified that the prisoners met their physiological needs in their rooms. *The management of C.R.A.P. Neamt answered* that, pursuant to the performed analysis, no solutions were identified to ensure the permanent access of persons deprived from freedom to sanitary facilities, but the staff of the centre was trained to allow access to sanitary facilities on a permanent and unlimited basis to persons deprived from freedom, upon their request. Accommodation rooms were equipped with buckets for household waste, which were not provided for physiological needs; • the precarious cleanliness of sanitary facilities, the lack of suitable equipment and proper ventilation of sanitary facilities (*C.R.A.P. Neamt*). *The People's Advocate recommended* to take legal action with the superior authorities to complete investment works: to sanitize and amend toilets with a view to observing hygiene and sanitation rules, to equip common bathrooms with the required

furniture and utilities, to provide proper ventilation in order to remove condensation, mould and unpleasant smells. *The management of C.R.A.P. Neamt answered* that the recommendation was implemented, and the works for the arrangement of one of the sanitary facilities were completed; the facility was equipped with non-tamper sanitary items. The sanitary facility was fully sanitized, so as to also remove the possibility of condensation, mould or unpleasant smell.

● **Regarding healthcare:** healthcare was not provided on a permanent basis. The centre had no nurses employed, as the position was vacant (*C.R.A.P. Mehedinți*). *The People's Advocate recommended* to Pursue actions for the employment of medical staff (physician, nurse) who would properly provide healthcare to the persons in custody at the centre; *the management of C.R.A.P. Mehedinți answered that* healthcare and medical treatment for persons deprived from freedom in C.R.A.P. – I.P.J. Mehedinți were awarded by October 1, 2016 by the head of the Medical Centre of Mehedinti, by delegation from the Dolj Medical Centre of M.A.I., and the centre still lacked a physician/nurse, though many actions and requests were submitted to the Medical Department of M.A.I. After October 1, 2016, two protocols were entered for the supply of initial and emergency healthcare for persons deprived from freedom with the County Emergency Hospital of Drobeta-Turnu Severin - the Medical Practice of Sports Medicine and the Drobeta-Turnu Severin Permanent Attendance Centre of the Clinic Invest Practice, which solved the primary and initial assistance on a temporary basis, until M.A.I. would employ physicians. Besides, in November 2016 the Medical Department of M.A.I. Published vacancies for several general practitioners from an external source (3 positions for C.M.J. Mehedinti, where only one physician applied and passed, who would be employed starting January 15, 2017). Once a week, the centre is also visited by the delegated physician of C.M.J. Gorj, who performs examinations and issues prescriptions based on specialized recommendations. Based on the report, we reiterated to the Medical Department of M.A.I. (C.M.D.T.A. “Dr. Nicolae Kretzulescu” Bucharest) that it should supply a physician and a medical nurse for C.R.A.P.- I.P.J. Mehedinți, so that the operative staff of the centre has no bearing

on the medical act of distributing medicines to persons deprived from freedom. We have not been provided with an answer by the date when this material was drawn up.

- the practice did not have quick tests for detecting infectious and contagious diseases (HIV, hepatitis) (*C.R.A.P. Timiș, C.R.A.P. Vâlcea*). **The People's Advocate recommended** to purchase quick tests for detecting infectious and contagious diseases (HIV, viral hepatitis, etc.) in the medical practice. **The visited units answered** that the Timis County Medical Centre was asked to purchase quick tests for detecting possible infectious and contagious diseases (HIV, viral hepatitis, etc.) in the medical practice of C.R.A.P. Timis; the same request was submitted to the Valcea County Medical Centre that provides medical services to the centre and informed the management of the preventive detention and arrest centre that, through the Annual Procurement Plan for 2017, it had requested 200 quick kits to detect HIV and 200 to detect hepatitis.
- the medical practice, only including a room, was not able to provide the privacy and confidentiality of the medical examination of prisoners (*C.R.A.P. Neamț*). The People's Advocate recommended to supply proper healthcare by arranging the medical practice and employing enough medical staff to ensure healthcare supply on a continuous basis, as well as for the proper fulfilment of the attributions of medical staff, since the administration of treatments and filling in reports are attributions of medical staff. **In its answer, the management of C.R.A.P. Neamț stipulated** that, pursuant to the allocation of the required funds by the General Inspectorate of Romanian Police, the medical practice was remodelled in a different room, with suitable equipment and ensuring the confidentiality of specific activities. We were also informed that the detailed regulation of the supply of healthcare and the administration of medicines to persons deprived from freedom in preventive detention and arrest centre will be performed through the regulation stipulated under art. 107 (2) of *Law no. 254/19.07.2013 on the execution of punishments and freedom depriving measures decided by judicial bodies within a criminal lawsuit*. In the following, we were informed that, until the legislative act comes into force, the right to healthcare of persons deprived from freedom is secured in proper conditions.

● **Regarding psychological assistance:**● the lack of information regarding the possibility to access psychological assistance services (*C.R.A.P. no. 5, Bucharest*). **The People's Advocate recommended** that the management of the centre should inform persons deprived from freedom on a regular basis and encourage them to request psychological assistance and counselling services during the period of custody, considering that some of these persons were in custody for a long time. **The visited unit informed** 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 assistance. Furthermore, the report on the visit performed by the representatives of the People's Advocate institution was processed with all policemen in the centre, with a view to observing the recommendations; ● regarding the deficiencies found in securing psychological assistance (*C.R.A.P. Vâlcea*): **The People's Advocate recommended** that the management of the centre should perform psychological assistance activities in a suitable area, with all the required technical and methodological equipment. **The visited unit informed** that the following was done for the performance of psychological assistance activities to persons deprived from freedom in the centre, including under age persons: the Register on psychological activities with persons deprived from freedom, registered with the secretariat of the unit, was established; a working area was identified within the centre, to be used as a psychological assistance practice, which was fully sanitized and equipped with a desk, library furniture and suitable artificial lighting; by involving the psychologist of the inspectorate, the specific equipment of this area will be completed in the first quarter of 2017, depending on the allocated financial resources; ● regarding deficiencies found in the supply of psychological assistance (*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 undergoing psychiatric treatment or risks identified in the psychological area. **The visited unit informed** that persons deprived from freedom were informed on the right to psychological assistance, and the

report on the visit performed by the representatives of the People's Advocate institution was processed with all the policemen in the centre, so as to observe the recommendations; ● *the People's Advocate recommended* that the management of the centre should encourage the access to psychological services for persons deprived from freedom (C.R.A.P. Mehedinti). *The visited unit informed* that persons deprived from freedom are informed on all their rights, also that they can access psychological services whenever they want to, as they are arrested. The staff of the centre promotes and stimulates the access to such services by detained persons and observes any adaptation disorder, and the physician records any such suspicion in the medical record and decides on the actions to take, as the case may be. ● the failure to provide psychological assistance to under age persons in custody (C.R.A.P. Vâlcea). *The People's Advocate recommended* that the management of the centre should provide psychological assistance to the under age persons in custody. *The visited unit informed* that, for each individual case, it would inform the physician of the inspectorate, so as to provide psychological assistance to the under age persons in custody.

► *Regarding other aspects:*

● *Regarding the answer to the recommendations to C.R.A.P. Timiş, the representatives of the People's Advocate institution sent C.R.A.P. Timiş another notice to reexamine the issues notified on the following recommendations, presented below together with the answer of C.R.A.P. Timiş:*

- regarding phone calls, the centre had two phones, one for each department (ground floor and first floor), which were not equipped with screens to ensure the privacy of calls. *The People's Advocate recommended* that the two phones installed on the halls of the centre should be equipped with screens, ensuring the confidentiality of the calls made by the arrested persons. *In its answer, the management of C.R.A.P. Timis stipulated* that proposals were made to mount such devices, and the procurement would be performed depending on the allocated funds;

- regarding the observance of the right to information, except for three rooms, all the others had TV sets. The People's Advocate recommended that all detention rooms should be equipped with TV sets. The management of C.R.A.P. Timis answered

that, pursuant to the provisions of art. 197 (1) of Government Decision 157/2016, the management of the centre ensures the reception of radio and public TV programmes, with a view to ensuring the right to information. Moreover, considering the need to ensure the right to information, the management of the centre took the required actions based on the provisions of art. 197 (2) of Government Decision 157/2016, and such devices will also be purchased and mounted in the rooms where there are currently none, depending on the allocated funds. At the same time, it is stipulated that persons deprived from freedom may receive and use TV sets during custody in the centre, according to the provisions of Annex no. 2 of Government Decision 157/2016;

- regarding the transportation of persons deprived from freedom, two means of transport were available: a minivan that did not have an air conditioning facility and another minivan with an air conditioning facility only in the sector with prisoners. A suitable temperature was not provided inside the minivans, as they were old. *The People's Advocate recommended* that persons deprived from freedom should be transported by means of transport that could ensure suitable temperatures during transportation, both for arrested persons and for the escort staff. *In its answer, the management of C.R.A.P. Timis stipulated* that, through the project *Reinforcing the capacity of preventive arrest to observe relevant international instruments on human rights*, a minivan was equipped with an air conditioning device, so as to ensure a suitable temperature in the area for the transportation of persons deprived from freedom. At the same time, I.G.P.R. - the Logistics Department was asked to analyse the possibility to replace the two minivans held by C.R.A.P. Timis, depending on the available funds.

### **Proposals**

- Ensuring the access of persons deprived from freedom to the bathroom, during the night time, since, based on the guidelines of the European Committee for the Prevention of Torture and Inhuman or Degrading Punishment or Treatment (C.P.T.) *“Persons in custody should be allowed to meet their natural needs when they want to,*

*in decent and cleanliness conditions, as well as be provided with suitable conditions to wash themselves”;*

- Equipping each preventive detention and arrest centre with a medical practice with its own medical staff (physician, nurses);
- Drawing up the Order of the Minister of Internal Affairs on the establishment, organization and operation of preventive detention and arrest centres 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 lawsuit, as subsequently amended;
- Equipping medical practices with quick tests for the detection of infectious and contagious diseases (HIV, hepatitis);
- Ensuring the privacy and confidentiality of the medical examination of arrested persons; ensuring the privacy of phone calls;
- Placing a mailbox inside the detention sector, so that persons deprived from freedom may freely exercise their right to petition and to correspondence;
- Providing psychological assistance to under age persons in custody in accordance with the provisions of art. 117 (2) of Law no. 254/2013 based on which “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”;
- arranging walking yards with the required equipment (tables, chairs, benches, roof) so that they could also be used in unfavourable conditions, as well as arrange toilets and install sources of potable water within their perimeter.
- performing the transportation of persons deprived from freedom by means of transport that could ensure suitable temperatures during transportation, both for arrested persons and for the escort staff.

## ***VII. 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.

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 Covenant. In this context, art. 3 of the Covenant 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 and that the prisoners' health is 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 lawsuit, 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. 157/2018 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 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. • Decisions no. 550/2011 and 507/2012 of the General Director of the National Administration of Penitentiaries for the approval of the rules of organization and operation of penitentiaries and hospital penitentiaries, as subsequently amended and supplemented; • Order no. 2056/C/2007 of the Ministry of Justice on the approval of the Methodological guidelines for the unitary establishment of the rights to equipment and hygiene and sanitation materials for persons deprived from freedom; • Order no. 2714/C/2008 of the Ministry of Justice on the duration and periodicity of visits, the weight and number of packages, as well as the categories of goods that may be received, bought, kept and used by persons executing freedom-depriving punishments, as subsequently amended and supplemented; • Order no. 433/C/2010 of the Ministry of Justice on the approval of the minimum compulsory guidelines for the accommodation of prisoners. • Order no. 3541/C/2012 of the Ministry of Justice on the approval of the updated values of food standards for persons deprived from freedom; • Order no. 2199/2011 of the Ministry of Justice on the approval of the Regulation regarding the conditions for the organization and performance of educational, cultural, therapeutic activities, psychological counselling and social assistance in 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; • Decisions no. 438/2013 and no. 377/2014 of the General Director of the National Administration of Penitentiaries on the approval of the Methodology for the award of rewards for persons in the custody of the National Administration of Penitentiaries, based on the system for crediting the prisoners' participation in educational activities and programmes, psychological and social assistance, in lucrative activities, as well as risk situations.

► Currently, the penitentiary system is facing the issue of overcrowding, with consequences on all the other activities performed in penitentiaries, especially on detention conditions. The deficit of accommodation places in penitentiary units results in the infringement of the rights of persons deprived from freedom to dignity, physical and psychological integrity, healthcare, information, work, etc.

**Based on CPT guidelines, all the services and activities in a penitentiary will be negatively affected if more prisoners than its designated capacity have to be accommodated. Overcrowding may be an inhuman and physically degrading treatment itself.**

Regarding the presented aspects, the European Court of Human Rights stipulated, in its case law, that the serious lack of space in a cell is a major factors for qualifying detention conditions as degrading. Given the significant number of applications filed regarding improper detention conditions in Romanian penitentiaries, the European Court of Human Rights pronounced the pilot decision in the case of Romania, regarding conditions in penitentiaries, on April 25, 2017. The pilot decision procedure was developed as a technique to identify the structural issues lying at the basis of repeated applications against a country, by which the states would be compelled to solve those issues. **The decision in the case of Romania established that the Romanian state has 6 months to present a plan of measures to solve overcrowding and conditions in penitentiaries. Thus, Romania had to present an “accurate timeline” for the enforcement of the general actions suitable for solving the issue of overcrowded penitentiaries and improper detention conditions.**

To this purpose, around mid-2017, Law no. 169/2017 was adopted 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 lawsuit, stipulating that, for every 30 days spent in improper conditions, even if they are not consecutive, 6 days of the sentence are considered to be additionally covered. Moreover, another action taken by the Parliament by means of Law no. 169/2017 refers to the prisoners performing compensated work. Thus, three days of work correspond to four days executed from the punishment; two days of work

correspond to three days from the punishment, and one night of work corresponds to two days of punishment. The law had a double purpose: providing compensation to persons who execute freedom-depriving punishment in improper conditions and reducing overcrowding in penitentiaries.

Aspects monitored within the visits and investigations performed during 2017 referred to: • accommodation, hygiene and sanitation conditions; • food and water quality; • the treatment applied to persons deprived from freedom; • healthcare; • psychological and social assistance; • checking the compliance with the procedure for awarding permission to come out of the penitentiary if the convicted persons take part in the burial of their spouse, a child, parent, sibling, grandparent, as well as to examine cases of suicide in the penitentiary.

Regarding accommodation conditions, most deficiencies referred to overcrowded areas, the lack of the required furniture for the storage of clothing and food, three-layered bunk beds, the existence of old and worn furniture and mattresses in the rooms, detention rooms which were not properly sanitized (dirty and unpainted walls, with condensation, mould and ceilings with mould and water infiltrations), the absence of dining rooms or an insufficient number thereof.

As for healthcare supply, a significant deficit of medical staff was experienced in penitentiaries, through the absence of general practitioners, psychiatrists, dentists or nurses.

Regarding the treatment applied to persons deprived from freedom, a situation occurred when the prisoners complained about the abusive behaviour of an employee of the Penitentiary of Iasi, and these issues were confirmed by the management of the penitentiary. The situation of the concerned employee was acknowledged by the management of the penitentiary and, depending on the evolution of the situation, disciplinary action would be taken against him.

► In 2017, the People's Advocate institution **observed ex officio and actions were taken (visits, investigations, requests of information to the concerned institutions) in:** the Penitentiary of Tulcea, the Penitentiary of Bucharest-Rahova, the

Penitentiary of Bucharest-Jilava, the Penitentiary of Margineni, the Penitentiary of Poarta Alba, the Penitentiary of Iasi.

For instance, we mention the observation *ex officio* based on the article of the newspaper “Cuget Liber”, according to which **a prisoner of the Iasi Penitentiary was found dead in his cell** of the Iasi Penitentiary. The article mentioned that the prisoner initially was taken care of by the medical staff of the penitentiary, and a SMURD team was then called. No marks of violence were identified on the prisoner’s body, and the cause of death was not known when the article was published. At the end of the article, one could read the statement of the penitentiary’s spokesperson, mentioning that the Prosecutor’s Office attached to the Court of Iasi and the delegated judge had been notified, and the cause of death would be established after the necropsy would be performed. The information provided by the staff of the Penitentiary of Iasi showed that the prisoner had been arrested by the Bacau County Police Inspectorate, brought to the Penitentiary of Bacau and then transferred to the Penitentiary of Iasi to execute the freedom-depriving punishment. The Penitentiary of Iasi mentioned he had been diagnosed with antisocial personality disorder, disorders of behaviour and conduct, voluntarily ingested foreign items, which were treated according to the recommendations of the psychiatrist.

During July-September 2017, the prisoner attended the medical practice of the unit **20 times for subjective allegations**, when he received symptomatic treatment or to receive chronic treatment. The prisoner was admitted to the unit’s infirmary so that his state of health could be monitored, because of an ingested foreign body (sanitary chlorine pill and then a teaspoon), as he was in transit at the Penitentiary of Bacau.

He was also taken to the Sfantul Spiridon Hospital - Gastroenterology Department for specialized examinations during June 2017 and in September 2017.

On September 4, 2017 and September 12, 2017, phone notes were sent to the Hospital Penitentiary of Rahova, surgery department, for surgical assessment and treatment, **with a negative answer to the first note (motivated by the lack of places) and a positive one to the second note; the prisoner agreed to the surgical intervention that would have taken place at the Hospital Penitentiary of Rahova.**

**Based on the answer of the National Administration of Penitentiaries, the patient would be admitted to the Bucharest-Rahova Hospital Penitentiary after October 9, 2017.**

On October 2, 2017 the nurse on the night shift was notified by the supervisor on Section 7 that the prisoner did not show vital signs. The nurse went to the room, where he found the prisoner in cardio-respiratory arrest, initiated resuscitation manoeuvres and requested the presence of a SMURD team. The team pursued resuscitation manoeuvres until the death was pronounced.

The necropsy was performed at the head office of the Institute of Legal Medicine of Iasi on October 2, 2017 and the following causes of death were determined: acute cardiorespiratory insufficiency, massive subarachnoid hemorrhage and cerebrovascular hemorrhagic accident.

Based on the information provided to the visit team by the staff of the penitentiary regarding the prisoner's death, the Penitentiary of Iasi did not submit a notice to the Prosecutor's Office attached to the Court of Iasi, since there was no suspicion of death by violence. The necropsy had not been received from the Institute of Legal Medicine by the date of the visit, only a notice regarding the causes of death.

Since the Penitentiary of Iasi did not submit a notice to the prosecutor's office, though art. 52 (1) of Law no. 254/2013 on the execution of punishments and freedom-depriving measures decided by legal bodies during the criminal lawsuit stipulates that "In the case of death of a convicted person, the administration of the penitentiary shall immediately notify the judge supervising freedom deprivation, the Prosecutor's Office and the National Administration of Penitentiaries, the family of the deceased, a close person of the latter or his/her legal representative, as applicable", **the People's Advocate institution notified the Prosecutor's Office attached to the Court of Iasi regarding the found issues.**

► In 2017 as well, the People's Advocate institution through the **field regarding prevention of torture notified criminal prosecution bodies** in several cases:

- The People's Advocate notified the Prosecutor's Office attached to the Court of Bucharest with a view to obtaining information regarding the status of the criminal

file regarding the **May 2017 death of a person deprived from freedom imprisoned in the Bucharest-Rahova Penitentiary**, as well as the solution provided, an event where the People's Advocate institution observed *ex officio*, and an investigation had to be made at the penitentiary unit. Pursuant to the actions taken with the Prosecutor's Office attached to the Court of Bucharest on June 14, 2017 and November 1, 2017, the Prosecutor's Office attached to the Court of Bucharest informed us that a medico-legal autopsy (the medico-legal expertise report on the cause had not been completed) and witnesses were called for hearing, in the file regarding the death of the person deprived from freedom. In this context, the mentioned issues were still a focus of the field regarding prevention of torture in detention places until the completion of the criminal file. ● The People's Advocate notified the Prosecutor's Office attached to the Court of Tulcea with a view to obtaining information regarding the status of the criminal file regarding the **death of a person deprived from freedom imprisoned in the Tulcea county Penitentiary**, as well as the solution provided, an incident where the People's Advocate institution observed *ex officio*, and an investigation had to be made at the penitentiary unit. Pursuant to the actions taken with the Prosecutor's Office attached to the Court of Tulcea on April 10, 2017 and November 8, 2017, the People's Advocate was informed that the criminal file was with the Criminal Investigation Office, for the performance of investigations on the perpetration of the crime provided by art. 192 (1) of the Criminal Code. ● The People's Advocate sent a notice to the Prosecutor's Office attached to the Court of Arges, to notify the results of the investigations made on the case where **a person deprived of freedom committed suicide during custody in the Penitentiary of Mioveni**. ● The notice to the Prosecutor's Office attached to the Court of Arad referred to the outcomes of the investigations undertaken in the file on the death of a person deprived from freedom in custody of the Penitentiary of Arad. Pursuant to the actions taken with the Prosecutor's Office attached to the Court of Arad, the People's Advocate was informed that the responsible prosecutor decided to dismiss the case for the criminal prosecution *in rem* for the death of the person deprived from freedom. The Ordinance was sent to the Penitentiary of Arad and to IPJ Arad - Criminal Investigation Service (to notify it to the victim's relatives). ● The

Prosecutor's Office attached to the Judge's Office of Timisoara and the Prosecutor's Office attached to the Judge's Office of Botosani were notified to provide the People's Advocate with the results of the investigations performed in the case where a person deprived from freedom in custody of the Penitentiary of Timisoara was subject to a physical aggression by the staff of the Penitentiary of Botosani during a rebellion of the prisoners in this penitentiary unit. • The People's Advocate notified the Prosecutor's Office attached to the Judge's Office of Targu Jiu to inform the outcomes of the investigations performed in the case where a person deprived from freedom notified a possible crime of selling damaged products in the commercial facility within the Penitentiary of Targu Jiu. • The Prosecutor's Office attached to the Judge's Office of Pitesti will provide the People's Advocate with the outcomes of investigations performed in the case where a person deprived from freedom in custody of the Penitentiary of Mioveni allegedly was the victim of an altercation with another prisoner as they were in the penitentiary's walking yard.

Furthermore, in 2017, the People's Advocate institution received information from the Ministry of Justice regarding the criminal prosecution acts performed regarding the 2016 rebellions in the Penitentiary of Iasi and the Penitentiary of Botosani.

Based on the provided information, the Prosecutor's Office attached to the Judge's Office of Iasi received 71 notices regarding medical examinations in the medical practice of the detention unit for persons deprived from freedom, who invoked acts of aggression by other persons deprived from freedom or by the employees of the National Administration of Penitentiaries. These cases were taken by the Prosecutor's Office attached to the Court of Appeal of Iasi, in compliance with the order of the general prosecutor of the Prosecutor's Office attached to the High Court for Cassation and Justice. Since the complaints referred to the actions of intervention troops with a view to calming down the manifestations of the Penitentiary of Iasi, it was decided that the cases should be joined, so as to better ensure justice. Thus, the ordinance of September 19, 2016 joined 42 criminal records at the level of the Prosecutor's Office attached to the Court of Appeal of Iasi. The criminal prosecution in the case began on

July 19, 2016 in the criminal file of the Prosecutor's Office attached to the Court of Botosani, declined and registered with the Prosecutor's Office attached to the Court of Iasi, taken over and registered with the Prosecutor's Office attached to the Court of Appeal of Iasi and then joined with file no. ccc/P/2016 for the perpetration of the crime of abusive behaviour, as stipulated by art. 269 (1) and (2) of the Criminal Code (the case is in progress).

As for the incidents that took place at the Penitentiary of Botosani, 11 criminal files were drawn up, registered with the Prosecutor's Office attached to the Court of Botosani. The commencement of criminal prosecution regarding the crime of abusive behaviour stipulated by art. 296 (1) and (2) of the Criminal Code was also decided in these files, medico-legal examinations were made, the involved persons and witnesses were heard and documents drawn up on the event were requested (the cases are in progress).

► 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 performed visits and investigations to penitentiary units in 2017. 13 visits** (Hospital-Penitentiary of Bucharest-Rahova; Penitentiary of Rahova; Penitentiary of Slobozia; Penitentiary of Margineni; Penitentiary of Focsani; Penitentiary of Iasi; Penitentiary of Bacau; Penitentiary of Oradea; Penitentiary of Craiova Pelendava; Penitentiary of Mioveni; Penitentiary of Craiova; Penitentiary of Bucharest-Jilava (2)) and **67 investigations** (Aiud, Arad-3, Bârcea Mare, Botoşani, Brăila, Codlea, Craiova-Pelendava, Craiova-4, Ploieşti-Târgşorul Nou-Femei- 4, Bacău- 2, Drobeta Turnu-Severin, Găeşti- 3, Gherla-2, Giurgiu-4, Iaşi-3, Mărgineni-3, Ploieşti-2, Slobozia, Poarta Albă-5, Târgu Jiu-2, 2 Mureş-2, Timişoara-2, Tulcea-5, Vaslui, Spital Bucureşti-Jilava-6, Spital Bucureşti-Rahova-6) were performed to this purpose.

Of the total number of performed visits, visit reports were drawn up in 7 visits (the other 4 reports are in progress) and 32 recommendations were drawn up. At the same time, 32 recommendations were drawn up pursuant to the investigations.

***As for the penitentiaries visited in 2017, the following deficiencies were found:***

► ***Regarding accommodation conditions:*** ● overcrowding of some detention rooms (*Bucharest-Rahova, Mioveni, Craiova-Pelendava, Focșani, Iași, Slobozia, Tulcea, Bacău*); ● the beds and mattresses in a room of Section E1, Penitentiary of Craiova Pelendava were in an advanced wear state; ● improper artificial lighting and non-functional neon tubes in some detention rooms (*Iași, Bacău, Focșani*); ● three-layered bed bunks (*Iași, Bacău, Focșani*); ● equipping detention rooms with old and worn furniture and mattresses (*Iași, Bacău, Focșani*); ● improperly sanitized detention room - dirty, non-painted walls, with condensation, mould ceilings with mould and water infiltrations – (*Iași, Bacău, Focșani*); ● the absence (*Iași, Focșani*) or insufficient number of dining rooms (*Bacău*); ● detention rooms and warehouses with insufficient furniture for the storage of goods, items and dishware, as well as insufficient shelving for the storage of the prisoners' food (*Iași, Bacău, Focșani*); ● the improper equipment of sanitary facilities in detention rooms, insufficient shower installations and water closets, the sanitization and furnishing of bathrooms, as well as the existence of faulty showers in the common bath (*Iași, Bacău, Focșani*); ● the low frequency of disinfection operations and the use of inefficient materials (*Iași, Bacău, Focșani*).

***Pursuant to visits performed in penitentiaries, the People's Advocate institution made a range of recommendations, such as:*** ● managing overcrowding in the detention rooms of penitentiary units, as found when the visits were performed (*Bucharest-Rahova, Mioveni, Craiova-Pelendava, Focșani, Iași, Slobozia, Tulcea, Bacău*); ● managing the overcrowding of detention rooms in the Mioveni Penitentiary, where prisoners had less than 4 sqm/person; ● replacing old mattresses and beds in an advanced wear state (*Penitentiary of Craiova Pelendava*); ● equipping detention rooms with furniture to keep the prisoners' personal items and goods, the items required to serve meals, as well as providing shelving for the storage

of the prisoners' food (*Penitentiaries of Iași, Focșani, Bacău*); ● removing the third level of beds in detention rooms (*Penitentiaries of Iași, Focșani, Bacău*); ● sanitizing bathrooms and equipping them with the required furniture and utilities, adding additional shower installations and water closets in detention rooms where several prisoners are accommodated, refitting the sanitary facilities and properly equipping sanitary facilities in detention rooms, repairing faulty showers in the common bath (*Penitentiaries of Iași, Focșani, Bacău*); ● performing painting, repair and refitting works of walls and ceilings, sanitizing detention rooms and sanitary facilities, pursuing actions for the sanitization of detention rooms, especially in rooms where mould and water infiltrations were found, as well as ensuring a proper cleanliness thereof (*Penitentiaries of Mioveni, Iași, Focșani, Bacău*); ● performing disinfection more frequently and using efficient materials in detention rooms (*Penitentiaries of Iași, Focșani, Bacău*); ● providing decent meal serving conditions for the prisoners, by analysing the possibility of establishing dining rooms (*Penitentiaries of Iași, Focșani, Bacău*); ● arranging walking yards so that they may also be used in improper weather conditions, laying concrete and providing benches, sanitary facilities and a potable water source (Bacău); occupying vacancies by employing medical staff (internal medicine physician, gynaecologist, dentist, pharmacist, general nurse) based on the grid, considering the high addressability of prisoners in the medical practice and the improved quality of healthcare in terms of receiving, examining, quickly/efficiently redirecting medical and surgical emergencies and ensuring that the patients are accompanied as they are transferred to hospitals, when applicable (*Penitentiaries of Iași, Focșani, Bacău*); ● examining the possibility to arrange special rooms in the infirmary of the penitentiary unit, so that prisoners with serious psychological disorders may benefit from medical assistance and permanent supervision from the medical staff (*Penitentiary of Iași*); ● examining the possibility to identify prisoners with serious psychological disorders (especially those who refuse treatment and decompensate) so as to admit them into hospital penitentiaries, including psychiatric departments, so as to benefit from healthcare and specialized treatment (*Penitentiary of Iași*); ● carefully monitoring and performing a psychiatric/psychological assesment,

on a regular basis, of their mental health state, with a view to identifying new risks for the psychological health of prisoners, as well as other convicted persons (*Penitentiary of Iași*); • assessing the elaboration of incident reports, considering the number of cancelled/dismissed incident reports (*Penitentiary of Iași*); • ensuring better cooperation with civil hospitals for prisoners who need various analyses or interventions (*Penitentiary of Iași*).

**Regarding overcrowding and accommodation conditions, the National Administration of Penitentiaries has provided the following answers regarding the actions taken:** • taking out some beds from detention rooms (rooms E 2.10 and E 2.12 of the *Penitentiary of Craiova-Pelendava*, room E 5.19 of the *Penitentiary of Mioveni*); • installing two-layered bunk beds (the action was completed at the second, third and fourth floors of the *Penitentiary of Tulcea*), moving some prisoners in section 3, from the third floor to the second floor, relocating persons deprived from freedom between detention sections so as to reduce the effects of overcrowding in each detention section, moving persons deprived from freedom to the *external detention section of Chilia Veche* to execute freedom-depriving punishments - professional qualification courses or the use in productive activities - performing an investment facility in the *Section Chilia Veche-Grindul Tătaru* to create new detention places that can be completed within about 3 years - a documentation for the endorsement of intervention works is drawn up and will be updated - analysing the possibility to transfer some prisoners with their approval, who reside in other areas and are not called by the courts with jurisdiction over the penitentiary unit identifying new accommodation areas or refitting the existing ones, as well as a permanent analysis of prisoner numbers regarding the fulfilment of conditions for the execution of freedom-depriving punishments in the unit and informing the General Director of the National Administration of Penitentiaries on a regular basis regarding the situation in the penitentiary regarding the accommodation of prisoners, also submitting transfer proposals to this purpose (*Penitentiary of Tulcea*); • remodelling and refitting detention rooms so that each prisoner is provided with the minimum legal space (Section 1 of detention and room E 3.8 of the *Penitentiary of Mioveni*, the ground floor and first floor of the *Penitentiary of Tulcea*);

- performing a permanent analysis of prisoner numbers regarding the fulfilment of conditions for the execution of freedom-depriving punishments and informing the national Administration of Penitentiaries on a regular basis, relocating persons deprived from freedom between detention sections so as to reduce the effects of overcrowding each detention section to provide individual beds, identifying new accommodation areas or remodelling the existing ones (*Penitentiary of Tulcea*);
- submitting transfer proposals to other penitentiary units to the National Administration of Penitentiaries (*Penitentiary of Tulcea*).

With a view to improving accommodation conditions, a Supporting note on the need and opportunity to promote an investment facility for intervention in buildings was drawn up for detention sections 3 and 4 of the Penitentiary of Tulcea, which was analysed in the C.T.E. of the National Administration of Penitentiaries and unanimously approved on April 6, 2016 and then was drawn up and sent with a view to pursuing the promotion and execution of the design work that was approved on June 13, 2017. Moreover, depending on the allocated budget funds, the documentation for the approval of intervention works and of the upgrade of the mentioned sections will be drawn up. The objective is included in Annex 1.3 to the Plan of measures for recommendation no. 2 of the Memorandum on the topic “The ECHR intention to enforce the procedure of the Pilot decision in cases regarding detention conditions”, approved by the Romanian Government on April 27, 2016. At the same time, the National Administration of Penitentiaries informed that funds will be allocated in 2018 for the elaboration of the Documentation for the approval of intervention works by a specialized company, for the mentioned objective (*Penitentiary of Mioveni*).

As for the penitentiaries, old mattresses and beds in an advanced worn state in the room of section 1 were replaced (*Penitentiary of Craiova-Pelendava*), a set of beds at the window was removed to ensure proper ventilation and natural light in room E 2.12, repairs were performed on the sanitary installation by replacing the floating tap and the shower head in room E 1.6 and refitting works were completed in all the 36 rooms of detention sections E1 and E2 (*Penitentiary of Mioveni*). Furthermore, a disinfection action was performed using a stronger substance, the broken or missing

bulbs were replaced in room E 10.7.1 and actions to reduce the number of prisoners accommodated in rooms E 10.7.1 and E 10.7.2 were taken, also replacing faulty or missing shower heads in the common lavatory of the mentioned rooms (*Penitentiaries of Poarta Albă-External section of Valu lui Traian*).

In periods with high temperatures, the ventilation of spaces for the accommodation of persons deprived from freedom will be performed by means of open windows and doors, based on the schedule approved by the company's management. At the same time, based on the elaborated Plan of measures, works for the remodelling of open and half-open system sections on the ground floor and first floor will be performed, with a requested allocation of 150,000 RON in the draft budget for 2018. Other actions for the improvement of accommodation conditions were taken in the penitentiary unit, such as: equipping detention rooms with cupboards to store personal goods and items, performing current repair works for the remodelling of detention rooms, performing disinfection operations based on the Order of the Minister of Health no. 119/2014 on the approval of public health and hygiene guidelines on the living environment of population (*Penitentiary of Tulcea*).

The People's Advocate will receive an answer from the Penitentiaries of Bacau, Iasi and Focsani.

The answers sent to the People's Advocate institution showed that **no concrete action had been taken to reduce overcrowding**, invoking many measures with a future completion deadline, which is why the **People's Advocate informed the Ministry of Justice that legal actions had to be taken regarding overcrowding and that it had to provide information on the timeline and corresponding measures to observe the ECHR pilot decision**.

To this purpose, the Ministry of Justice provided an answer to the People's Advocate regarding measures proposed to reduce overcrowding, as follows:

- **administrative measures** 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** by: drawing up the draft 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; approval by the Romanian Government on January 31, 2017, upon proposal of the Ministry of Justice, of the draft law for the pardon of some persons and educational freedom-depriving measures, tacitly adopted by the Senate and under debate in the Chamber of Deputies as the deciding chamber; investments in penitentiary infrastructure within the “Justice” Programme financed through the 2014-2021 Norwegian Financial Mechanism, creating at least 1420 new accommodation places.

► *The following deficiencies were established upon the visits performed in 2017 regarding healthcare supply:*

- vacant positions of medical staff, physicians/nurses (*Penitentiaries of Craiova-Pelendava, Iași, Bacău, Focșani*);
- difficult cooperation with civil hospitals for patients who need analyses or various interventions (*Penitentiary of Iași*);
- the absence of special rooms in the infirmary of the penitentiary unit, so that prisoners with serious psychological disorders could benefit from healthcare and permanent supervision by the medical staff.

Regarding the absence of staff and medical staff, the People’s Advocate asked the penitentiaries to examine this issue and take action to cover vacant positions. Answers provided regarding the fact that the National Administration of Penitentiaries organized competitions to occupy the vacant positions in the organizational charts. Thus, the following positions were occupied within the Penitentiary of Craiova-Pelendava: zootechnical engineer, food product technology engineer, human resource psychologist, 2 logistic and maintenance managers, food supply manager. Actions were taken for the other vacancies, so as to initiate the publication procedure or the procedure of transfer from other penitentiary units. At the same time, 28 positions of public officers with a special status were occupied in the *Penitentiary of Mioveni*, both

upon graduating from the S.N.P.A.P., and pursuant to the completion of external competitions. Actions were taken to initiate publication from an external source for other 6 vacant positions of public officers with a special status.

Regarding the medical activity performed in the *Penitentiaries of Craiova-Pelendava, Iasi, Mioveni*, the People's Advocate asked that penitentiaries should solve the found deficiencies.

Thus, action was taken in 2018 with the Inspectorate for Emergency Situations, to initiate training courses in the award of basic first aid for the staff of the medical sector and the staff of the operative sector, for processing psychological education and assistance staff, as well as the staff in the operative sector for the notices submitted by the National Administration of Penitentiaries regarding negative events and whenever required, training the entire staff for proper collaboration for the suitable management of special events, as well as renewing the Sanitary Permit for the operation of the medical department (*Penitentiary of Mioveni*).

At the same time, upon request of the National Administration of Penitentiaries, the penitentiary units will take action to perform a detailed examination of prisoners as they are taken to the penitentiary and provide suitable healthcare during the execution of the punishment, as well as for the flexibility of parole commissions in solving parole applications, especially for prisoners with health issues whose participation in work or courses is limited or prevented. Moreover, the UNP was proposed that the penitentiary unit should establish a new detention pavilion within the current inside yard, with an accommodation capacity of 340 places, of which 40 places for an infirmary. The penitentiary unit submitted a request to the Hospital-Penitentiary of Colibasi to enter a contract as soon as possible for the transport and final landfilling of hazardous waste resulting from medical activity (*Penitentiary of Craiova-Pelendava*).

The People's Advocate will receive an answer from the *Penitentiaries of Iași, Bacau and Focsani*.

► **Regarding the improper sanitization of the food preparing section** (*Penitentiary of Mioveni*). Regarding the improper sanitization of the food preparing

section, the People's Advocate asked the Penitentiary of Mioveni to examine this issue. On September 20, 2017, the latter drew up a plan of measures on the activities and responsibilities for the enforcement of hygiene and sanitation rules, also including the performance of repair works on the sandstone, ceramics and washable paint, but repair works had not been initiated, since there was not enough work force in the unit.

► **Other issues:** • **the absence of sanitary facilities**, tables and concrete-fixed benches for the rest of prisoners in the walking yards (*Penitentiaries of Mioveni, Tulcea and Bacău*); regarding the failure to observe the right to daily walks and the improper equipment of the walking yards in the *Penitentiaries of Mioveni și Tulcea*, the People's Advocate asked penitentiaries to examine this issue. Penitentiary units informed that actions will be taken to ensure the walking right of persons deprived from freedom who execute punishments in open and half-open execution systems, based on the provisions of 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 judicial bodies within the criminal lawsuit (*Penitentiaries of Mioveni, Tulcea*).

The technical project for walking yards for the sections 1F-5, objective "Walking yards for prisoners" was drawn up in 2009 in the *Penitentiary of Mioveni*. Funds were allocated to initiate works on this objective in 2012, and the procedure for the award of the work contract for this objective was initiated. Subsequently, during 2013-2014, actions were taken with the National Administration of Penitentiaries for the analysis and approval of the C.T.E. of the National Administration of Penitentiaries so as to issue a new building permit and the funding of works. In January 2014, the National Administration of Penitentiaries informed that the investment facility would not be financed in 2014, so that works could not be commenced. Thus, a new notice was sent to the National Administration of Penitentiaries in 2016, for funding purposes. The feasibility study "Walking yards and sports fields" was drawn up for the walking yards of sections 1-2 in 2008.

At the same time, funds were asked through the draft budgets submitted to the National Administration of Penitentiaries on an annual basis for the performance for

the technical project, in order to update the feasibility study. However, this was not approved.

On March 22, the penitentiary unit answered the request submitted by the National Administration of Penitentiaries and reported the works required to ensure conditions for the walks of persons deprived from freedom in the walking yards of the unit. To this purpose, the National Administration of Penitentiaries informed that funds will be allocated in 2018 to initiate the award of the contract for the performance of works and for commencing the investment for the walking yard for prisoners (*Penitentiary of Mioveni*).

- **improper conditions in the visits and package reception section** (*Penitentiary of Craiova-Pelendava*). Regarding this aspect, the People's Advocate asked that the Penitentiary of Mioveni should solve the issue, and the management of the Penitentiary of Craiova-Pelendava established a mixed committee to analyse and propose solutions for remodelling the visit and package reception section. At the same time, a proposal was drawn up to create a new area for multiple uses "Multifunctional pavilion - Controlling point, prisoner admission post, visit section", approved in the Technical and Economic Committee of the National Administration of Penitentiaries and the required amount for the feasibility study will be awarded depending on the funds allocated by the Ministry of Justice for investments.

- **incident reports drawn up without considering the provisions of Law no. 254/2013**, as subsequently amended and supplemented and the high number of incident reports drawn up, considering the number of sanctions cancelled by the judge supervising deprivation of freedom and by the court (*Penitentiaries of Craiova-Pelendava, Iași*). Regarding the incident reports drawn up without considering the provisions of Law no. 254/2013 on the execution of punishments and freedom-depriving measures decided by the criminal bodies within a criminal lawsuit, as subsequently amended and supplemented and the high number of incident reports drawn up, the People's Advocate asked that the Penitentiary of Craiova-Pelendava should examine the issue. The management of the penitentiary unit took action for the Visit Report drawn up by the People's Advocate to be processed with the entire staff,

on a signature basis. Furthermore, the *Penitentiary of Iasi* was recommended to take the required actions for the persons involved in the disciplinary procedure (the person(s) appointed to perform prior investigation and the members of the discipline committee) to be more diligent in the prisoners' acknowledgement of incident reports, in checking their defences and in hearing the prisoners to establish disciplinary sanctions. At the same time, the management of the Penitentiary of Iasi was asked to prevent disciplinary infringements and to use alternate mechanisms to solve them, since the administration of penitentiaries is encouraged to use, to the extent possible, the prevention of conflicts, mediation or any other alternate conflict solving mechanisms to prevent disciplinary infringements or to solve conflicts, based on the UN Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). (Rule no. 38). At the same time, based on CPT guidelines, conflict solving decisions should have priority in front of official sanctions and disciplinary procedures. The Penitentiary of Iasi had not provided an answer by the date of this report.

- **the failure to notify the National Administration of Penitentiaries regarding the update of the financial values allocated to the food standards of persons deprived from freedom (*Penitentiary of Tulcea*).** Regarding this issue, the People's Advocate asked that the penitentiary should solve the situation, and the latter informed that the minimum compulsory food standards are to be set after consulting nutrition specialists, by order of the ministry of justice, since the current regulations only deal with the caloric value of food.

- **the failure to properly enforce the isolation sanction (*Penitentiary of Giurgiu*).** Regarding this situation, the People's Advocate asked that the Penitentiary of Giurgiu should analyse the issue, and the management of the penitentiary notified the Discipline Committee on the fact that isolation will only be taken in exceptional cases and, for persons with psychological disorders, only if the behaviour of the person deprived from freedom is not a direct result of his/her mental disease or intellectual disability.

- **the failure to ensure the prisoners' privacy during body searches** (*Penitentiary of Tulcea*). Based on the Plan of measures drawn up by the National Administration of Penitentiaries, the areas were remodelled so as to ensure the privacy of persons deprived from freedom during the performance of body searches. To this purpose, the Plan of measures drawn up by the penitentiary mentions that searches will only be performed by specialized staff of the same sex, and the cabins will be provided with curtains to ensure privacy (permanent measure).

**Within investigations performed in penitentiaries, the visit teams found some special aspects regarding the treatment provided to persons deprived from freedom, such as:**

*Infringement of the right to award permission to exit the penitentiary in case of death of a relative, improper psychological counselling, the absence of a cooperation protocol between the National Administration of Penitentiaries and the Department for Personal Records and Database Administration, the improper cooperation between the multidisciplinary team (physician - psychologist) in the cases of persons deprived from freedom with psychological disorders and those with a suicidal risk, the failure to implement suicide prevention strategies, protocols with other institutions and legislative amendment proposals, initiating proposals to amend legal provisions that the penitentiary unit should support the person deprived from freedom by keeping phone contact with the family (Bucharest-Rahova and Tulcea).*

Regarding the mentioned issues, the People's Advocate asked that the Penitentiaries of Bucharest-Rahova and Tulcea, as well as the National Administration of Penitentiaries should solve the established deficiencies.

**a.** *To this purpose, for the Penitentiary of Bucharest-Rahova, the National Administration of Penitentiaries informed subordinated units that the decision of the commission for the award/failure to award permission to come out of the penitentiary for the "convicted individual to take part in the burial of the spouse, a child, parent, sibling or grandparent", provided by art. 99 (1) (e) of Law no. 254/2013 should be*

immediately notified to the convicted individuals. The management of the Educational Centre/Detention Centre will take the same actions for admitted persons.

At the same time, the answer provided by the National Administration of Penitentiaries to the People's Advocate mentions that the penitentiary system cannot send an armed escort in the middle of events implying the reunion of large numbers of people, especially since these persons are affected by a state of deep emotion. To this purpose, the guard system and the safety regulations cannot be enforced in the middle of a multitude of people (for instance, weapons cannot be used if required). Furthermore, the escort cannot physically provide for the prisoner's guard for a longer time (example: 5 days and 4 nights).

However, the criminal law encourages the award of the reward to take part in the funeral of a family member (e.g. a certain amount of credits is not required, it may be granted exceptionally if the prisoner has already been awarded a reward in that month).

In order to solve social cases (request data regarding family members who could not undertake visits to the headquarters of the penitentiary for financial reasons or who could not be contacted by phone by the person deprived from freedom, as well as obtaining the death certificate of a family member), institutional action was taken, through notices requesting support from social assistance services attached to the municipalities of residence of the concerned individuals or of the deceased person. Thus, starting 2010, a Protocol was entered with the Department for Personal Records - the Civil Register Service of the Municipality of Bucharest, and the answer of the Department shows that the death certificate cannot be issued to the penitentiary, as it is not entitled to obtain such a document (Law no. 119/1996). Furthermore, social investigations were undertaken at the home of the family indicated by the freedom-deprived person.

At the level of the penitentiary unit, the psychological counselling of persons deprived from freedom is subsequent to a psychological assessment showing the need for this type of intervention or including it in the Individual Plan for educational and therapeutic intervention/software. The counsellor helps the person deprived from

freedom to control a crisis situation and assists him/her in finding a solution to the issue and, usually, implies a lower number of sessions than in psychotherapy and approaches less severe disorders. The purpose of the activity undertaken by the psychologist is to stimulate the psychological and behavioural status of the persons in custody during the execution path, in compliance with their psycho-social specificities, as well as the system for the execution of freedom-depriving punishments. Furthermore, plans for the implementation of the strategy to reduce aggressive behaviour were performed on an annual basis, adapted and customized according to the specificities of the unit.

As for establishing the prisoners' capacity to work, irrespective of the workplace where they were selected and the disorders they have, this has to be done, according to the law, by an occupational medicine physician or a physician with competence in occupational medicine.

At the same time, **a multidisciplinary team was appointed to implement the actions at the level of the unit, as well as teams appointed in each detention section.** Furthermore, the Decision of the General Director of the National Administration of Penitentiaries no. 467/11.08.2015 was issued, on the approval of the Methodology for the performance of multidisciplinary activities implying team intervention, regarding aggressive (self-aggressive/hetero-aggressive) behaviour and the Guideline on the multidisciplinary approach of vulnerable prisoners, as well as a set of systemic imperatives for the staff's activity. The Study on the prevalence of aggressive behaviour among persons deprived from freedom (2014-2016) was also issued, and several psychological instruments of clinical assessment were purchased.

**Regarding the training of staff in penitentiary units,** the "Psycho-pathology handbook for psychologists in the penitentiary system" was disseminated among specialists. To this purpose, actions were taken and will be taken to supervise prisoners at risk of suicide, and the staff was informed and trained on the fulfilment of job attributions for prisoners identified in this situation, based on the mentions in the documents (drawn up by the staff working directly with the prisoners) existing at the level of each penitentiary unit.

Based on the provisions of art. 24 (1) (a) of Government Decision no. 157/2016 on the approval of the Rules to enforce Law no. 254/2013, the director of the penitentiary may decide that the prisoner will be taken to the protection room only in case of an imminent danger of self-harm or suicide. Furthermore, many psychological instruments for clinical assessment have been purchased. At the same time, the social reintegration staff informs the staff of the medical sector and operative sector, and the psychologist performs the prisoner's psychological assessment; in the case of identified risk situations s/he will submit an application to the medical staff regarding the performance of a psychiatric examination.

As for the initiation of proposals to amend legal provisions so that the penitentiary authority supports the person deprived from freedom by phone contact with the family, this measure was included in the draft to amend Law no. 254/2013, drawn up by the National Administration of Penitentiaries, which was to be sent to the Ministry of Justice with a view to initiating specific actions for its promotion. Thus, based on the amendment proposal, "(...) If the persons deprived from freedom do not have the required funds, the expenses related to phone calls for obtaining the documents mentioned under art. 99 (5) - the prisoner's application, the original and copies of the death certificate - shall be borne by the penitentiary administration".

Regarding the collaboration of the multidisciplinary team (physician-psychologist), **procedures were drawn up** and actions were taken regarding: Case management for persons deprived from freedom who have mental health issues, identifying persons deprived from freedom who are vulnerable/at risk of vulnerability, multimedia informative materials drawn up in the penitentiary system of the United States of America, reiterating the importance of information exchange and efficient communication between the specialists of the social reintegration sector, between them and other activity sectors.

At the same time, **actions were taken in the Social Reintegration Department** regarding: The file of education and psycho-social assistance activities (including a specific section on psychological disorders and the identification of suicide risk), the programme of specific psychological assistance and suicide risk prevention (a practical

guide for the assessment of suicide risk, for crisis prevention and intervention), the specific psychological assistance programme dedicated to persons with psychological disorders (a practical guide for the specialized assistance to persons deprived from freedom diagnosed with psychological disorders).

The activity project Prevention and Information Campaign for supporting persons deprived from freedom in an existential impasse (implemented at a systemic level in 2012 with the main goal of training persons deprived from freedom, of supporting and monitoring persons deprived from freedom at risk of suicide; the activities to support persons at risk of suicide shall continue on a bimonthly basis and beyond, depending on the needs in each penitentiary unit).

**b.** *Furthermore, for the Penitentiary of Tulcea, the National Administration of Penitentiaries answered the issue of the proper supervision of prisoners who have a predisposition to commit suicide and the assessment of suicide risk, regarding: analysing the need to perform a work visit to the Penitentiary of Tulcea, by the officers appointed for monitoring the implementation of the Strategy for the reduction of aggressive behaviour in the prison environment; retraining the staff of the Penitentiary of Tulcea on the enforcement of the Decision of the General Director of the National Administration of Penitentiaries no. 631/2014 approving the application of the Clinical Manual of risk of violence in penitentiary units (self-aggressive, suicidal and hetero-aggressive behaviour); including topics on the identification and management of signs of depression/intent of suicide.*

At the same time, the following measures were stipulated in the Plan of measures drawn up in the Penitentiary of Tulcea: prisoners will be supervised according to the execution system they were classified into, in compliance with the provisions of Law no. 254/2013 on the execution of punishments and freedom-depriving measures decided by judicial bodies during the criminal lawsuit; the specialists of the Education and Psycho-Social Assistance sector (psychologist, educator, social worker) will permanently assess prisoners so as to identify needs for intervention and the suicide risk implicitly. Assessments will be made based on the assessment tools provided by the specialized department of ANP.

► **Positive aspects were also found on the occasion of visits and investigations in penitentiary units (Craiova-Pelendava, Iași, Mioveni, Slobozia, Bacău).**

● **Regarding accommodation conditions**, some detention rooms ensured 6 cube metres of air/person and they had proper natural light (*Penitentiary of Mioveni, Penitentiary of Craiova-Pelendava, Bacău*). ● some rooms were fully refitted (*Penitentiaries of Mioveni, Bacău*). ● some of the rooms were provided with furniture for the storage of personal items, most of the checked mattresses and beds were in a good state, sanitary facilities were clean and properly equipped (showers with cabins, basins, pavement with sandstone and walls with ceramics) and had a good state of cleanliness, cold water was supplied on a permanent basis and warm water followed a schedule approved by the management of the penitentiary; harmful insects were not found when the facilities were checked (the interviewed persons deprived from freedom did not inform this during the visit), and disinfection and deratisation were constantly performed by the authorized employees of the penitentiary, with authorized substances (*Penitentiaries of Craiova – Pelendava, Bacău*); ● in the *Penitentiary of Slobozia*, each detention room had its own sanitary facility with a toilet, detention rooms were remodelled and refitted, and the prisoners' privacy was ensured by the fact that sanitary facilities were separated from the rest of the room by means of walls and they had an access door. At the same time, cold water was provided on a daily basis, with no interruptions, and heating was ensured by the penitentiary's own automated heating plant. Furthermore, the hygiene and cleanliness of the food preparing section was proper, as the staff wore protection uniforms and had been subject to the compulsory medical analyses. ● underwear items were purchased in the *Penitentiary of Iași* (vests, boxers, socks, bed items), as well as a freezer, a refrigerator, a professional washing machine, a water deharding station, 3 wheelchairs and 60 LED TV sets. Moreover, the detention rooms and clubs of the *Penitentiary of Iasi* were equipped with TV sets held by the prisoners or the penitentiary.

Regarding the creation of new accommodation areas, ANP approved the design of a new pavilion in the *Penitentiary of Focsani*, which will have 17 detention rooms and a capacity of 68 places/4 sqm for persons deprived from freedom who execute

their punishment in a closed system. Furthermore, the pork and vegetables used to prepare the food of persons deprived from freedom were obtained from the own agro-zootechnical farm of the unit. Occupational therapy activities were performed (persons deprived from freedom considered that educational activities were useful) and pursued according to the information provided by the management of the penitentiary.

- **Regarding food preparation with suitable hygiene**, the food preparing section and the used tools were clean, the pavement was of mosaic cement, and walls were covered in ceramics (*Penitentiary of Craiova-Pelendava*). ● the food was suitable from an organoleptic, quality and quantity point of view (*Penitentiaries of Mioveni, Craiova-Pelendava, Bucharest-Rahova, Iași, Bacău*). ● The prisoners received food prepared on a daily basis, provided in time and in compliance with hygiene conditions, transported in stainless steel containers with a lid, while food samples were collected on a daily basis in labelled glass jars, stored in refrigerators with temperature charts (*Penitentiaries of Iași, Bacău, Focșani*).

- **Regarding healthcare supply**, the medical practice of the *Penitentiary of Craiova Pelendava* was equipped with furniture, tools and devices according to the legal guidelines in force, medical reports were drawn up and duly filled in for persons deprived from freedom, and the medical documents and registers used in the current activity of the medical practice were properly updated, recorded and filled in. Furthermore, persons deprived from freedom benefitted from compensated medicines, based on a medical prescription issued by the physician of the penitentiary or by other specialists. ● The instruments required for the proper operation of the medical practice were purchased in the *Penitentiary of Iași*, and the medicines were provided through the pharmacy of the penitentiary unit. ● the dental practice of the *Penitentiary of Focsani* was properly equipped. ● At the same time, the medical practice had enough antiseptics and disinfecting substances in its stock (*Penitentiary of Slobozia*.)

- **Regarding the supply of psychological and social assistance**, all psychologist specialist officers had a right to practice and were professionally certified based on Law no. 213/2004 on the exercise of the profession of psychologist with a right to practice, the establishment, organization and operation of the Romanian College of

Psychologists (*Penitentiaries of București Rahova, Penitentiary of Craiova-Pelendava, Mioveni, Slobozia*). Psychologists undertook the following activities in the penitentiary units: • individual talks, psychological assessment, counselling, psychological assistance programmes and group activities; individual psychological counselling sessions, included in the Specialists' Register, in the PMSWeb software and in counselling reports; • in January 2017, the psychologists undertook the activity of identifying, assessing and centralizing psychological assistance needs in the persons in custody, and all obtained data were centralized and interpreted; • starting February 2017, the specific psychological assistance programme for persons with prior alcohol consumption (anti-alcohol) was developed with two groups each including 12 persons deprived from freedom and two half-structured psychological activities were undertaken - the Activity to prevent tobacco use in penitentiaries "National Tobacco-Free Day" and the debate titled "You are irreplaceable!" with the opportunity of the International Suicide Prevention Day; psychological assistance for the development of management skills for aggressive impulses and developing self-control in frustrating situations; • persons who were deprived from freedom and diagnosed with mental health disorders either received psychological counselling or were referred to the psychological assistance programme for persons with psychological disorders, others took part in the programme for persons with prior alcohol consumption (anti-alcohol), in the debate titled "You are irreplaceable!" with the opportunity of the International Suicide Prevention Day, in the self-knowledge and personal development programme or in the psychological activity for the development of management skills for aggressive impulses and developing self-control in frustrating situations; • persons identified as having a risk of aggressiveness/hetero-aggressiveness received psychological counselling to reduce the risk of aggressiveness and maintain their psycho-emotional balance, and two persons were included in the group of participants in the psychological activity to develop management skills for aggressive impulses and developing self-control in frustrating situation (*Penitentiary of Craiova – Pelendava*); • the existence of methodological supplies, standardized BDI, SCID, Millon, MMSE tests, and psychological assessments were performed as the prisoners entered the

penitentiary (initial psychological assessments) followed by periodic assessment every six months and final assessment, which were recorded in the professional register of the psychologist who undertook the activity (*Penitentiary of Bacău*). At the same time, addiction programmes were performed with the support of the Siloam Association in the community, as a pilot project training a supporting group of prisoners which, in turn, will support other prisoners (*Penitentiary of Bacău*); • the activity registers of the two social workers were duly filled in (Penitentiary of Mioveni).

• **Regarding the right to information.** Info kiosks were installed in the detention sections of penitentiary units (Bucharest-Rahova, Focşani, Iaşi, Craiova-Pelendava, Slobozia), where persons deprived from freedom could obtain legislative information. Furthermore, persons deprived from freedom had access to the written and audiovisual press, as well as the penitentiary's library, with more than 500 books and documentary folders with laws, orders, government decisions, etc. Each detention room had at least a TV set, the penitentiary had a contract with a cable TV operator and phones were installed in each detention section. 1085 rewards were awarded in the reward committee in 2016. Rewards consisted of permissions to leave the penitentiary (123), additional rights to packages and visits (909), raising a prior disciplinary sanction (23), additional rights to conjugal visits (30). At the same time, disciplinary sanctions were not applied to the staff during 2016 and no acts of corruption were recorded among the unit's staff (*Penitentiary of Craiova-Pelendava*).

• **Regarding the disciplinary situation:** 1382 rewards were granted in the *Penitentiary of Slobozia*, of which: 1166 - additional rights to packages and/or visits, 21 - additional rights to conjugal visits, 11 - permission to leave the penitentiary for a day, but no more than 15 days a year, 182 - raising a prior disciplinary sanction. Starting 2016 and until the date of the visit, 5654 visits with separating device and 1685 visits without separating device were granted, with 223 conjugal visits with a 3-hour duration and 21 conjugal visits with a 48-hour duration (Penitentiary of Slobozia).

At the same time, the committee for rewards of the Penitentiary of Bucharest-Rahova approved 11 applications for permission to leave the penitentiary for 24 hours to take part in the burial of relatives.

- *Regarding the management of complex cases, the management of the Penitentiary of Bucharest-Rahova* took action to monitor the health and safety state of persons deprived from freedom by transferring them to hospital penitentiaries (*Hospital Penitentiary of Bucharest-Jilava, Hospital Penitentiary of Mioveni, Hospital Penitentiary of Bucharest-Rahova*). The psychologist of the mentioned penitentiary unit informed the management of the unit that the required actions had been taken to ensure a climate of individual and collective safety and to prevent negative events, with the proposal to inform the structures involved in direct activities with prisoners (detention safety). Psychological assistance was awarded in some cases for attempted suicide. In the case of death by suicide, the penitentiary observed the procedure to notify the Prosecutor's Office attached to the Court of Bucharest, the National Administration of Penitentiaries, the Mina Minovici Institute of Legal Medicine, the judge supervising freedom deprivation and the emergency number 112 was called.

► **A range of actions performed pursuant to 2016 visits was completed in 2017: Penitentiary of Ploiești, Penitentiary of Târgșor, Penitentiary of Rahova, Penitentiary of Mărgineni, Penitentiary of Codlea, Penitentiary of Miercurea-Ciuc, Penitentiary of Găești, Penitentiary of Jilava and the Hospital Penitentiary of Jilava.**

*A range of deficiencies resulted from the visits to the above mentioned penitentiaries, 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. Thus:*

- *Regarding accommodation conditions:*● the management of the *Penitentiary of Codlea* informed that, in order to secure optimal accommodation conditions and to reduce the overcrowding of detention rooms, the administration of the penitentiary has been making efforts to properly assign the prisoners in custody, considering their criminal categories, execution status, the safety measures to be taken, as well as the social reintegration needs identified for each person in custody. Furthermore, several transfer applications were submitted to the National Administration of Penitentiaries, pursuant to which 126 persons were transferred to other penitentiaries during May

2016 - June 2017. In order to improve accommodation conditions for persons deprived from freedom, current repairs were performed in the rooms on detention sections E2 and E3 during 2016 and beds were taken out of the rooms where three-layered bunk beds were installed. New mattresses were purchased to furnish section E5-RD, as well as replace those claimed to be improper. • *The Penitentiary of Ploiești* stipulated that all the mattresses in the rooms of section I were replaced by new ones, and the procedure was completed in March 2017. A professional ventilation system was purchased and mounted in the food preparing section in December 2016, and all the carpentry was replaced with insulating windows, thus solving the issue of condensation. A boiler was mounted in order to have hot water both in the showers and in the dish washing section. • *The Penitentiary of Miercurea-Ciuc* informed that painting, installation repairs, repairs of doors and windows were performed in 2016 in 23 detention rooms, in the halls of detention sections I and II, along with 8 rooms in the first quarter of 2017. All used mattresses were replaced with new mattresses, enough for the entire number of prisoners. Furthermore, in order to reduce overcrowding, 33 beds were taken out of the rooms during April 2016 - April 2017 (11 sets of 3 beds in 10 detention rooms), in order to create more free room. Action was taken to ensure the prisoners' privacy in the shower room and purchase the required materials; the completion of works is expected by December 20, 2017. • *The Penitentiary of Mărgineni* informed that actions were taken to increase the detention space in the two infirmary rooms by removing some beds from section E 3.36. • *The Penitentiary of Găești* answered that 5 refrigerators had been purchased in 2016 to improve detention conditions. Furthermore, the possibility to include the purchase of other refrigerators in the Draft budget for 2018 will be analysed, so as to improve detention conditions. • *The Penitentiary of Târgșor* stipulated that section E3 for preventive arrest was extended and reorganized as a closed-status section. It was envisaged and achieved that each female prisoner would have an individual bed, and a new location was identified and commissioned, so that the accommodation capacity increased by 8 places. A priority objective is to extend the accommodation capacity;

actions were taken to arrange new detention areas on a total surface of 7768 sqm, i.e. about 320 new accommodation places.

● **Regarding specialized staff:** ● *The Penitentiary of Miercurea-Ciuc* informed that its organizational chart included 10 positions in the medical practice and 4 positions in the psycho-social assistance department, with 9 positions in the medical sector (the position of head physician was vacant) and 2 positions in psycho-social assistance being occupied. Actions were taken for occupying all vacant positions as of the date of the visit; the following positions were occupied: dentist, general medical nurse, psychologist and social worker. ● *The Penitentiary of Găești* informed that a new position of social worker was covered from an external source competition, so that the penitentiary would be served by 2 social work officers and an agent acting as a social worker. The job chart of the *Penitentiary of Gaesti* includes 4 positions of social work officer, so as to ensure the minimum standards of one social worker for 100 prisoners. Social workers and psychologists who are beginners must pursue experience exchanges in the penitentiary units in the area and will also be included in a mentorship programme, upon recommendation of the team in the Department for Penitentiary Inspection. ● *The Penitentiary of Rahova* informed that 4 social workers were employed in the second quarter of 2016, from an external source, of which 3 were beginners; they developed their activity under the guidance of an experienced social worker. Furthermore, two psychologists were transferred from other penitentiary units. ● *The Penitentiary of Târgșor* stipulated that competitions for covering vacancies in the medical sector from an external source had been organized during 2016-2017. Three vacant positions of general medical nurse and a position of officer dentist were covered pursuant to the completion of competitions (the employment of the officer dentist was terminated after two weeks, since the individual refused to give the oath of faith as a public officer with a special status). The position of dentist will be covered through the assignment of a 2017 graduate of the Military Medicine Institute.

● **Regarding water quality:** ● the management of the *Hospital Penitentiary of Bucharest-Jilava* and of the *Penitentiary of Bucharest-Jilava* informed that the quality of potable water is monitored and checked on a monthly basis by an accredited

laboratory having entered a contract with the penitentiary. This laboratory certifies the observance of legal rules regarding potable water on a monthly basis. Furthermore, new actions were taken to identify business operators interested in providing technical counselling to improve water quality through a filtering system or another solution. • *The Penitentiary of Găești* informed that water samples were improper since the chlorine values exceeded the admitted limit. Water samples were suitable, based on the analysis reports of March 31, 2016 and April 28, 2016. • *The Penitentiary of Codlea* informed that, in order to refit the water supply and sewerage system, a supporting note was sent to the National Administration of Penitentiaries so as to analyse the possibility/opportunity of drawing up documentation and performing the required works for refitting the water supply and sewerage system.

*The reports drawn up after the 2016 visits were performed included the following positive aspects:*

- **Regarding detention conditions:** *The Penitentiary of Găești* hosted 364 persons deprived from freedom and 452 beds were installed, with an occupation rate of 80.53%. Most visited detention rooms had 2 large insulating windows, providing enough natural light and suitable ventilation, so that current daily activities could be performed in natural light (reading, writing, cleaning, etc.).

- **Regarding healthcare:** Medical examinations were provided based on a daily schedule for each detention section and room. Emergencies were examined with priority, irrespective of the schedule of medical examinations. Any emergency during the physicians' working hours was initially examined by them and, if applicable, referred to a hospital penitentiary or a hospital of the Ministry of Health, depending on the disorder. Enough medicines were available to provide primary assistance, within their expiry term, and were kept according to the sanitary regulations in force. The emergency equipment was standard and was located in a locked cabinet. The medical practice was equipped with an emergency kit in a visible and accessible place. (*Penitentiary of Mărgineni*)

- **Regarding the prisoners' food:** Food was prepared according to diets and included 3 meals a day, plus an addition for diabetics. The food preparing section was

properly equipped and authorized, and food was prepared according to relevant standards. Food samples were refrigerated for 48 hours. (*Penitentiary of Miercurea Ciuc*)

- ***Regarding the rights of individuals deprived from freedom:*** Religious service was performed in a chapel with two altars, one for the Orthodox, the other for the Catholic. A library with books in Romanian and Hungarian language was available. The visit section had two cabins for online calls, so that prisoners could have online calls (*Penitentiary of Miercurea Ciuc*).

### **Proposals**

- **examining the provisions of Law no. 254/2013 on the execution of punishments and freedom-depriving measures decided by judicial bodies during the criminal lawsuit**, so as to add the possibility that the individual deprived from freedom may complain against the reward committee.

### **Considering:**

- ▶ the role of the reward system in encouraging good behaviour, developing the spirit of responsibility and ensuring the prisoners' interest and cooperation in the treatment process, as stipulated by Rule 95 of the UN Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

- ▶ the importance of rewards awarded in appreciation of the conduct of the person deprived from freedom by the Parole Committee, based on art. 97 (3) (d) of Law no. 254/2013 on the execution of punishments and freedom-depriving measures decided

by judicial bodies within the criminal lawsuit.

- ▶ each prisoner must be allowed to file an application or a complaint regarding his/her treatment to the central penitentiary administration, to the judicial authority or other relevant authorities, including authorities with review or remedy attributions, based on Rule 56 (3) of the UN Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

► Law no. 254/2013 does not provide for the possibility that the person deprived from freedom may file a complaint against the decision of the Reward Committee.

• *examining the provisions of Law no. 254/2013 on the execution of punishments and freedom-depriving measures decided by judicial bodies during the criminal lawsuit and the Regulation for the enforcement of Law no. 254/2013, i.e. amend them so as to repeal the first paragraph of art. 101 (4) (“Disciplinary sanctions”) of Law no. 254/2013, as follows:*

*“The physician informs and provides recommendations to the chair of the discipline committee in case of any medical reason to prevent the enforcement and execution of the sanction stipulated under par. (1) (f)”*

and par. (3) of art. 223 (“enforcement of disciplinary sanctions” of the **Regulation for the enforcement of Law no. 254/2013:**

*“The chair of the discipline committee shall ask the unit physician to provide recommendations based on art. 101 (4) of the Law.”*

**Considering:**

► the physician’s involvement in establishing the sanction of isolation for no more than 10 days based on the first paragraph of art. 101 (4) (“disciplinary sanctions”) of Law no. 254/2013, as follows:

*“The physician informs and provides recommendations to the chair of the discipline committee in case of any medical reason to prevent the enforcement and execution of the sanction stipulated under par. (1) (f)”*

\*For a freedom-deprived individual in the custody of PNT Giurgiu, the sanctions enforced by the discipline committee included the sanction of isolation for a period of 3-7 days (4 sanctions). The freedom-deprived person was declared to be medically unable to execute isolation sanctions, by the physician of the penitentiary unit.

► Rule 46 of the UN Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), based on which: *“the medical staff will not play a part in the*

*enforcement of disciplinary sanctions or other measures of constraint*”, as the physician intervenes during the execution of the isolation sanction, by calling attention to the state of health of convicted persons detained in any form of separation, also by visiting them on a daily basis and providing prompt medical assistance and treatment upon request of such prisoners or employees of the penitentiary.

- *amending the provisions of Law no. 254/2013 on the execution of punishments and freedom-depriving measures decided by judicial bodies during the criminal lawsuit regulating the right to visits, i.e. increasing the number of visits*, for humanitarian reasons, in the case of prisoners in a serious pre-terminal state.

- *amending the provisions of Law no. 254/2013 on the execution of punishments and freedom-depriving measures decided by judicial bodies during the criminal lawsuit regulating the permission to come out of the penitentiary in case of death of a relative*, i.e. regulating the right to come out of the penitentiary in case of death of a family member, and the penitentiary authority will have to take the required diligence for obtaining information on the relative’s death.

- *amending legal provisions so that, in exceptional situations (for instance, the death of a family member in the case of a prisoner with no financial means, who has not had money in his/her personal account in the last 30 days), the penitentiary authority may support phone contact with the family.*

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At the end of this Activity Report, we underline the contribution of the field regarding prevention of torture in detention places (NPM) to protecting the rights of freedom-deprived persons by performing announced or spot visits to detention places and by providing recommendations to the management of the visited detention places.

As in the previous year, all categories of detention places stipulated by the law were visited: penitentiaries, including hospital penitentiaries, educational centres, detention centres; preventive detention and arrest centres; psychiatric and safety hospitals, psychiatric hospitals; special centres for the admission and accommodation

of asylum seekers subordinated to the General Inspectorate for Immigration; centres for elderly persons; centres for children; institutions included in the health system or the social assistance system, centres for the accommodation of aliens in public custody.

We mention that the role of the visits is to improve detention conditions and ensure the respect for the rights of persons deprived from freedom. It should also be remembered that it is important to cooperate with the representatives of the visited units, as the recommendations of the National Prevention Mechanism are implemented based on a dialogue with them.

Furthermore, the reinforcement of the capacities of the staff of the National Prevention Mechanism was envisaged in 2017, by enhancing professional training.

*This report shows that the achievement of the goal of having a society where torture, inhuman or degrading treatment are eradicated is not an easy mission, but not an impossible one either. This process must be accelerated, with no excuse or exception, both for concern for the victims of torture, and to maintain the dignity of all citizens. When a single human being is exposed to inhuman treatment, no one's dignity can be guaranteed.*

**We would also like to thank all the institutions, non-governmental organizations, collaborators and persons cooperating with us in the reporting period, for their contribution to the performance of visits by the field regarding prevention of torture, as well as for taking part in the events and activities organized by it.**

The People's Advocate Institution

National Prevention Mechanism (NPM)

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