

# THE DEPARTMENT FOR THE PREVENTION OF TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT IN PLACES OF DETENTION – NPM

*“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment... not even in time of war or other public emergency threatening the life of the nation.”*

(Articles 3 and 15 (2) of the Convention for the Protection of Human Rights and Fundamental Freedoms)

*“The National Preventive Mechanisms are those who give the OPCAT strength, direction, momentum and hope to achieve its objectives”*

*Elizabeth Odio Benito*  
(Judge, President of the Inter-American Court of Human Rights)



*Department on the  
Prevention of Torture - NPM*

By ratifying the *Optional Protocol of 18 December 2002 to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)*, Romania has undertaken to set up the National Mechanism for the Prevention of Torture in Detention (NPM). Thus, in 2014, by GEO no. 48 it was established that the People's Advocate institution, through the Department for the prevention of torture and other cruel, inhuman or degrading treatment or punishment in places of detention, shall fulfill the specific duties of a national preventive mechanism. NPM exercises a preventive mandate, its role being to identify situations with potential risk of ill-treatment.

The activity of the NPM consists mainly in: carrying out regular visits, announced or unannounced, in places of detention, formulating recommendations to the managements of the places visited and the hierarchically superior authorities and formulating proposals for legislative changes. The purpose of the monitoring activity is to strengthen the protection of persons deprived of their liberty against ill-treatment and ensure the non-discriminatory exercise of fundamental rights.

**Place of detention means any place where a person is or may be deprived of liberty, and deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority, including by decisions of legal persons managing social services.** Also, Law no. 35/1997, republished (Art. 34 letter (j)) states that **all places that are part of the social assistance system are subject to NPM monitoring.**

In the context of the coronavirus pandemic and the restrictive measures adopted by the authorities, throughout the state of emergency and subsequently the state of alert, NPM made every effort to fulfill its mission to verify the observance of fundamental rights of the persons who are or could be deprived of their liberty and their protection against ill-treatment. For this purpose, NPM monitored all types of places of detention which, according to Art. 4 of the OPCAT fall within its sphere of competence, including institutionalized quarantine places and

Covid-19 hospitals, new places of detention that appeared as a response of the Romanian authorities to the current epidemiological situation.

The MNP took into account the SPT Opinions adopted between 10-14 February 2020, and on 25 March 2020 (which were communicated to States Parties and national preventive mechanisms) stating that: *Any place where a person is kept in quarantine and which they are not free to leave, is a place of detention according to Art. 4 of OPCAT; quarantine facilities are de facto a form of detention and any other places from which persons are prevented from leaving for similar purposes (those of quarantine) inexorably fall within the scope of the OPCAT mandate and therefore within the scope of both of the SPT, as well as of the national preventive mechanisms established according to OPCAT, among the places of deprivation of liberty the Subcommittee listing other medical establishments.*

In carrying out its activity, the NPM was guided by the *do no harm* principle, consequently, the monitoring activity was carried out through classic visits but also through alternative means, when the existing epidemiological situation required the cessation of visits.

**From the beginning of the state of emergency, NPM monitored the implementation of the measures ordered by the public authorities, as well as their consequences, requesting information on measures taken to protect detainees (and staff) against coronavirus contamination and for observance of the fundamental rights of persons deprived of their liberty,** provided that the exercise of certain rights has been restricted / suspended (for example, the following have been verified: • in *penitentiaries*, the actual application of compensatory measures - supplementing the scope of telephone conversations, online communications, in the conditions of suspending the exercise of the right to receive visits, the right to intimate visit, the right to receive goods through the visit sector, etc.; • in *psychiatric hospitals*: ensuring the connection with the family, the visits of the relatives being forbidden; the situation of patients following the discharge of all patients who did not represent emergencies and who did not necessarily require the provision of medical care in the hospital; the situation of social cases; • in *homes for the elderly*: ensuring the connection with the family; the situation of deaths; possible deficiencies in the provision of medical care; • in *quarantine centers*: their number and location, capacity, number of persons placed in quarantine, accommodation conditions provided, rights and obligations of quarantined persons, incidents and their resolution. The responsible authorities were also requested to make available to the quarantined persons the brochures sent by the NPM containing information on the role and responsibilities of the NPM and the contact details). The answers communicated by the authorities / units will be included in the Special Report on the MNP's activity in the state of emergency and the state of alert, which will be published at the beginning of this year.

The above information was requested in approximately **880 letters**, sent to the following authorities: Ministry of Internal Affairs; Ministry of Health; Ministry of Labor and Social Protection; National Committee for Special Emergency Situations; National Administration of Penitentiaries (ANP); National Authority for the Rights of Persons with Disabilities, Children and Adoptions; General Inspectorate for Immigration (IGI); The General Inspectorate of Romanian Police; The institutions of the Prefect at the level of each county and of the municipality of Bucharest; General Directorates of Social Assistance and Child Protection; The local councils of the Municipality of Bucharest and the county councils; town and city halls; private homes for the elderly. An ongoing dialogue was maintained with some of the authorities, noting in this regard the availability of ANP and IGI representatives to work with the NPM in implementing the recommendations and improving the conditions and treatment of persons deprived of their liberty.

Also, **83 letters were drawn up and sent to other institutions / organizations / associations involved in monitoring the treatment of persons deprived of liberty:** non-governmental organizations and bars within the National Association of Romanian Bars (in order to inform the NPM about the situations of violation of human rights and ill-treatment of persons deprived of their liberty, of whom they become aware during the course of their work); courts of appeal (requesting information on the procedure of involuntary hospitalization: trial on the merits and on appeal of the measure of involuntary hospitalization, ensuring the participation and hearing of the patient in court, as well as ensuring the patient's defense, ex officio, if they don't have an attorney).

On 13 April 2020, following the example of the **Subcommittee on Prevention of Torture (SPT) and the European Committee for the Prevention of Torture (CPT)** and related to the Romanian reality, a set of principles was formulated to be respected by all relevant authorities responsible for persons deprived of liberty, in order to prevent any acts of torture or cruel, inhuman or degrading treatment - *Declaration of principles on the treatment of persons deprived of liberty during a state of emergency established in response to the coronavirus epidemic (Covid-19)*, posted of the People's Advocate institution.

**Following the cessation of the state of emergency, monitoring was carried out both by alternative means to classic visits, as well as classic visits,** where possible, and a procedure in this regard was developed. For the awareness raising and increasing the efficiency of the monitoring activity (facilitating the access of persons deprived of liberty to the NPM teams) **were prepared:** • *press releases* regarding the monitoring activity of penitentiaries / psychiatric hospitals / Covid-19 hospitals / quarantine centers; • *questionnaires* for persons deprived of their liberty in penitentiaries / psychiatric hospitals / Covid-19 hospitals / quarantine centers / homes for the elderly and staff in penitentiaries / homes for the elderly<sup>1</sup>; • *announcements* regarding the monitoring of psychiatric hospitals / Covid-19 hospitals, the possibility to complete the aforementioned questionnaires and the contact details of the NPM, communicated to the monitored units to be displayed in accessible places.

During 2020, the NPM carried out **73 monitoring activities** in places of detention (**43 classic visits** - some of the visits aiming to verify the implementation of the recommendations formulated through previous visit reports and **30 monitoring activities by alternative means** to classic visits):

- **Penitentiaries – 13 monitoring activities:** Mărgineni Penitentiary; Valu lui Traian Exterior Section of the Constanța-Poarta Albă Penitentiary; Craiova Penitentiary-Ișalnița Exterior Section (women); Craiova Pelendava Penitentiary; Bacău Penitentiary; Târgu Ocna Penitentiary-Hospital; Botoșani Penitentiary; Brăila Penitentiary; Deva Penitentiary; Bistrita Penitentiary; Satu Mare Penitentiary; Ploiești Women's Penitentiary Târgșorul Nou; Bucharest-Rahova Penitentiary;

- **Detention and Remand Centers – 5 monitoring activities:** Caraș-Severin Detention and Remand Center; Arad Detention and Remand Center; Galati Detention and Remand Center; Brașov Detention and Remand Center; Prahova Detention and Remand Center;

- **Centers for migrants – 2 monitoring activities:** Center for Accommodation of Foreigners taken into Public Custody Arad; Galati Regional Center for Procedures and Accommodation for Asylum Seekers;

- **Residential centers for children – 3 monitoring activities:** Emergency Reception Center for Children Slatina, Olt County; Emergency reception center for the neglected and

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<sup>1</sup> questionnaires that can be filled in on the website of the People's Advocate institution and which were also sent in physical format during the monitoring in penitentiaries, psychiatric hospitals and homes for the elderly

exploited child – Social Services Center "Casa Soarelui" Târgoviște, Dâmbovița County; Alexandria Maternal Center, Teleorman County;

• **Centers for adults with disabilities – 14 monitoring activities:** Babadag Neuropsychiatric Recovery and Rehabilitation Center, Tulcea County; Sinersig Neuropsychiatric Recovery and Rehabilitation Center, Timiș County; Suseni Social Care and Assistance Center, Gorj County; Jariștea Neuropsychiatric Recovery and Rehabilitation Center, Vrancea County; Hârlău Neuropsychiatric Recovery and Rehabilitation Center, Iași County; Adășeni Care and Assistance Center, Botoșani County; Sasca Mică Neuropsychiatric Recovery and Rehabilitation Center, Suceava County; Care and Assistance Center for persons who cannot take care of themselves - Berceni, Bucharest; Center for Care and Assistance for Adults with Disabilities Puchenii Mari, Prahova County; Movila Neuropsychiatric Recovery and Rehabilitation Center, Ialomița County; Ileanda Medical and Social Assistance Center, Sălaj County; Nucet psychiatric Medical and Social Assistance unit, Bihor county; Center for Recovery and Rehabilitation of Adults with Disabilities Baia Mare, Maramureș County; Gherla Neuropsychiatric Recovery and Rehabilitation Center, Cluj County;

• **Psychiatric hospitals - 8 monitoring activities:** Mocrea Psychiatric Hospital, Arad County; Poiana Mare Psychiatric Hospital, Dolj County; Siret Chronic Psychiatric Hospital, Suceava County; Socola Institute of Psychiatry - Șipote External Section, Iași County; Săpoca Psychiatric Hospital for Safety Measures, Buzău County; Săpunari Psychiatric Hospital, Călărași County; Nucet Psychiatric Hospital, Bihor County;

• **Nursing homes for elderly – 15 monitoring activities:** Răcari Center for the Elderly, Dâmbovița County; “Sfântu Gheorghe” Center for the Elderly Oltenița, Călărași County; Home for the elderly " Cuviosul Iov " Vânjuleț, Mehedinți County; The home for the elderly „ St. Maria ”Șișești, Mehedinți County; Home for adults and the elderly Anina, Caraș-Severin County; Mozăceni Home for the Elderly, Argeș County; Tutova Home for the Elderly, Vaslui County; ProSenectute Lilieci Home for the Elderly, Bacău County; „St. Antim Ivireanul” Home for the Elderly Călărași, Călărași County; Home for the elderly Blaj, Alba county; Speranța Center for the Elderly, Bucharest; Sky Angel Residential Center for the Elderly, Dărăști-Vlașca, Giurgiu County; Home for the Elderly Christian Association St. Prooroc Ilie, Balotești, Ilfov County; Home for the Elderly Casa Bunicilor, Valea Mare commune, Dâmbovița county; Sf. Elena Social Center for the Elderly, Târgovite municipality, Dâmbovița county;

• **Covid-19 Hospitals – 13 monitoring activities:** Ploiești County Emergency Hospital; “Marius Nasta” Institute of Pneumoftiziologie Bucharest; Constanța County Emergency Clinical Hospital; Constanța Clinical Hospital of Pneumoftiziologie; Giurgiu County Emergency Hospital; Râmnicu Sărat Municipal Hospital, Buzău County; Oltenița Municipal Hospital, Călărași County; Târgoviște County Emergency Hospital, Dâmbovița County; Câmpina Municipal Hospital, Prahova County; Fetești Municipal Hospital, Ialomița County; CF Ploiești Hospital, Prahova County; Tulcea County Hospital - Infectious Diseases Department, Tulcea County; Bolintin Vale City Hospital, Giurgiu County;

• **Quarantine centers – 1 monitoring activity:** Techirghiol Spa and Recovery Sanatorium, Constanța County.

**Collaboration of the authorities with the NPM teams during the monitoring activities:**

NPM emphasizes the good cooperation of management and staff with NPM team members in most of the monitored places, as they demonstrated good knowledge of national and international legal provisions regarding the NPM’s mandate, as well as the common interest, which is improved living conditions and treatment for the people deprived of liberty. For example, in the case of the visit to the **Valu lui Traian Exterior Section within the**

**Constanța-Poarta Albă Penitentiary** (visit by alternative means), the management of the penitentiary unit facilitated and ensured meetings of the NPM team through Skype with the persons in custody, in privacy, in a specially arranged space for online calls, equipped with computer, headphones and microphone; also, the management of the Săpunari Psychiatric Hospital facilitated in optimal conditions the access of the NPM team to the video surveillance system from the common spaces of the hospital; During the monitoring of the Techirghiol Spa and Recovery Sanatorium, it was found that the Institution of the Prefect of Constanța County sent to the sanatorium the NPM brochure intended for persons placed in quarantine.

The same cannot be said about the **management of some Covid-19 hospitals, which refused to comply with the NPM's requests** (they expressly refused or ignored the NPM's letters)<sup>2</sup>, and a **virulent media attack was launched against the Ombudsperson and the Deputy Ombudsperson, head of the NPM. Also, high representatives of the Government and the Prime Minister publicly requested that the NPM withdraw its requests for information and documents sent to these hospitals**, arguing that the assimilation of these institutions with places of detention would be a distortion of reality, and a comparison done in bad faith of situations that have nothing in common.

All these actions demonstrated the ignorance or lack of knowledge of the Conventions and Protocols on the prohibition and prevention of torture, to which Romania is a party, including by the Government which must be the guarantor of their observance; ignorance or lack of knowledge of the national legal provisions by which **Romania undertook to establish the National Mechanism for the Prevention of Torture and to ensure its access to: all information on the number of persons deprived of liberty** in places of detention, as well as the number of such places and their location; **all information regarding the treatment applied to those persons, as well as the conditions of detention; all places of detention and their installations and facilities.** NPM members should have the **opportunity to meet with persons deprived of their liberty** without witnesses, as well as with anyone who can provide relevant information and the **freedom to choose the places they want to visit and the people they want to have meetings with.**

In these circumstances, **the MNP appealed to the provisions of the OPCAT<sup>3</sup> and addressed the SPT, requesting its support and an official point of view** to assist the NPM in the exercise of its mandate. The **response of the SPT was prompt**, Mr. Daniel Fink, SPT member and leader of the Regional Team for Europe, addressing His Excellency M. Adrian Cosmin Vierița, Ambassador Extraordinary and Plenipotentiary to the Permanent Mission of Romania to the United Nations Office at Geneva and International Organizations based in Switzerland, reiterating the provisions of the aforementioned SPT Opinions and ***emphasizing that in accordance with Art. 20 of the Optional Protocol, national preventive mechanisms shall have access to all data, including relevant medical documents, records and other information necessary for the prevention of inhuman or degrading treatment in places where***

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<sup>2</sup> *Expressly refused the monitoring:* the National Institute of Infectious Diseases "Prof. Dr. Matei Balș" and the Clinical Hospital for Infectious and Tropical Diseases "Dr. Victor Babeș"

*Did not answer:* Constanța Infectious Diseases Clinical Hospital; Central Military Emergency University Hospital «Dr. Carol Davila» Bucharest - ROL2-COVID-19 level, military field hospital; Military Emergency Hospital «Dr. Alexandru Gafencu» Constanța - Modular medical isolation and treatment system. COVID-19 isolation and quarantine camp; Policlinico di Monza Medical Center - "Monza Metropolitan Hospital" branch; Medgidia Municipal Hospital; Pucioasa City Hospital; Caritas Municipal Hospital Roșiori de Vede; Colentina Clinical Hospital.

<sup>3</sup> art. 11 lit. b) pct. (ii): SPT menține contactul direct și, dacă este necesar, confidențial cu mecanismele naționale de prevenire și oferă acestora pregătire profesională și asistență tehnică pentru a le consolida capacitățile.

*persons are or could be deprived of their liberty [...]. In addition, in the Opinion of the Subcommittee sent to States Parties and national preventive mechanisms, on the prevention of coronavirus (CAT/OP/10), the SPT clarified that all people held in official quarantine places should be able to benefit from fundamental safeguards against ill-treatment.*

We remind that the mandate of the NPM includes the monitoring of any place where a person is or may be deprived of liberty (therefore a place that they cannot leave at their own free will), regardless of whether this place (considered to be detention) is a penitentiary, hospital, residential center for minors, quarantine center, etc.

Other situations faced by NPM teams during monitoring:

- *The prefect's institutions* notified about the institutionalized quarantine places communicated partial information / failed to answer or refused to give certain information, such as the location of the quarantine centers, indicating the following reasons: *the location of the centers is NOT intended for the general public* (Arad ); *communication is made only at the central level, through the Strategic Communication Group* (Giurgiu); *additional information can be requested from the local public administration* (Bucharest); the locations of these centers are known by a small number of people, who have responsibilities in managing the situation related to COVID 19 (Neamț); there were also Institutions of the Prefect that did not respond to the request for information of the People's Advocate (Bistrița-Năsăud, Buzău, Călărași, Galați, Iași, Maramureș, Mehedinți, Sibiu, Suceava, Timiș and Vrancea);

- some of the *Covid-19 hospitals* partially communicated the requested information / documents: for example, Ploiești County Emergency Hospital communicated an extract from the analysis reports on the implementation and compliance with the provisions of the Operational Procedure on assessing patient satisfaction, during March -May 2020;

- *Săpoca Psychiatric Hospital for Safety Measures*: throughout the monitoring activity (monitoring was performed by alternative means to classic visits) there was a permanent dialogue with hospital representatives (financial director, legal advisor), the NPM team appreciating their availability to provide the requested information and documents. However, although the team's access to the video surveillance system in the common areas and the isolation rooms within the monitored sections was repeatedly requested, the team's access was only ensured to the video surveillance system in the courtyard of the Ojasca location;

- *San Francesco Center for the Elderly, Giurgiu Municipality*, private center: refused to be monitored by the NPM, arguing that their center is no place of detention.

- *The Medical-Social Assistance Unit „Dr. Elena Popovici” Flămânzi, Botoșani County*: during November 2020, NPM was to carry out a follow-up visit to verify the implementation of the recommendations made following visits in 2019. Although, initially, the new management of the center (management changed between two visits) was willing to participate in the scheduled visit, after we sent them the letter requesting information / documents on the activity of the unit, the staff of the unit refused to comply with the requests. This change of attitude was motivated by the fact that the unit is not a detention center and does not fall under the scope of Law no. 35/1997, republished.

#### **Examples of good practices found during monitoring:**

- appropriate measures to protect against SARS-CoV-2 infection have been taken in most monitored units; for example, in the *Techirghiol Spa and Recovery Sanatorium* (which functioned as a quarantine center between March 23 and July 3), operational procedures adapted to the epidemiological context (specific to Covid-19) have been developed since the beginning of the state of emergency: - disinfection of rooms inhabited by patients potentially contaminated with Covid-19, putting on the personal equipment and taking it off by the staff, organization of triage before entering quarantine, distribution of quarantined persons,

administration of medication to quarantined persons, triage of luggage and packages at the entrance to the quarantine center, etc.;

- at the *Mărgineni Penitentiary*, the conditions for **granting the right to online conversation were maintained at the maximum limit** provided by law also after the cessation of the state of emergency; both the ANP and the prison staff were actively involved in maintaining the relationship with the family and the support environment during the period when visits were banned (for example, measures were taken to reduce telephone charges and the prices of items sold at the commercial point); the management of the Mărgineni Penitentiary requested the flexibility of prices for the products sold by the store inside the penitentiary, so that, starting with March 17, 2020, the company reduced the prices of the products by 8-10%, the store being supplied according to the existing situation;

- regarding *the situation of the beneficiaries in residential centers*, during the state of emergency, the Ministry of Labor and Social Protection recommended to identify the families / support persons who can take care of the beneficiaries at home during the state of emergency, reason for which the units sent notifications regarding this possibility (however, there were very few situations in which the legal support persons wanted and had the possibility to take home the beneficiaries of social services, and requested this in writing; in some homes, all beneficiaries – elderly people – represented social cases, had no relatives or income to support themselves);

- in the *Techirghiol Spa and Recovery Sanatorium*, for those who did not have a telephone (in order to maintain permanent contact with quarantined persons, in conditions of limited physical contact) the unit purchased prepaid mobile phones, which were returned when leaving the quarantine center. In case of emergencies, the quarantined persons had at their disposal a mobile phone number, accessible by mobile phones and an extension number, which they could call via the landline in the room. The quarantined people could communicate by phone with the physiotherapist employed by the unit, who recommended physical exercises, and those who had compatible devices could also communicate by video call. The beneficiaries of services in the center were people who had lumbar disc disease, gonarthrosis, arthralgia, coxalgia, acute chronic gonalgia (knee pain), etc. The sanatorium also provided free internet;

Similar situations were found in other units, such as: *Constanța Pneumoftiziologie Clinical Hospital*, which purchased mobile phones for each room; „*Anghel Saligni*” *Municipal Hospital Fetești*, *Giurgiu County Emergency Hospital and Constanța County Emergency Clinical Hospital „Sf. Apostol Andrei” Agigea Pneumoftiziologie Department* where patients had unlimited access to the internet;

- in the *Psychiatric Hospital for Safety Measures Săpoca*, the social workers in the hospital undertook numerous steps for the family and community integration of patients – social cases, during March-June 2020 being made transfers of patients to the Buzău Recovery and Rehabilitation Center for Adults with Disabilities, Buzău Emergency Center, in a modular home in Râmnicu Sărat or discharged at home. However, most patients could not be discharged, although there were no medical reasons to keep them in the hospital, but in most cases there were no actual solutions for discharge or transfer to a neuropsychiatric recovery and rehabilitation center / home for the elderly / sheltered housing. The hospital representatives notified the NPM team of the poor relationship, which has persisted for years, with the Public Social Assistance Services within the City Halls and the general directorates of social assistance and child protection, appreciating that these institutions, through the communicated answers, *discriminate and stigmatize* people with mental disabilities (they do not have social services in the community, they have all the places occupied, they are in the process of restructuring or they do not accept the admission to residential centers of people with criminal

history). In order to identify solutions for these cases, they called on the support of the NPM to set up a working group;

- the **Municipal Hospital “Anghel Saligni” Fetești** (which is not a psychiatric hospital and does not have a psychiatric ward) does not apply the measure of restraint, the hospital representatives communicating that: *such a measure would exceed the legal framework, as Law no. 487/2002 on mental health and protection of persons with mental disorders, republished, was adopted for the protection of persons with mental disorders and not for taking a restraint measure under the provisions of a law*; the measure of applying restraints is approached from the perspective of the code of medical deontology and the rules of medical practice, noting that, for non-compliance with medical laws and regulations, the doctor is liable to disciplinary action, according to Art. 450 of Law no. 95/2006 on health care reform, republished; consequently, there wasn't established a procedure or register on patient restraint in the hospital.

- in the **Giurgiu County Emergency Hospital**, a representative of the patients' association was also part of the Ethics Council.

#### **Examples of deficiencies found:**

As in previous years, the main deficiency systematically encountered was the **lack of staff compared to the real needs** of the respective units. For example, in the Mărgineni Penitentiary there was a shortage of medical staff with a negative impact on the activity of the medical department (out of the 7 positions provided for doctors, 4 positions were vacant, respectively: 1 position of primary dentist, 2 positions of primary care family medicine, 1 position of primary psychiatrist), as well as a shortage of psychologists (out of the 5 positions provided for psychologists, 3 positions were vacant, given that it is recommended to hire a minimum of one psychologist for every 100 persons deprived of liberty). The same situation was also found in other monitored penitentiaries (Bacău Penitentiary, Tg. Ocna Penitentiary-Hospital). In this context, should be emphasized the prompt response of the ANP to the recommendations of the NPM, in order to address these shortcomings, presented in the section Successfully Implemented Recommendations.

In residential centers there was a shortage of physiotherapists, occupational therapists, masseurs (important to improve the quality of life and maintain the degree of autonomy of beneficiaries), these positions were not provided in the organization chart of the centers (Center for the Elderly Răcari, Center for the Elderly „Sfântu Gheorghe” Oltenița) or were provided, but were vacant at the time of monitoring (Home for the Elderly „Sf. Maria” Șișești, Sinersig Neuropsychiatric Recovery and Rehabilitation Center). In these centers, it was also found the lack of adequate space and of the necessary equipment in order to ensure the functional recovery / rehabilitation therapies for the beneficiaries.

In private homes / centers for the elderly, a great difficulty was the provision of the necessary personnel, because part of the staff worked as part-time collaborators, who, according to Military Ordinance no. 8/2020 were isolated at the main workplace. The problem was even more accentuated due to the division of the staff into 2 groups to ensure the cyclical presence in the home / center for the period of 14 days, according to the same ordinance. Also, isolation at work created a lot of stress for employees, especially due to the short time in which Military Ordinance no. 8/2020 had to be implemented, namely 24 hours. In the same context, the lack of clear procedures for the application of this ordinance, regarding the way of settling the institutions' expenses with food, accommodation and transport of isolated employees at work has caused confusion and difficulties in this regard.

In Covid-19 hospitals there were requests to terminate the employment contract by resignation, as well as dismissals of staff. For example, at the Câmpina Municipal Hospital: 6 staff members (3 ICU doctors, a nurse and 2 orderlies) resigned, motivating that they were not

provided with safe working conditions; as a result of non-compliance with the notice period, the employment contracts were terminated for disciplinary violations. Given the resignation of the 3 doctors, other ICU doctors who previously resigned were called, but they did not comply with the requests. There were also a large number of applications for retirement, and the following measures were taken as a result: redistribution of staff to the Department of Recovery, Physical Medicine and Balneology and epidemiological triage of staff upon entry into service; providing financial resources for salary bonuses (maximum bonuses and increased payment for staff on call, on Saturdays, Sundays and public holidays).

Also, during the monitoring, it was found the **lack of access ways and the necessary facilities for people with disabilities** in the accommodation rooms and bathrooms, in many of the monitored units. For example, the “Marius Nasta” Institute of Pneumoftiziologie lacked an elevator necessary for overweight people (therefore a 130 kg patient, immobilized in bed, had to be redirected to the Clinical Hospital for Infectious and Tropical Diseases “Victor Babeș”).

This year's monitoring also revealed the **failure to complete / inadequate completion of the procedures / registers** provided by the relevant law, especially in the case of homes for the elderly and residential centers for adults with disabilities, for example: the Neuropsychiatric Recovery and Rehabilitation Center Sinersig was missing the procedure for suspension / termination of the provision of social service; at the Home for the Elderly “Cuviosul Iov” Vânjuleț, in the Register of evidence of special incidents were not recorded all the incidents that affected the physical and mental integrity of the beneficiaries; in the Home for the Elderly „Sf. Maria” Șișești was not developed a new manual of operational procedures according to the legislation in force (Order no. 29/2019).

It was found, at the level of some penitentiaries and detention and remand centers, that **foreign detainees signed forms written in Romanian**, without ensuring translation into their mother tongue. One such case was in the Bistrita Penitentiary. Following the visit and the recommendations of the NPM, the penitentiary administration communicated the fact that a proposal was submitted to ANP for the transfer of the foreign person deprived of liberty, to another penitentiary where communication can be provided in a language known by him.

We mention below some of the **deficiencies encountered by the NPM, depending on the place of detention visited:**

**- homes for the elderly:**

- failure to draw up all the procedures and all the registers of evidence provided by the Minimum Standards, approved by Order no. 29/2019, and in some centers not even their own admission procedure was drawn up (Center for the Elderly Răcari);
- the informative materials were missing, these not existing either on paper, nor displayed in a visible place, on the notice board, nor on electronic support; also, the information provided on the website of the social service provider was not updated (Răcari City Hall);
- the box of notifications and complaints was missing;
- during the state of emergency and afterwards, the psycho-social assistance services were restricted in order to respect the physical distance; also counseling and support services were provided through permanent telephone communication, videoconferencing system via Skype or Facetime, the solution being limitative due to the difficulties inherent in the case of patients with senile dementia, who are unable to use, even with help, modern communication devices;
- The individualized assistance and care plans were not customized and did not include sections showing the activities proposed by each specialist, activities adapted to the identified needs of the beneficiary, nor assuming the responsibility of each specialist in the multidisciplinary team on the proposed objectives and activities;
- personalized care plans for some beneficiaries were not reviewed periodically;
- the annual clinical evaluation was not performed by specialized doctors (psychiatry, neurology, internal medicine, recovery medicine) for some beneficiaries (Center for the Elderly Răcari and Center for the Elderly „Sfântu Gheorghe” Oltenița);
- the medical staff was insufficient and poorly

trained on how to prepare and complete medical documents (some centers didn't have a register for drug prescriptions); ● there wasn't available a properly arranged and equipped psychological office (Anina Home for Adults and the Elderly); ● deficiencies were found in the communication with the public social assistance services within the domicile town halls of the beneficiaries; ● poor hygiene of some bedrooms and bathrooms;

- **psychiatric hospitals:** ● in the General Clinical Observation Sheets (FOCG) the consent to hospitalization was not found, although the admissions were considered voluntary; in the Săpunari Psychiatric Hospital, the only existing consent in the FOCG was the informed consent of the patient for medical procedures, signed by the patient but which did not mention in all cases the medical procedure for which the consent was requested; in the Psychiatric and Hospital for Safety Measures Săpoca was found the situation of 6 people who, being in an institutionalized quarantine center, presented psychomotor agitation; those persons were rushed to the quarantine center and hospitalized; in the FOCG were not found the forms of informed consent for hospitalization; moreover, one of the patients expressly requested to be discharged, but the discharge was made only at the end of the quarantine period, after obtaining the approval from the Buzau Public Health Directorate; ● in the patient observation sheets was found a list of patients' obligations, signed by patients, but not a list of their rights; ● restraint and isolation measures were applied without complying with the relevant legislation (restraints were applied in the ward where the patient was hospitalized, along with other patients, which is contrary to the CPT Rules; it was not clear who performed the restraint, in the register for restraints there was no mention in this respect, the register also lacked a heading on the degree of restriction - partial or total - in case of restraint, and the column on monitoring vital functions was not completed properly - the values of vital functions were not specified for each monitoring visit); there were no isolation rooms arranged according to the legal provisions in force and the patients were isolated in spaces that had other purposes; ● in the Săpunari Psychiatric Hospital, according to the "Patient Restraint" procedure drawn up in the hospital, patients were required to sign a Consent Form when applying the restraint measure, the procedure not explicitly indicating when the form was completed; the hospital representatives could not specify to the NPM team at what time this form was presented to the patient and in none of the FOCG, randomly verified, was the consent to the application of the restraints found; ● The involuntary hospitalization commission was not composed according to the provisions of Law no. 487/2002, republished, respectively of 3 members appointed by the hospital manager - 2 psychiatrists and a doctor of other specialty or a representative of the civil society (Siret Chronic Psychiatric Hospital, Săpoca Psychiatric Hospital for Safety Measures); ● there was a shortage of medical and auxiliary personnel, as well as security personnel, and their proper continuous professional training was not performed; ● there were no actions to promote ethical values among the medical staff during this period and, at the same time, there were no participations from patients' associations in the meetings of the Ethics Council; ● no Procedure for conducting visits was developed, although approximately half of the patients received visits from relatives, the visits being recorded in the FOCG (Institute of Psychiatry Socola - Exterior Section Șipote); ● patients hospitalized in isolation wards in an epidemiological context (people with increased vulnerability, being people with psychiatric disorders) were not involved (for a period of 14 days) in any recreational activity, given that the hospital didn't allow access in open air; ● in the Săpunari Psychiatric Hospital, identification bracelets were used (applied on the patient's left forearm); not the practice itself was considered by the NPM team to be worrying, but the fact that it wasn't applied uniformly (black color was not used in all cases) – this allowed patients to be classified into certain categories, visible to all (patients, relatives, staff): patients with aggressive manifestations (green color), patients at risk of falling (red color), patients with disabilities (blue color); the practice was not mandatory, patients

being able to refuse, but when applied it is stigmatizing for the patient and can affect the patient's state of mental comfort; ● in the Psychiatric Hospital for Safety Measures Săpoca, the patients hospitalized in the legal departments were dressed identically, with green pants and a black T-shirt, in order to be identified if they are trying to escape; we recall that the CPT, during the visit in 2014 to this hospital, highlighted that the *patients from the legal departments were stigmatized, being obliged to wear uniforms in order to facilitate the searches in case of flight* and asked the Romanian state to stop these practices.

We note the case of a patient admitted to the Săpunari Psychiatric Hospital with "marks left by handcuffs in his right hand", which occurred at the patient's home and at the hospital from which he was transferred. These injuries may be the result of improper application of immobilizers or lack of proper supervision of the person to whom they were applied. The NPM team considers that a continuous training of the law enforcement bodies regarding the application of the means of immobilization and their permanent observation is required, in order not to affect the physical integrity and dignity of the handcuffed person. This aspect will be taken into account during the NPM courses for the continuous professional training of the staff of the detention and remand centers, as well as of the students from the School of Police Agents<sup>4</sup>.

- **penitentiaries:** ● overcrowding (Craiova Penitentiary - Işalniţa Exterior Section, Craiova Pelendava Penitentiary, Deva Penitentiary); ● inadequate accommodation conditions; ● the registers drawn up in the penitentiary were not filled in properly; for example, in the Mărgineni Penitentiary: Register of traumatic injuries and self-aggression - the chronological order of the notes was not observed, the calendar date was missing, the signature of the medical staff who found the injury in case of several notes was missing; Register of consultations and treatment - the signature of the person deprived of liberty to whom the treatment was administered was missing, as well as the signature and initials of the prescribing doctor in some cases; Register for monitoring food refusals - it was difficult to distinguish the date and time of leaving this form of protest in some cases; ● the staff was insufficient; ● there was no medical office arranged at the Işalniţa exterior section of the Craiova Penitentiary, and at the Craiova Pelendava Penitentiary there was no infirmary; ● in the Craiova Penitentiary - Işalniţa External Section, only a small number of courses for initiation, qualification, requalification, training and specialization of detainees were organized; ● in Bistriţa Penitentiary, disciplinary sanctioning was practiced (even repeatedly of the same persons) in case of self-aggressive behaviors (for example, an inmate who cut himself around the neck on two different days in 2019 was subject to two disciplinary sanctions proceedings, suspension of the right to work and receipt of goods or making purchases), some of the sanctioned persons having a psychiatric diagnosis; there were also cases of persons deprived of their liberty sanctioned disciplinary as a result of suicide attempts;

Under this aspect, NPM recommended to ANP, in 2019, to notify the Ministry of Justice regarding the examination of the provisions of Art. 82 lit. Ț) and Art. 100 para. (2) of Law no. 254/2013 on the execution of sentences and custodial measures ordered by the judiciary during criminal proceedings, with subsequent amendments and completions, regarding the prohibition of acts of self-aggression, considered serious disciplinary offenses and sanctioned, in terms of their harmonization with the CPT's recommendation to no longer impose disciplinary sanctions for acts of self-aggression. Following the recommendation, ANP sent to the Ministry of Justice a draft law for amending and supplementing Law no. 254/2013 (the revised form following the analysis of the recommendations that involve legislative interventions formulated by CPT

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<sup>4</sup> such courses have been scheduled for 2020, but have been suspended in the context of the Covid-19 epidemic, and will be resumed when the epidemiological situation allows it).

following the visit made during February 2018, as well as the proposals coming from the judges supervising the deprivation of liberty), which provides as follows: Art. 101, after paragraph 3, a new paragraph, paragraph (3<sup>1</sup>), shall be inserted, with the following content: "**(31) Convicted persons diagnosed with serious mental illness may not be sanctioned for non-compliance with the prohibition provided in Art. 82 lit. Ț).**"- legislative amendment which has not been carried out so far.

- **centers for migrants:** ● shortage of staff and especially medical and psycho-social staff (Accommodation Center for Foreigners taken into Public Custody Arad, Regional Center for Procedures and Accommodation for Asylum Seekers Galati); the impossibility of ensuring permanence in providing medical assistance at the Accommodation Center for Foreigners taken into Public Custody Arad - at the time of monitoring, the positions of doctor and nurse were vacant, and two of the 3 nurses were on vacation, respectively in sick leave; ● not all the fields were filled in the medical records and the records were not signed / initialed (Regional Center for Procedures and Accommodation for Asylum Seekers Galati); ● insufficient number of telephone sets installed for foreigners; ● lack of a stock of clothes for the foreigners accommodated; ● no connection to the cable television network of the TV sets in some accommodation rooms; ● regarding the disciplinary situation, in the Regional Center of Procedures and Accommodation for Asylum Seekers Galati, between May 15 and August 27, 2020, as a result of non-compliance with the obligations provided in the internal regulations of the center (ROI), 111 sanctions were applied. Given the large number of sanctions applied, as well as the fact that none of the sanctions imposed were challenged by the people accommodated in the center, NPM members recommended an information campaign on compliance with and application of the rules of the center. The Center communicated that asylum seekers are informed, at the time of accommodation, of the rights and obligations, prohibitions and disciplinary sanctions applicable during the accommodation in the center, and on the first working day after accommodation, the designated workers, together with NGO representatives carry out group and individual counseling and information activities on compliance and enforcement of (ROI) and the consequences of non-compliance.

During 2020, NPM notified ANDPDCA, the School Inspectorate of Bucharest - Sector 2, DGASPC Sector 2 and the Gymnasium School no. 145 in Bucharest, regarding the difficulties encountered in the Regional Center for Accommodation and Procedures for Asylum Seekers Bucharest (notified to the NPM team during a visit in 2019) when appointing a legal representative, or concerning the accommodation of minors in residential centers under DGASPC (the center being forced to accommodate minors, including those under the age of 16), as well as to enroll the minors in school. ANDPDCA communicated that a draft Law was initiated to amend and supplement Law no. 272/2004 on the protection and promotion of children's rights, which brings a series of amendments and completions regarding the situation of minors seeking asylum or beneficiaries of a form of international protection, as well as the harmonization of the provisions of Law no. 272/2004 with those of Law no. 122/2006 on asylum in Romania, for example: adding this category of children to the categories of children benefiting from special protection measures and amending accordingly the provisions regarding placement; the obligation for the appointment, by the DGASPC, of a person to assist the minor asylum seeker during all legal procedures regarding the clarification of their situation, in order to ensure the premises for the observance of all their rights.

Also, in December 2020, NPM sent requests to local authorities in the counties of Giurgiu, Maramureș, Suceava, Galați, Timișoara and Bucharest (counties / cities where centers for migrants are located): Public Health Directorates and City Halls (Bucharest, Giurgiu, Galați, Rădăuți, Timișoara, Șomcuta Mare), on the measures taken to ensure an adequate protection environment in migrant centers, as well as to ensure the placing into

institutionalized quarantine of foreigners entering Romania. The following were taken into account: the situation of some migrants who arrived in Timiș County, through Serbia, who were deprived of accommodation in appropriate conditions (aspects presented in the press); letters sent to the United Nations High Commissioner for Refugees (UNHCR) and the IGI referring to institutionalized quarantine measures and other local support measures for persons arriving from abroad.

The situation of centers for migrants as social services was the main topic of meetings / correspondence with the General Inspectorate for Immigration, held during 2020.

- **detention and remand centers:** ● lack of Sanitary Operation Authorization (Caraș-Severin Detention and Remand Center, Arad Detention and Remand Center); ● non-compliance with the legal provisions regarding the compulsory provision of psychological assistance for minors; for example, at the Brașov Detention and Remand Center, between January 1, 2019 and September 15, 2020, 89 minors were detained, of which **only 3 minors received psychological assistance**; ● in the same center were also kept minors who belonged to the social centers of DGAPC Brașov and who had not received support from the institution (clothing, packages, etc.), provided that the center administration immediately informs the representatives of DGASPC, to provide goods (clothing, footwear, food, sums of money, etc.) or the necessary socio-legal assistance; ● lack of a space equipped for respecting the right of persons arrested/detained to online communications; ● lack of a space arranged in order to provide psychological assistance; ● insufficient furniture in the detention rooms; in the Galați Detention and Remand Center, the rooms were not equipped with food storage shelves, tables and chairs for dining; of the 13 rooms, only 8 were equipped with TVs and there was no other space for recreational activities equipped with TV.

- **centers for adults with disabilities:** ● failure to review and approve the *Organization and Functioning Regulation*, according to the legislation in force; ● failure to fully comply with the specific minimum quality standards required for social services for adults with disabilities; ● no Procedure was developed, and no appropriate intervention measures were adopted in the case of the psychomotor agitation behaviors of the beneficiaries; ● the Procedure regarding the maintenance of the beneficiaries' health was not drawn up; ● the staff was insufficient (for example, at the Movila Neuropsychiatric Recovery and Rehabilitation Center, there were 12 vacancies: 1 general practitioner, 1 physiotherapist, 1 speech therapist, 1 social worker, 1 nurse, 4 orderlies, 2 caregivers, 1 guard; the representatives of the center informed DGASPC Ialomița and requested the filling of vacancies, but without a favorable response in this regard); ● there was no *Register to record the deaths of beneficiaries* and details of the circumstances of the deaths, the measures adopted (Ileanda Medical and Social Assistance Center); ● the personalized care plans were not reviewed, periodically, for all the beneficiaries of the center; ● at the level of the Movila Neuropsychiatric Recovery and Rehabilitation Center, the beneficiary was not assessed in terms of general condition and degree of autonomy and communication, specific rehabilitation needs, the need to maintain or develop independent living skills and integration, etc., whereas the documents prepared for this purpose did not clearly include the identified needs, the objectives set, and the recommended services and activities; ● the health monitoring sheet and the informed consent form for medical care and treatments in exceptional situations, which should be included in the personal file of the beneficiary (Suseni Care and Social Assistance Center), were not drawn up; ● the anti-decubitus mattresses and wheelchairs were insufficient; ● the center did not have adequate spaces for staff accommodation; thus, in order to apply the provisions of the Military Ordinance no. 8/2020, the accommodation of the staff was made in the lobby of the center; also, to a large extent, the staff members of the center procured their own food (Care and Assistance Center for Adults with Disabilities Puchenii Mari); ● the capacity of the center was exceeded (Jariște

Neuropsychiatric Recovery and Rehabilitation Center, although it had a capacity of 25 people, at the time of the visit, it provided services to a number of 35 beneficiaries); ● the center did not have spaces for daily activities, equipped with adequate furniture; ● in the center there were only two common bathrooms, one of which was locked and used as a warehouse; the other bathroom (equipped with bathtub and shower) was open, but not suitable for use by people with disabilities or reduced mobility (it was not adapted and the small size of the shower made it difficult to use) (Care and Assistance Center for Adults with Disabilities Puchenii Mari); ● the center did not have its own means of transport, which made it difficult for the beneficiaries to travel outside the center for interdisciplinary consultations and non-urgent specialized medical interventions; ● during the monitoring of the Care and Assistance Center for Adults with Disabilities Puchenii Mari, the NPM team was informed of the situation of two beneficiaries who were investigated at the Ploiești County Emergency Hospital (Emergency Reception Unit), as a result of some health problems that have exceeded the possibilities of intervention at the level of the center; the beneficiaries were tested for SARS-CoV-2 infection and, although the test result came much faster (the result was negative), the representatives of the center became aware of it after a longer period (more than a week), the beneficiaries being kept, in all this time, in the room;

- *residential centers for children*: ● overcrowding (Alexandria Maternal Center); ● the working procedures, registers and all the organization and functioning documents of the center were not updated according to the Order of the Minister of Labor and Social Justice no. 81/2019 on the approval of minimum quality standards for social services organized as maternal centers; ● in the Emergency Reception Center for Children Slatina were missing: the record of the medicines and sanitary materials purchased, a Register containing professional documents of the psychologist, and in the Register of special incidents there were no records; ● not all files contained the quarterly reports on the evolution of the beneficiaries' situation during the residence in the center and the services provided, and the evaluation forms were not filled in properly (Alexandria Maternal Center); ● no quarterly programs were developed for recreation and socialization; ● no social integration / reintegration plan was developed and implemented, including specific activities, therapies and services; ● no continuous professional training courses have been taken by the staff; ● there was no separate refrigerator for storing food samples (Slatina Children's Emergency Reception Center);

- *quarantine centers*: ● regarding the rights ensured to persons placed in institutionalized quarantine, there were institutions of the prefect who replied that the personal rights of quarantined persons are respected according to law, but **didn't specifically indicate what rights they referred to** Caraș-Severin), some answered generically that the quarantined persons, as well as the personnel working in these centers **are guaranteed all the rights in the conditions generated by the emergency situation** (Bihor, Botoșani, Hunedoara etc.), and other prefect institutions did not provide information on this issue (for example, Bucharest, Alba, Arges, Bacau, Giurgiu); in the case of the Techirghiol Spa and Recovery Sanatorium, the information provided by the sanatorium specified that the quarantined persons have been informed of their rights and obligations through the materials displayed in each room; those materials, communicated to the NPM team and visible in the submitted photos, however, contained a list of rules of conduct and internal order, which had to be followed during quarantine, as well as the schedule of meals, bed linen exchange and household waste removal; no list of rights was found; ● regarding the restrictions provided for quarantined persons, it was found that there was no unitary approach, at national level, in this regard, most institutions of the prefect responding generically: the restrictions are those derived from compliance with the rules adopted to prevent the spread of the new Coronavirus (Bucharest); the restrictions are those provided by the Decisions of CNSSU, Military Ordinances, Orders of the Minister of

Health and the Minister of Internal Affairs, etc. (Alba, Argeş, Bihor, Brăila); ● in the Techirghiol Spa and Recovery Sanatorium, the 14-day quarantine period was exceeded in the case of 12 people with a negative test result, but who were in direct contact with positive confirmed persons (those persons being kept in quarantine 14 days from the date of last contact with a confirmed case); the MNP team found that only in 6 of the 12 daily activity sheets was mentioned, by the doctor, the contact with an infected person (in the other 6 sheets appeared only the fact that the person was moved to another room, the team understanding that the date of the last contact with the infected person was the date of the move), and in the case of a person, was exceeded the period of 14 days since the last contact with a confirmed case; some of the files were not fully communicated, therefore the team could not assess the time spent in quarantine by those persons.

During the monitoring, in the Techirghiol Spa and Recovery Sanatorium was found the acute need for psychological intervention for the people in quarantine, several people dealing with moderate or severe depression, anxiety, crying crises, irritability, difficulty concentrating. In the sanatorium, they had access to psychological assistance, by telephone or by videoconference, the unit employing a psychologist and a speech therapist. However, most quarantine centers are organized in hotels, leisure centers, boarding schools or cultural centers, which do not have the services of a psychologist, permanently or perhaps not at all. The NPM team is concerned with the management of such situations, in these centers which, in the absence of an alternative, resort to the most convenient solution, hospitalization in a psychiatric ward / hospital; which leads to other problematic situations, related to requesting / obtaining informed consent to hospitalization and treatment.

- **Covid-19 hospitals:** ● successive transfers of suspected / confirmed patients were found in at least 2 hospitals, imposed not only by the division of hospitals into Covid-19 and non-Covid-19 hospitals, but also by the further division of Covid-19 hospitals, situations that are problematic in several respects: respect for the patient's right to choose the hospital, as well as the attending physician; hospitalization of the patient close to their home and family, in order to make it easier to obtain information about the patient (especially in cases where their health does not allow maintaining telephone contact with the family), transmitting packages and quick access of relatives, in case of death, given the extremely rigorous procedure in these situations; ● in some hospitals to the patients suspected of infection with SARS-CoV-2 were applied the discharge criteria applicable to positive patients; they were not discharged / transferred to a non-Covid hospital (as appropriate) when the test result was negative, but had to take a second test at least 24 hours after the first test, which led, obviously, to the prolongation of their hospitalization, which was compulsory; ● control tests were performed a few days later than the date indicated by the hospital from where the patient was transferred, for example, the test was not performed on the 25<sup>th</sup>, but on the 29<sup>th</sup> of that month; ● contrary to the recommendations of the National Institute of Public Health which provided that in case of asymptomatic patients, no treatment shall be administered, there were hospitals (Constanța Pneumophthisiology Clinical Hospital, Bolintin-Vale City Hospital, "Marius Nasta" Institute of Pneumoftiziologie, Râmnicu Sărat Municipal Hospital, Râmnicu Sărat) whose treatment protocol provided the administration of antiviral treatment to asymptomatic patients, and hospitals (or some hospital doctors) that administered, in practice, antiviral treatment to asymptomatic patients, contrary to their own treatment protocol (Giurgiu County Emergency Hospital); ● administration of antiviral treatment, in hospitals where there were no doctors specializing in infectious diseases, the treating doctors being of another specialties such as: surgery, internal medicine, gastroenterology, pneumology, ICU, pediatrics, etc.), they either adopted the therapeutic schemes prescribed by a physician specializing in infectious diseases, which were generally not re-evaluated during hospitalization, by the infectious disease physician, or even initiating /

modifying such schemes; ● the medicines necessary for the treatment of patients' secondary conditions were frequently provided by the patients themselves (the FOCG contains the item “personal medication”), while the hospitals generally provided treatment for SARS-CoV-2 infection; ● staff members noticed the lack of a procedure regarding patients who refuse hospitalization, to be used in such situations (CF Ploiești General Hospital). The unique predicament in which the doctors from Covid-19 hospitals found themselves after the forced hospitalization of the suspected / confirmed Covid-19 patients created confusion regarding the procedure to be followed when the patient requests the observance of their autonomy; ● from the FOCG verification, it does not appear that the hospitalization consent of the suspected / confirmed Covid-19 patients was requested and obtained (a consent form, in this sense, is not found in the procedures regarding the hospitalization of patients / obtaining their consent - aspect which may be a consequence of the fact that in the hospitals designated as Covid-19 hospitals, admission was previously done only at the request of patients); ● the Informed Consent Form on treatment or investigations did not exist in all the verified FOCGs and, when attached to the FOCG, most often was improperly completed: the medical act was not described; there were consents that contained only the patient's signature and the date of signing, no boxes were ticked regarding the information related to the health status of the patient (for example: proposed therapeutic strategy, possible complications, diagnosis, prognosis, etc.); or all fields were ticked, but there was no patient signature, etc.; ● regarding the possibility to contact the relatives, the NPM couldn't ascertain whether their contact details were requested, upon admission, in all monitored hospitals; in the majority of FOCG the telephone number of the next of kin was not recorded, on the first page (neither in the case of Giurgiu County Emergency Hospital, although in the procedure for “admission-discharge of patients” it was underlined that, upon admission, it shall be noted the contact number of the relatives); ● patients were locked in rooms: in the Câmpina Municipal Hospital, the doors of the rooms had to remain closed, and the windows were not to be opened completely, but only vertically; in the Clinical Hospital of Pneumoftiziologie Constanța, all patients were considered suspects and isolated in their rooms; in the General Hospital CF Ploiești it was forbidden to go outside the specially arranged spaces, patients were not allowed to leave the room and had to answer the phone in the room, whenever needed, and if their health allowed it. A patient suspected of Covid-19 infection, admitted in this hospital, tried to leave the medical unit, but *he was turned away by two doctors who took measures to further check the locking system* on the floor where the person was accommodated; ● in most hospitals, in the procedures regarding the patient's access to medical data, the form «*Patient agreement on the communication of personal medical data*» (agreement attached to FOCG) was not mentioned and/or there were requirements regarding the communication of medical data that exceeded the legal provisions. ● according to the procedure developed by the hospital, in the Surgery Department of the Câmpina Municipal Hospital, Covid-19 patients, accommodated in rooms that were not equipped with their own bathroom, in the large wing of the hospital, were required to use urinary catheters and diapers, as they were not allowed to leave the rooms (given that the rooms was dedicated to the care of patients infected with SARS-CoV-2, including asymptomatic ones).

► Following the visits, in the reports prepared by the end of 2020, **numerous recommendations** were made to the monitored units and the hierarchically superior authorities (Ministry of Labor and Social Protection, National Administration of Penitentiaries, DGASPC Ialomița, DGASPC Brașov, DGASPC Sălaj, J Council Calarasi).

#### **Examples of successfully implemented recommendations:**

● **Mărgineni Penitentiary**, starting with April 6, 2020, had in custody persons deprived of liberty, vulnerable from a medical and social point of view (HIV-AIDS). In accordance with

the provisions of Law no. 584/2002 on measures to prevent the spread of AIDS in Romania and to protect people infected with HIV or having AIDS disease, **these persons benefit from monthly food allowances**, the manner of granting them being provided in the Order of the Minister of Labor, Social Solidarity and Family no. 223/2006 for the approval of the Methodology for granting the monthly food allowance to adults and children infected with HIV or having AIDS disease, and check how it is used by those entitled. However, **the methodology does not contain provisions regarding the situation when a person changes their address, the beneficiary's obligation being only to announce, within 5 days, any change in the situation that was the basis for granting the right to allowance.**

Although the penitentiary in which the persons deprived of their liberty were accommodated announced the change regarding the new address, the aforementioned Methodology does not provide for the automatic transfer of the allowance right to the new address, being required again the documents necessary to establish the right, at the new address. The reopening of the right to allowance is done according to Art. 5 of the mentioned normative act, which stipulates that “*the monthly food allowance is established from the month following the registration of the application*”, therefore a **payment delay** occurs;

Through the visit report, *it was recommended to the director of Mărgineni Penitentiary to inform ANP on this aspect, which should inform, in turn, the Ministry of Labor and Social Protection which, as issuing body, can complete / modify the aforementioned Methodology, with the provision of maintaining payment of the allowance.*

Following the recommendation of the NPM, the director of the penitentiary unit informed the NPM team that a letter has been drawn up and sent to the ANP on this matter.

- **Hârlău Neuropsychiatric Recovery and Rehabilitation Center, Iași County** operated with a number of 240 employees, with 66 vacancies, including: primary care physician, specialist, nurse, social worker, orderly, recovery teacher and psychologist. Following the recommendations of the NPM, reports were drawn up for the employment of staff, by the end of 2020, 31 people being employed. According to the answer received, the employment competitions are to be completed by April 1, 2021;

- in the **Bacău Penitentiary**, the activity was provided by a number of 252 employees, but in the list of positions 80 vacancies were observed (16 officer positions and 64 agent positions), the largest shortage of staff being registered in the medical field, in the Psychosocial Intervention Directorate and in the operative sector. Also, during the visit, it was found that in some sections, the rooms were equipped with bunk beds on three levels and it was reported the presence of bedbugs, the existence of old furniture and mattresses, toilets with dampness and bad smell, as well as lack of spaces storage of personal goods and objects.

As a result of the NPM recommendations, at the level of the National Administration of Penitentiaries, the employment procedure was carried out, through a competition, for medical, psychological and educational staff, as well as in the operative field. Regarding the improvement of accommodation conditions, until August 2020, current repairs and maintenance were carried out, in 12 detention rooms, 8 actions of punctual pest control and 2 actions of general pest control were carried out, mattresses were purchased, furniture for storing personal belongings was built, and in the draft budget for 2021 was provided for the replacement of beds.

At the level of ANP, employment procedures were organized, through competition, for medical, psychological and educational staff, as well as in the operative field, for the **Târgu Ocna Penitentiary-Hospital**, where the greatest lack of staff was registered in the medical field (10 officer posts and 4 agent posts) and for the security of detention and penitentiary regime (2 officer posts and 5 agent posts), as well as for **Botoșani Penitentiary**, where there were 67 vacancies (25 officer posts and 42 agent posts), the greater lack of staff being in the medical

field, education, psychosocial assistance, escort and in the operative sector. At the level of the Botoșani Penitentiary, two doctors were hired (general medicine and dentistry).

- during the monitoring of the *Siret Chronic Psychiatric Hospital*, it was found that the legal provisions were not observed, when setting up the Commission for involuntary hospitalization (2 psychiatrists and a doctor of other specialty or a representative of civil society): it was composed of 3 members, respectively two psychiatrists and a lawyer employed by the unit.

Also, in the *Psychiatric Hospital for Safety Measures Săpoca*, the Commission of involuntary hospitalization did not have a precise structure and didn't comply with the categories of personnel provided by Law no. 487/2002, republished. The commissions, set up during 2016-2020, were made up of: 2, 3 or even 4 psychiatrists; a doctor of another specialty (laboratory doctor or internal medicine doctor); a social worker. In the last order of the interim manager, dated 1 July 2020, a legal adviser was also mentioned in the commission. According to the abovementioned order, the social worker provided the secretariat (but in all decisions taken by the Commission, he signed and applied his personal stamp, as a member), and the legal adviser provided the communication of court decisions. Both the social worker and the legal adviser, who do not represent medical staff, participated as members of the commission in the psychiatric assessment of the persons for whom involuntary hospitalization / cessation of involuntary hospitalization was requested and signed the decisions adopted.

Following the recommendations made in the visit reports, the Involuntary Hospitalization Commissions were set up according to the legal provisions.

► During the year 2020, based on the collaboration between the departments of the **People's Advocate institution**, NPM paid a **visit** to the Emergency Reception Center for Children Slatina, Olt County, and carried out an **investigation** at the National Center for Accommodation and Procedures for Asylum Seekers Bucharest (following the notification made by Ms. Nisreen Rubaian, Representative in Romania of the United Nations High Commissioner for Refugees - UNHCR, on the situation of minors, aged between 12 and 13 accommodated in this center), both together with representatives of the Ombudsman for Children.

There has been a permanent collaboration with the Department on army, justice, police, penitentiaries regarding the preparation and development of a joint work plan, for monitoring the measures for the protection of persons deprived of liberty / of the personnel from penitentiaries and detention and remand centers, undertaken by the ANP and the General Inspectorate of the Romanian Police, as well as informing the NPM regarding the complaints of the persons kept in such places of detention. Similarly, the Department on human rights, equal opportunities for men and women, religious cults and national minorities informed the NPM of possible human rights violations in Covid-19 hospitals and institutionalized quarantine sites.

There were also several collaborations with colleagues from the Department on the rights of family, youth, pensioners, people with disabilities: • preparation of the response to the Ministry of Foreign Affairs, regarding the apparently discriminatory treatment applied to beneficiaries of CRRN Sasca Mică (Suceava County), CIA Paclișa (Hunedoara county), CRRN Costâna and Svorîșteea (Suceava county) and the "Sf. Ilie" (Galați County), as well as on the access to adequate medical care for institutionalized people with disabilities, infected with COVID-19; • interview on Skype with the representative of the World Bank, regarding the project «*Strengthening the coordination mechanism for the implementation of the UN Convention on the Rights of Persons with Disabilities in Romania*» and elaborating a diagnosis of the situation of persons with disabilities in Romania, to substantiate the future «*2021-2027 National Strategy on the Rights of Persons with Disabilities*»; • formulating a complex

response to the National Authority for the Rights of Persons with Disabilities, Children and Adoptions, regarding the observance of the rights of persons with disabilities, which will contribute to informing the *National Strategy for the Rights of Persons with Disabilities 2021-2027*.

#### **Proposals for legislative changes:**

- *introducing in Law no. 487/2002, republished, the obligation of the court to periodically verify the involuntary hospitalizations (with the establishment of a maximum term of 3 months).* During the monitoring of the Săpoca Psychiatric Hospital for Safety Measures, an aspect that preoccupied the NPM team, was the long period, since a patient was admitted involuntarily, namely 4 years. The team does not question the decisions of the Commission of involuntary hospitalization, but raises awareness about the fact that the mental health legislation does not provide for a regular control by the court in case of involuntary hospitalization<sup>5</sup>, as it does in the case of the safety measure of medical hospitalization;

- *establishing a courtroom in each psychiatric hospital for safety measures; such courtrooms would also be useful in hospitals that carry out involuntary hospitalizations (one in each hospital or a courtroom for several hospitals, located nearby) - as a solution to avoid transporting patients to court, given that:* ● the representatives of the Săpoca Psychiatric Hospital for Safety Measures recalled to the NPM team, as they did during the visit made in 2016, the difficulties faced by the hospital, both financial and human, related to ensuring the transport of patients, with own ambulances, accompanied by staff members (which makes the shortage of staff even worse at the hospital level, and the costs of these trips are not reimbursed by the Ministry of Health nor by the Ministry of Justice); ● notifying the hospital about the need to set up specialized judicial panels, which will judge only the cases that have as object the safety measures - in order to avoid the marginalization / discrediting of these patients, given that court hearings are public); ● the fact that bringing patients in the common courts can be traumatic for them, who are already vulnerable.

Such a practice exists in France, where the judge rules in a courtroom, belonging to the Ministry of Justice, specially arranged, in a hospital, or in another medical unit, under the jurisdiction of the same court.

- *in case of replacement / termination of the compulsory medical treatment (Art. 568), maintenance / replacement / termination of the measure of medical hospitalization (Art. 571) and lifting the measure of temporary medical hospitalization (Art. 248), the Code of Criminal Procedure should provide the obligation of the court to set a deadline for resolving the notification, within 3 days, from the date on which it was notified (preferably immediately, as provided for the measure of temporary medical hospitalization); also, the trial should take place, as a matter of urgency, as provided by the legislator in case of involuntary hospitalization (in Law no. 487/2002 on mental health and protection of persons with mental disorders, republished (Art. 62 para. 1). Members of the medical staff from Ploiești Penitentiary reported to the NPM team that there were situations in which detainees, for whom was applied the measure of compulsory medical treatment (Art. 109 Criminal Code), refused to take the treatment. According to the provisions of Article 567 paragraph (1) letter b), paragraph (2) and para. (3) Code of Criminal Procedure (if the person obliged to compulsory medical treatment evades the treatment after presentation, the administration of the place of detention has the obligation to communicate this aspect to the court in whose district the health unit is located); the court was notified each time, repeatedly, but no answer was received.*

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<sup>5</sup> Law no. 487/2002, republished, provides for notifying the court to confirm the decision of involuntary medical hospitalization / termination of the measure; The decision of the Commission that re-examines the patients on a monthly basis or whenever-necessary are not subject to court review.

**Awareness raising activities of the NPM regarding its powers and duties, participation in conferences, domestic and international symposia, staff training**

In order to increase the awareness of the authorities who have subordinated units subject to NPM monitoring, regarding the prevention of torture and ill-treatment, the NPM members carried out, again this year, an extensive awareness raising activity.

Over **130 such actions** were carried out at: Professional Associations (Romanian College of Psychologists, Romanian National College of Social Workers, UNBR Bars), Ministry of Health; at all medical and pharmacy universities / medical faculties in Romania; Order of Nurses, Midwives and Medical Assistants in Romania; Ministry of Education and Research, Center for Public Health Human Resources; DGASPC (Ialomița, Maramureș, Bacău, Galați, Suceava, Botoșani, Arad, Vaslui); Străulești Social Services Complex within DGASPC Sector 1, Bucharest; Neuropsychiatric Recovery and Rehabilitation Centers for Adults with Disabilities (Urlați, Nedelea, Mitocul Dragomirnei, Suceava); Urlați Occupational Therapy Integration Center; Fântânele Social Services Complex; Ploiești University of Oil and Gas; Penitentiaries (Poarta Albă, Craiova, Tg. Jiu, Bacău, Focșani); Manor Care House for the Elderly, Prahova County; Nursing Home Sfânta Mănăstire Christiana, Bucharest; "Pasărea" Nursing Home - "Pasărea" Social Settlement;

Home for the elderly "Zamfira Seniors House" Association, Lipănești locality; Strehaia Home for the Elderly; Drobeta Turnu-Severin Penitentiary – Vânjuleț Exterior Section; Gătaia Psychiatric Hospital; Home for the elderly "Salvați Bătrânii" Săucești - Bacău; Detention and Preventive Arrest Centers in Buzău, Călărași, Ialomița, Dâmbovița, Teleorman, Constanța, Tulcea, Teleorman, Ilfov, Hunedoara, Alba, Bihor, Bistrița-Năsăud, Brașov, Cluj, Covasna, Harghita, Hunedoara, Maram counties Sălaj, Satu Mare, Sibiu; Otopeni International Airport etc.

NPM members participated (on a monthly or even weekly basis) in a series of webinars, meetings, conferences, symposia, organized at national and international level, for example: Webinars organized by the Association for the Prevention of Torture, with the following topics: *Covid-19 & Monitoring of places of detention, Monitoring of places of detention and the Principle - Do no harm - from theory to practice, in the current context of the Covid-19 pandemic, Monitoring psychiatric institutions during the Covid-19 pandemic: challenges and good practices; Combating torture and ill-treatment during the Covid-19 pandemic;* Videoconferences I and II organized by the Ludwig Boltzmann Institute of Fundamental and Human Rights in Vienna, on the topic of *Monitoring Violence in Prisons*; The final conference *on Prison Monitoring Methodologies for National Preventive Mechanisms*, organized online by the Ludwig Boltzmann Institute, Associazione Antigone, the Bulgarian Helsinki Committee and the Hungarian Helsinki Committee; meeting with experts from the Group of Experts on Action against Trafficking in Human Beings (GRETA); The National Bioethics Conference, during which the material *Ethical Challenges in the centers for the elderly in Romania* was presented; Webinars organized by the National College of Social Workers in Romania, for example *Community Social Assistance. Perspectives in times of pandemic.*

Internationally, the NPM has responded positively to requests from the South-Eastern Europe NPM Network, the Association for the Prevention of Torture, for example, by participating in surveys on monitoring places of detention during the pandemic. At the same time, it developed and sent **informative materials** that were included in each issue of the European NPMs Newsletter (developed by the Torture Prevention Unit, a newly established unit within the Directorate General of Human Rights and the Rule of Law of the Council of Europe), a publication that is developed and distributed to all NPMs in Europe and human rights organizations. The European Newsletter no. 7 (May-June 2020) included more information about Romania, such as the publication of the People's Advocate's annual report

containing a section of the NPM Report, specifying the successful implementation of the NPM's recommendations. In the European Newsletter no. 8 (July-September 2020) the contribution of the Romanian NPM was monitoring the observance of the rights of the elderly in penitentiaries, with clarifications of the conclusions resulting from the visits of NPM in penitentiaries. NPM Romania sent material for the December 2020 Newsletter, on the theme of social care services for the elderly. At national level, an article was published in the August Newsletter of the National College of Social Workers in Romania, on social workers during the pandemic.

**Meetings** took place with **non-governmental organizations** (Organization for the Defense of Human Rights - Craiova Regional Branch; Pro-Democracy Association Piatra-Neamț Ruhama Oradea Foundation, UCOS Sibiu, LADO Cluj, Association “Împreună pentru ei” Baia Mare, Association for Community Partnership Brasov, “Amuradia” Association Brașov, ASCA Harghita Association, Romanian National Council for Refugees) and participation in conferences / symposia / meetings organized by / together with them: Aspects regarding the observance of human rights in the conditions imposed by pandemics or special situations; Aspects of the collaboration between the NPM - Bacău Zonal Center and the Piatra-Neamț Pro-Democracy Association, during the visits carried out in 2019; Monitoring of forced return missions.

**Meetings** were organized **with external collaborators** (psychologists, social workers) on professional topics (national and international legislation on the prevention of torture, issues found during the NPM visits, regarding the provision of psychological / social assistance).

#### **Collaboration with SPT and other international partners**

Since the beginning of the pandemic, the SPT has requested information from the NPM on the measures taken on Part IV of the *Advice of the Subcommittee to States parties and national preventive mechanisms relating to the coronavirus disease*, adopted March 25, 2020 - measures to be taken by NPMs to continue to exercise their visitation mandate during this pandemic. Thus, as already mentioned, SPT promptly intervened, at the request of the NPM, in the exercise of its mandate, regarding the monitoring of Covid-19 hospitals.

NPM also participated in meetings organized by other NPMs, for example the one organized by Serbian NPM on *the treatment of people addicted to psychoactive substances in prisons*; the NPM had a permanent collaboration and exchange of information, through the SLACK platform and by e-mail (for example, NPM sent information on the application of alternative means, used to monitor places of detention, to the Head of the International Relations Department and Organizational Development - Office of the Chancellor of Justice, Estonia).