

Criminal Detention in the EU Conditions and Monitoring

Update of FRA's Criminal Detention Database
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Table of Contents

Part I: National standards	3
Background information	3
Legal framework and application of standards	3
Covid-19 measures.....	4
1. Cells	5
2. Sanitary conditions	12
3. Time out of cell	16
4. Solitary confinement	19
5. Access to healthcare	23
6. Special measures in place to protect young detainees	30
7. Special measures in place to protect detainees from violence	33
8. Women in detention	39
9. Nutrition	44
Part II: National jurisprudence	51
Romania, Local Court of Sector 5 Bucharest (Judecătoria Sectorului 5 București), criminal sentence no.147, 25 January 2021	51
Romania, Alba Iulia Court of Appeal – First Civil Section (Curtea de Apel Alba Iulia – Secția I civilă), civil decision no.672, 30 June 2020	53
Romania, High Court of Cassation and Justice – First Civil Section (Înalta Curte de Casație și Justiție, Secția I Civilă), Bucharest / Civil decision no.460, 19 February 2020	55
Romania, High Court of Cassation and Justice – First Civil Section (Înalta Curte de Casație și Justiție, Secția I Civilă), Bucharest / Civil decision no.528, 25 February 2020	58
Romania, Local Court Focșani (Judecătoria Focșani), Focșani / criminal judgement no.1479, 13 November 2019	60

Part I: National standards

Background information

Legal framework and application of standards

In Romania, the enforcement of criminal punishments and measures involving deprivation of liberty is mainly regulated by the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial¹ This provides the general framework for the enforcement of preventive measures (24 hours detention² – *reținere*, preventive arrest³ – *arest preventiv*) as well as criminal imprisonment sanctions or deprivation of liberty educative measures for the underaged (commitment into an educative centre – *internarea într-un centru educativ* and commitment into a detention centre – *internarea într-un centru de detenție*), together with the Government Decision no. 157/2016⁴ on approving the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation⁵).

The Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial⁶ provides that prisons (Article 11) as well as educative centres and detention centres (Article 139) are organized under the National Administration of Penitentiaries. Within prisons, special sections dedicated to accommodate individuals under preventive arrest can be organized (Article 13). The National Administration of Penitentiaries is subordinated to the Ministry of Justice, therefore secondary legislation applicable to detention facilities under the National Administration of Penitentiaries is regulated by orders issued by the Ministry of Justice.

The Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial⁷ provides that the 24 hours detention and the preventive arrest during criminal investigation are served in centres for 24 hours detention and preventive arrest (Article 108), which are under the Ministry of the Interior (*Ministerul Afacerilor Interne*) – Article 107. In the present report, the centres shall be referred to as pre-trial detention facilities or police lock-ups.

¹ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

² The 24 hours detention – *reținere* is a preventive measure ordered by the prosecutor which precedes the preventive arrest ordered by a judge.

³ The preventive arrest is a preventive measure which can be ordered by a judge both during the criminal investigation and during trial (first instance and/or appeal),

⁴ Romania, [Government Decision no. 157/2016 on approving the implementing regulation of Law no. 254/2013](#) (*Hotărârea Guvernului Nr. 157/2016 din 10 martie 2016 pentru aprobarea Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

⁵ Romania, [Implementing Regulation of 2016 of Law no. 254/2013](#) (*Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

⁶ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

⁷ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

The Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial⁸ includes a title dedicated to the enforcement of measures served in the pre-trial detention facilities and also mentions that most of the provisions on prisons also apply to pre-trial detention facilities, as appropriate (Article 110). The Government Decision no. 157/2016⁹ on approving the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation¹⁰) is also applying to pre-trial detention facilities, as appropriate. In addition, there is the Ministry of the Interior (*Ministerul Afacerilor Interne*) issued specific Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures.¹¹

Therefore, in the present report, wherever specific provisions apply either only to pre-trial detention facilities or prisons, they shall be mentioned as such. In the absence of any mentioning, the standards apply to all facilities.

Covid-19 measures

As regards the impact of Covid-19 measures on the national standards on criminal detention conditions, none of the measures currently in place affect the aspects presented below. At the time of the present report, Romania is in a state of alert, and measures to combat the Covid-19 pandemic are based on Law no. 55/2020 on measures to prevent and combat the effects of the Covid-19 pandemic.¹² Article 61 of the Law no. 55/2020 provide that the general director of the National Administration of Penitentiaries can decide to apply measures mainly in relation to limiting onsite visit and intimate visits, increasing online communication of detainees with their families, ensuring social distance for activities inside penitentiaries.¹³

⁸ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

⁹ Romania, [Government Decision no. 157/2016 on approving the implementing regulation of Law no. 254/2013](#) (*Hotărârea Guvernului Nr. 157/2016 din 10 martie 2016 pentru aprobarea Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹⁰ Romania, [Implementing Regulation of 2016 of Law no. 254/2013](#) (*Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹¹ Romania, [Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Regulamentul din 2018 privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*), approved by [Order of the Ministry of the Interior no.14/2018 on approving the Regulation on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Ordinul nr.14/2018 pentru aprobarea Regulamentului privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*).

¹² Romania, [Law no. 55/2020 on measures to prevent and combat the effects of the Covid-19 pandemic](#) (*Legea nr.55/2020 privind măsurile de prevenire și combatere a efectelor pandemiei de Covid-19*).

¹³ More details on how the Covid-19 pandemic affected the prison system during 2020 can be found in ["Covid-19 challenge for the Romanian prison system"](#) (*"Provocarea Covid-19 în sistemul penitenciar românesc"*), R. Ștefan, L. Grecu, Romanian Penitentiary Law Review no.3/2020 (*Revista Română de Drept Penitenciar nr.3/2020*), pp. 4-12.

1. Cells

a) **Cell space:** What is the national standard for cell space available to detainees in m²? Are the calculation requirements spelled out by the CJEU in its *Dorobantu* ruling¹⁴ observed?

In detention units under the National Administration of Prisons, the Romanian minimum standard for cell space is at least 4 m² per detainee in existing detention facilities. In future or refurbished detention facilities the standard is at least 4 m² in multi-occupancy cells and 6 m² in single-occupancy cells, with a minimum of 2 m between walls and at least 2.5 m cell height. The standards are provided by Order of the Ministry of Justice (*Ministerul Justiției*) no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty.¹⁵

In prison hospitals, the minimum standard for cell space is the same as the one for all hospitals, of 7 m² per bed, and it is provided by Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty,¹⁶ together with Annex 2 of the Order of the Ministry of Public Health (*Ministerul Sănătății*) no. 914/2006 on standard conditions required for sanitary authorisation of hospitals.¹⁷

For existing pre-trial detention facilities under the Ministry of the Interior, the Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures¹⁸ does not spell out the 4 m² standard, but only refers in general to minimum standards in relation to the inhabited area (Article 12). The only concrete standard mentioned by the regulation is the 6 cubic meters of air for each person, in multi-occupancy rooms with 3 tiers bunk-beds. For future facilities, the regulation again does not include a specific area per detainee standard, but only a general reference that they should observe the law and a minimum of 2 m between walls and at least 2.5 m cell height.

The minimum standards observe the calculation requirements spelled out by the CJUE in the operative part of the *Dorobantu* ruling, with the note that only for detention facilities to be newly build or to be refurbished the national standards (for both prisons and pre-trial detention facilities) explicitly require that area occupied by sanitary facilities should not be taken into account.

In practice the standards are not fully implemented. According to the statistics provided on its website <http://anp.gov.ro/> weekly by the National Administration of Prisons (*Administrația Națională a Penitenciarelor*), in most prison facilities there are more

¹⁴ For the CEU's calculation requirements please see: CJEU, [C-128/18, *Dorobantu*](#) [GC], Judgment of 15 October 2019, oper. part.

¹⁵ Romania, [Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty](#) (*Ordinul Ministerului Justiției nr. 2772/C/2017 - aprobarea Normelor minime obligatorii privind condițiile de cazare a persoanelor private de libertate*). All hyperlinks were last accessed on 5 July 2021.

¹⁶ Romania, [Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty](#) (*Ordinul Ministerului Justiției nr. 2772/C/2017 - aprobarea Normelor minime obligatorii privind condițiile de cazare a persoanelor private de libertate*).

¹⁷ Romania, [Order of the Ministry of Public Health no. 914/2006 on standard conditions required for sanitary authorization of hospitals](#) (*Ordinul Ministerului Sănătății Publice nr.914/2006 pentru aprobarea normelor privind condițiile pe care trebuie să le îndeplinească un spital în vederea obținerii autorizației sanitare de funcționare*); [Annex 2 – Norm of 26 July 2006 2 on the general functional organization of a hospital](#) (*Anexa 2 – Normă din 26 iulie 2006 privind organizarea general funcțională a spitalului*).

¹⁸ Romania, [Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Regulamentul din 2018 privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*), approved by [Order of the Ministry of the Interior no.14/2018 on approving the Regulation on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Ordinul nr.14/2018 pentru aprobarea Regulamentului privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*).

detainees than places available based on the 4 m² per detainee standard, except for all prison hospitals where the 7 m² per detainee standard is observed.¹⁹ As for 29 June 2021, all facilities for minors observe the 4 m² per detainee standard, in two prison facilities the average cell space is more than 4 m²,²⁰ in 14 prisons the average cell space is between 3 m² and 4 m²²¹ and in 18 prisons it is between 2 m² and 3 m².²² It results that overcrowding is a particular problem in regular prison facilities, where the average cell space is 3,18 m² per detainee.

There are no statistics publicly available for pre-trial detention facilities under the Ministry of the Interior (*Ministerul Administrației și Internelor*).

b) **Cell equipment, furniture and facilities:** Are there any national standards for cell equipment (heating, ventilation, cooling, etc.), furniture (bed, mattress, shelf, wardrobe, seating, table, etc.) and/or facilities (lighting, incl. windows, washbasin, toilet, shower etc.), including any measurements? If so, what do they require?

The Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty includes general provisions on cell equipment, furniture and facilities in Articles 3 to 8, but no specific measurements.²³ Annexes 1-5 to the Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty mention the exact cell equipment and facilities for each type of detention regime (maximum security, closed, semi-open, open) and for solitary confinement cells.²⁴

Annex 1 to the Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty describes in details the layout of maximum-security cells, designed for single occupancy, within a single detention area which includes the toilets, separated by a partial wall.²⁵ Measurements are provided for beds (90 cm X 200 cm and must be positioned at 55 cm above the floor), tables (40 cm X 50 cm and must be positioned at 75 – 80 cm above the floor), bath shelves (maximum 30 cm x 12.5 cm), bath mirror (maximum 30 X 30 cm), closet for personal belongings (maximum 3 shelves with a volume of 0.25 m³, 0.4 m X 0.5 m X 1.25 m), location of a TV shelf (1.60 – 1.70 m above the floor).

Annex 2 to the Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty describes in details the layout of closed regime cells, also applicable for pre-trial detention, quarantine, and detainees not-assigned to a detention regime.²⁶ Such cells are designed for two detainees, within a single detention area which includes the toilets, separated by a partial wall. Measurements are provided for and are similar to those for maximum-security cells. Specific measurements are provided for the bunkbeds (the lower bed

¹⁹ The National Administration of Penitentiaries provides weekly statistics on prison occupancy on their [website](#). The latest available statistics are for [29 June 2021](#).

²⁰ Deva Penitentiary (average – 6.03 m²/detainee) and Ploiești Penitentiary (average – 4.69 m²/detainee).

²¹ Mioveni, Oradea, Botoșani, București Rahova, Poara Albă, Craiova – Pelendava, Miercurea Ciuc, Drobeta Turnu Severin, Bacău, Ploiești – Târgșoru Nou, Găești, Giurgiu, Tulcea and Arad penitentiaries.

²² Aiud, Iași, Craiova, Focșani, Brăila, Slobozia, Galați, Satu Mare, București – Jilava, Mărgineni, Vaslui, Timișoara, Bistrița, Codlea, Gherla, Târgu Mureș, Baia Mare, Târgu Jiu penitentiaries.

²³ Romania, [Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty](#) (*Ordinul Ministerului Justiției nr. 2772/C/2017 - aprobarea Normelor minime obligatorii privind condițiile de cazare a persoanelor private de libertate*).

²⁴ Romania, [Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty](#) (*Ordinul Ministerului Justiției nr. 2772/C/2017 - aprobarea Normelor minime obligatorii privind condițiile de cazare a persoanelor private de libertate*).

²⁵ Romania, [Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty](#) (*Ordinul Ministerului Justiției nr. 2772/C/2017 - aprobarea Normelor minime obligatorii privind condițiile de cazare a persoanelor private de libertate*).

²⁶ Romania, [Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty](#) (*Ordinul Ministerului Justiției nr. 2772/C/2017 - aprobarea Normelor minime obligatorii privind condițiile de cazare a persoanelor private de libertate*).

must be positioned at 55 cm above the floor and the upper bed at 162.5 cm above the floor) and tables (40 cm X 100 cm). The closet for personal belongings should provide 3 shelves with a volume of 0.25 m³, 0.4 m X 0.5 m X 1.25 m for each detainee.

Annex 3 to the Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty describes in details the layout of semi-open regime cells, designed as multi-occupancy cells for a maximum of 10 persons.²⁷ The provided measurements are similar to those for closed regime cells, only multiplied by the number of additional persons. There should be two tables of 75 cm X 150 cm. The cells should include two separate areas, one for sleeping and one for hygiene-related activities.

Annex 4 to the Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty describes in details the layout of open regime cells, designed for as multi-occupancy cells for a maximum of 10 persons.²⁸ The provided measurements are similar to those for closed regime cells, only multiplied by the number of additional persons. There should be two tables of 75 cm X 150 cm. The cells should include three separate areas, one for sleeping, one for hygiene-related activities and one for personal belongings.

Annex 5 to the Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty describes in details the layout of solitary confinement cells.²⁹ The measurements provided are the same as those for maximum-security cells, with the exception of the space for personal belongings which consist of a single shelf of 30 cm X 40 cm, located at 140 – 160 cm above the floor.

For the pre-trial detention facilities under the Ministry of the Interior, the Annex 1 A of the 2018 Regulation on the organization and functioning of the police lock-ups and on the necessary security measures³⁰ describes the layout of the cells in a similar manner. Measurements are provided for beds (90 cm X 200 cm and if they are bunk beds the lower bed must be positioned at 55 cm above the floor and the upper bed at 162.5 cm above the floor), tables (40 cm X 50 cm and must be positioned at 75 – 80 cm above the floor), bath shelves (maximum 30 cm x 12.5 cm), bath mirror (maximum 30 X 30 cm), shower tube (75 cm x 75 cm).

As regards the temperature in the cells, both the Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty³¹ (Article 8) and the Regulation of 2018 on the organization and functioning of

²⁷ Romania, [Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty](#) (Ordinul Ministerului Justiției nr. 2772/C/2017 - aprobarea Normelor minime obligatorii privind condițiile de cazare a persoanelor private de libertate).

²⁸ Romania, [Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty](#) (Ordinul Ministerului Justiției nr. 2772/C/2017 - aprobarea Normelor minime obligatorii privind condițiile de cazare a persoanelor private de libertate).

²⁹ Romania, [Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty](#) (Ordinul Ministerului Justiției nr. 2772/C/2017 - aprobarea Normelor minime obligatorii privind condițiile de cazare a persoanelor private de libertate).

³⁰ Romania, [Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures](#) (Regulamentul din 2018 privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora), approved by [Order of the Ministry of the Interior no.14/2018 on approving the Regulation on the organization and functioning of the police lock-ups and on the necessary security measures](#) (Ordinul nr.14/2018 pentru aprobarea Regulamentului privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora).

³¹ Romania, [Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty](#) (Ordinul Ministerului Justiției nr. 2772/C/2017 - aprobarea Normelor minime obligatorii privind condițiile de cazare a persoanelor private de libertate).

the police lock-ups and on the necessary security measures³² (Article 12) mention that the heating systems must provide at least 19 C during the cold season. Similarly, they both provide that the cells must have access to natural and artificial light and that the detainees must have direct access to open the windows for air.

c) **Video-surveillance of cells:** Are there any national standards for video-surveillance of cells? If so, what do they require?

Article 8 of the Rules on security of detention facilities under the National Administration of Penitentiaries³³ approved by the Order of the Ministry of Justice no 4800/C/2018 provides that video-surveillance must be used in all detention areas except for the detention cells and toilets.³⁴

Article 176 of the Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures³⁵ provides that video surveillance is installed inside and outside the facility, and recordings kept for 30 days, with the exception of detention cells, where only thermal cameras can be used. Such cameras shall be monitored in real-time, without information being recorded or kept. No video surveillance should be placed in areas used for body searches (Article 35).

d) **Hygienic conditions in cells:** Are there any national standards with regard to cleaning and/or cleanliness of cells? If so, what do they require?

There are no specific provisions on hygienic conditions in cells as regards the facilities under the National Administration of Penitentiaries. The Decision no. 467/2016 of the director of the National Administration of Penitentiaries on the bedding provided to persons deprived of liberty placed in detention facilities under the National Administration of Penitentiaries³⁶ provides for bedding received by each detainee and the maximum lifespan of such objects. In detention facilities other than prison hospitals, each detainee should receive one plastic bed cover (with no lifespan), one mattress, one pillow and one blanket (two during the cold season, upon request), each with a lifespan of 4 years, as well as 4 bedsheets and 4 pillow cases, with a lifespan of 1 years. In prison hospitals, each detainee should receive one plastic bed cover (with no lifespan), one mattress, one pillow and one blanket (two during the cold season, upon request), each with a lifespan of 2 years, as well as 10 bedsheets and 4 pillow cases, with a lifespan of 1 years. At half-life, the bedding should be reconditioned.

³² Romania, [Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures](#) (Regulamentul din 2018 privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora), approved by [Order of the Ministry of the Interior no.14/2018 on approving the Regulation on the organization and functioning of the police lock-ups and on the necessary security measures](#) (Ordinul nr.14/2018 pentru aprobarea Regulamentului privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora).

³³ Romania, [Rules on security of detention facilities under the National Administration of Penitentiaries](#) (Regulament privind siguranța locurilor de deținere din subordinea Administrației Naționale a Penitenciarelor).

³⁴ Romania, [Order of the Ministry of Justice no. 4800/C/2018 on approving the Rules on security of detention facilities under the National Administration of Penitentiaries](#) (Ordinul Ministerului Justiției nr.4800/C/2018 privind aprobarea Regulamentului privind siguranța locurilor de deținere din subordinea Administrației Naționale a Penitenciarelor).

³⁵ Romania, [Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures](#) (Regulamentul din 2018 privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora), approved by [Order of the Ministry of the Interior no.14/2018 on approving the Regulation on the organization and functioning of the police lock-ups and on the necessary security measures](#) (Ordinul nr.14/2018 pentru aprobarea Regulamentului privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora).

³⁶ Romania, [Decision no. 467/2016 of the director of the National Administration of Penitentiaries on the bedding provided to persons deprived of liberty placed in detention facilities under the National Administration of Penitentiaries](#) (Decizia nr.467/2016 a Directorului Administrației Naționale a Penitenciarelor privind cazarmamentul asigurat persoanelor private de libertate aflate în locurile de deținere din subordinea Administrației Naționale a Penitenciarelor)

As regards the pre-trial detention facilities under the Ministry of the Interior, the Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures³⁷ mentions that access should be provided to cleaning clothes and equipment internally or via contractors. Article 13 provides also that bed linen should be changed at least once a week, or when needed.

e) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

The Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty is applicable to all detention regimes and facilities including as regards the minimum 4 m² per detainee standard.³⁸ After the adoption of the 2018 Regulation on the organization and functioning of the police lock-ups and on the necessary security measures³⁹ the 4 m² per detainee standard is no longer specifically applied to pre-trial detention facilities under the Ministry of the Interior, but only *mutatis mutandis*.

The minimum of 7 m² per detainee standard for prison hospitals is applicable only to individuals committed to such facilities for medical treatments. For detainees detained in prison hospitals for other reasons, such as their vulnerable status, the minimum 4 m² per detainee standard applies. The layout of cells for different detention regimes are slightly different.

f) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 1. a) – e), including their respective legal basis.

Pursuant to Article 56 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, detainees can complain against any measure ordered by the prison administration before the judge supervising the deprivation of liberty, within 10 days since they were informed on the measure.⁴⁰ Pursuant to Article 110 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, the same remedy is available for individuals detained in pre-trial facilities under the Ministry of the Interior. The decision of the judge should be issued within 15 days and can be further appealed before a local court (*judecătorie*) in 5 days since it was communicated to the party. Detainees use this mechanism to complain about material conditions of detention such as lack of heating or lack of proper

³⁷ Romania, [Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Regulamentul din 2018 privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*), approved by [Order of the Ministry of the Interior no.14/2018 on approving the Regulation on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Ordinul nr.14/2018 pentru aprobarea Regulamentului privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*)

³⁸ Romania, [Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty](#) (*Ordinul Ministerului Justiției nr. 2772/C/2017 - aprobarea Normelor minime obligatorii privind condițiile de cazare a persoanelor private de libertate*).

³⁹ Romania, [Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Regulamentul din 2018 privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*), approved by [Order of the Ministry of the Interior no.14/2018 on approving the Regulation on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Ordinul nr.14/2018 pentru aprobarea Regulamentului privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*).

⁴⁰ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

equipment in the cell, and the judges supervising the deprivation of liberty can order the prison administration to take the necessary measures to correct the situation.⁴¹

All persons deprived of liberty, irrespective of their regime, can also seek to obtain damages before the courts based on the general tort law (*Codul civil*⁴²) from the Romanian State, the National Administration of Prisons and/or the prison in question, as well as from any other liable person, and this is a venue encountered in the case law.⁴³ The general time-limit for claims under the tort law is 3 years since the party became aware of the cause of damage.

When detainees complain of the overcrowding in detention rooms alone, only the Romanian State has legal standing in tort cases and not the respective prison or the National Administration of Penitentiaries, as interpreted by the High Court of Cassation and Justice in a final decision from 2020.⁴⁴

It has to be noted that between July 2017 and December 2019, Law no. 169/2017 provided extra deductions of the time served in prisons for detainees held in poor detention conditions.⁴⁵ The courts considered that detainees who were released earlier due to poor detention conditions cannot benefit from other forms of compensations, such as damages.⁴⁶ Such decisions are based on the interpretation of the High Court of Cassation and Justice that, in cases in which detainees claim damages for detention conditions, it is essential to establish whether or not they benefited from the deduction of days based on Law no. 169/2017⁴⁷ and whether the deduction represents sufficient compensation or not.⁴⁸

There are no legal provisions in depriving detainees from complaining before the Ombudsperson, so they can file such complaints as any other person. The Ombudsperson's annual reports mention the complaints received from detainees and the recommendations the Ombudsperson made to authorities. The recommendations are not binding.

g) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 May 2018 to 15 April 2021; if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding these aspects (please provide the exact quotation in both, the national as well as in English language). These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference, a list of links can be found via the [OPCAT Database](#).

⁴¹ [Criminal Judgement no. 147/21 January 2021 of the Local Court of Sector 5 Bucharest](#) (*Sentința penală nr.147 din 21 ianuarie 2021 a Judecătoriei Sectorului 5 București*).

⁴² Romania, Article 1357 and the following of the [Civil Code](#) (*Codul civil*).

⁴³ Romania, [Civil Decision no. 672/30 June 2020 of the Alba Iulia Court of Appeal](#) (*Decizia civilă nr. 672 fin 30 iunie 2020 a Curții de Apel Alba Iulia*).

⁴⁴ Romania, [Civil Decision no.460/2020 of the High Court of Cassation and Justice – First Civil Section](#) (*Decizia civilă nr.460/2020 a Înaltei Curți de Casație și Justiție – Secția I Civilă*)

⁴⁵ Romania, [Law no.169/2017 on modifying the Law no.254/2014 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr. 169 din 14 iulie 2017 pentru modificarea și completarea Legii nr.254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*); Law no.169/2017 was repealed on 20 December 2019.

⁴⁶ Romania, [Civil Decision no.672/30 June 2020 of the Alba Iulia Court of Appeal](#) (*Decizia civilă nr. 672 from 30 iunie 2020 a Curții de Apel Alba Iulia*).

⁴⁷ Romania, [Law no. 169/2017 on modifying the Law no.254/2014 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr. 169 din 14 iulie 2017 pentru modificarea și completarea Legii nr.254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*); Law no.169/2017 was repealed on 20 December 2019.

⁴⁸ Romania, [Civil Decision no.528/2020 of the High Court of Cassation and Justice – First Civil Section](#) (*Decizia civilă nr.528/2020 a Înaltei Curți de Casație și Justiție – Secția I Civilă*).

The Office of the Romanian Ombudsperson (*Avocatul Poporului*) is designated as the National Preventive Mechanism under the Optional Protocol to the UN Convention against Torture (OPCAT).⁴⁹ No reports for visits in detention facilities between 1 May 2018 and 15 April 2021 can be found on the institutional website. A 2020 report has been submitted to the Subcommittee on the Prevention of Torture, which mentions that 13 visits to prisons and five visits to police lock-ups were carried out in 2020, either on site or via alternative means.⁵⁰ A Romanian version of the 2020 annual report was also posted on the institution's website⁵¹. As regards prisons, the report mentions as follows *"overcrowding (Craiova Penitentiary - Ișalnița Exterior Section, Craiova Pelendava Penitentiary, Deva Penitentiary); inadequate accommodation conditions;"*⁵² (*"supraaglomerare (Penitenciarul Craiova – Secția exterioară Ișalnița, Penitenciarul Craiova Pelendava, Penitenciarul Deva); • condiții de cazare necorespunzătoare"*)⁵³; as regards pre-trial facilities, the report finds *"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."*⁵⁴ (*"mobilier insuficient în camerele de deținere; în Centrul de Reținere și Arestare Preventivă Galați, camerele nu aveau în dotare rafturi pentru depozitarea produselor alimentare, mese și scaune pentru servirea mesei; dintre cele 13 camere, doar 8 erau dotate cu televizoare și nu exista un alt spațiu destinat activităților recreative dotat cu televizor"*)⁵⁵

During the reference period, the European Committee for the Prevention of Torture carried out one regular visit in 2018 and an ad-hoc visit in 2021 (the report is under preparation). The 2018 report⁵⁶ had findings in respect of cells in both pre-trial facilities and in prisons and concluded:

"CPT calls on the Romanian authorities to take the requisite measures to ensure that police arrest detention centres:

- *offer every detained person at least 4m² of living space in multiple-occupancy cells (Bucharest arrest detention centres Nos. 2, 4 and 8 and the Iași and Galați arrest detention centres);*

- *provide sufficient access to light, natural and artificial, and adequate ventilation in each cell (Bucharest detention facilities Nos. 2, 4, 8, 9 and the Cluj, Bistrița, Iași and Galați facilities);*

- *the surplus multiple grilles/bars on the windows should be removed (and the windows enlarged);*

- *provide every detained person with clean bed linen; ...*

- *guarantee the regular maintenance and cleanliness of the cells*

...

The material conditions in all the prisons visited could be considered as generally poor

...

the CPT recommends that considerable resources be invested to upgrade the heating system [in Aiud Prison] to maintain the cells at an appropriate temperature and to renovate the cells.

⁴⁹ <https://avp.ro/index.php/domenii-de-activitate/domeniul-privind-prevenirea-torturii-si-a-altor-pedepse-ori-tratamente-cu-cruzime-inumane-sau-degradante-in-locurile-de-detentie-mnp/>.

⁵⁰ The Department for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Places of Detention, [Report 2020](#).

⁵¹ [Romania, The Ombudsperson's 2020 Annual Report](#).

⁵² The Department for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Places of Detention, [Report 2020](#).

⁵³ [Romania, The Ombudsperson's 2020 Annual Report](#).

⁵⁴ The Department for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Places of Detention, [Report 2020](#).

⁵⁵ [Romania, The Ombudsperson's 2020 Annual Report](#).

⁵⁶ CPT/Inf (2019) 7, [Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) from 7 to 19 February 2018.

The CPT recommends that the Romanian authorities take immediate steps to reduce the extreme overcrowding in the adult male pre-trial unit at Bacău Prison. It is imperative that every prisoner be allocated his/her own bed. Further, a rolling programme of renovation should be undertaken in the prison, in conjunction with the decongestion of the cells... and improve the state of repair in the cells (deinfest the bedding and mattresses, provide a table and chairs for prisoners to eat their meals at, and an individual lockable space).

...

The CPT recommends that urgent steps be taken to renovate the cells (including as regards maintaining the cells at an adequate temperature) at Galați Prison and that occupancy levels be reduced further to ensure all prisoners are offered 4m² of living space each in multiple-occupancy cells (excluding the sanitary annexe). The CPT would like to be provided with an update on the state of repairs at Galați Prison. It would also like to be informed about the proposals for the construction of a new accommodation block and the implications for the existing structure.

...

The CPT recommends that the cells and sanitary annexes in Sections 3, 4 and 8 of Gherla Prison and in Block B of Iași Prison be renovated and that additional efforts be made at both establishments to reduce the occupancy levels to ensure all prisoners are provided with a minimum of 4 m² of living space each in multiple-occupancy cells (excluding the sanitary annexe). More generally, the CPT recommends that the Romanian authorities instruct all prisons to remove extra beds from cells as soon as they become decongested to provide prisoners with more living space."⁵⁷

2. Sanitary conditions

- a) What is the national standard with regard to access to toilets? Are these located in cells? If not, do detainees have access to these facilities without undue delay, even during the night? Do these facilities have to offer privacy to detainees who use them and, if so, in how far?

According to Article 5 of the Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty, each cell has to have access to toilets and sinks located inside the room, so that the detainees can freely access them at any time.⁵⁸ Toilets of cells in the open regime can be located outside the room. All toilets must offer privacy, in accordance with the rules laid down in Annexes 1-5 to the Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty.⁵⁹ They must be separated by at least a partial wall and have doors or, when appropriate, curtains instead of doors.

As regards the pre-trial detention facilities under the Ministry of the Interior, according to Article 13 of the Regulation of 2018 on the organization and functioning of the police

⁵⁷ CPT/Inf (2019) 7, [Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) from 7 to 19 February 2018.

⁵⁸ Romania, [Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty](#) (Ordinul Ministerului Justiției nr. 2772/C/2017 - aprobarea Normelor minime obligatorii privind condițiile de cazare a persoanelor private de libertate).

⁵⁹ Romania, [Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty](#) (Ordinul Ministerului Justiției nr. 2772/C/2017 - aprobarea Normelor minime obligatorii privind condițiile de cazare a persoanelor private de libertate).

lock-ups and on the necessary security measures,⁶⁰ the toilets must be separated from the detention rooms. By way of exception, toilets can be placed outside the detention rooms, as well.

b) What is the national standard with regard to access to regularly cleaned shower/bathing facilities? How often is this access provided? Do these facilities have to offer privacy to detainees who use them and, if so, in how far?

According to Article 5 of the Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty each cell has to have access to bathing facilities located inside the room, so that the detainees can freely access them at any time.⁶¹ Facilities of cells in the open regime can be located outside the room. All sanitary facilities must offer privacy, in accordance with the rules laid down in Annexes 1-5 to the Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty.⁶² They must be separated by at least a partial wall and have doors or, when appropriate, curtains instead of doors.

As regards the pre-trial detention facilities under the Ministry of the Interior, according to Article 13 of the Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures,⁶³ showers must be separated from the detention rooms. By way of exception, they can be placed outside the detention rooms, as well.

In practice, not all cells have access to showers, the showers do not provide privacy and hot water is provided in accordance with a schedule a few times per week.⁶⁴

c) What are the national standards with regard to cleaning and cleanliness of sanitary facilities?

There are no national standards with regard to cleaning and cleanliness of the sanitary facilities.

d) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

Annexes 1-5 to the Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty refer to the exact layout and characteristics of sanitary facilities for each detention regime (maximum security,

⁶⁰ Romania, [Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Regulamentul din 2018 privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*), approved by [Order of the Ministry of the Interior no.14/2018 on approving the Regulation on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Ordinul nr.14/2018 pentru aprobarea Regulamentului privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*).

⁶¹ Romania, [Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty](#) (*Ordinul Ministerului Justiției nr. 2772/C/2017 - aprobarea Normelor minime obligatorii privind condițiile de cazare a persoanelor private de libertate*).

⁶² Romania, [Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty](#) (*Ordinul Ministerului Justiției nr. 2772/C/2017 - aprobarea Normelor minime obligatorii privind condițiile de cazare a persoanelor private de libertate*).

⁶³ Romania, [Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Regulamentul din 2018 privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*), approved by [Order of the Ministry of the Interior no.14/2018 on approving the Regulation on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Ordinul nr.14/2018 pentru aprobarea Regulamentului privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*).

⁶⁴ [Criminal Judgement no.235 of 12 March 2019 of Târgu Mureș Local Court](#) (*Sentința penală nr.235 din 12 martie 2019 a Judecătoriei Târgu Mureș*).

closed, semi-open, open) and for solitary confinement cells.⁶⁵ Annex 1A to the of the Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures⁶⁶ provides similarly for the pre-trial detention facilities under the Ministry of the Interior.

e) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 2. a) – d), including their respective legal basis.

In accordance to Article 56 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, detainees can complain against any measure ordered by the prison administration before the judge supervising the deprivation of liberty, within 10 days since they were informed on the measure.⁶⁷ Pursuant to Article 110 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, the same remedy is available for individuals detained in pre-trial facilities under the Ministry of the Interior.⁶⁸ The decision of the judge should be issued within 15 days and can be further appealed before a local court (*judecătorie*) in 5 days since it was communicated to the party. Detainees use it to complain of material conditions of detention in relation to sanitary facilities, with limited success⁶⁹.

All persons deprived of liberty, irrespective of their regime, can also seek to obtain damages before the courts based on the general tort law (*Codul civil*⁷⁰)⁷¹ from the Romanian State, the National Administration of Prisons and the prison in question, as well as from any other liable person. The general time-limit for claims under the tort law is 3 years since the party became aware of the cause of damage.

It has to be noted that between July 2017 and December 2019, Law no.169/2017,⁷² provided extra deductions of time served in prisons for detainees held in poor detention conditions. The courts considered that detainees who were released earlier due to poor detention conditions cannot benefit from other forms of compensations, such as damages.⁷³ Such decisions are based on the interpretation of the High Court of Cassation and Justice that in cases where detainees claim damages for detention conditions, it is

⁶⁵ Romania, [Order of the Ministry of Justice no. 2772/C/2017 on the minimum standards on detention conditions for people deprived of liberty](#) (*Ordinul Ministerului Justiției nr. 2772/C/2017 - aprobarea Normelor minime obligatorii privind condițiile de cazare a persoanelor private de libertate*).

⁶⁶ Romania, [Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Regulamentul din 2018 privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*), approved by [Order of the Ministry of the Interior no.14/2018 on approving the Regulation on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Ordinul nr.14/2018 pentru aprobarea Regulamentului privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*).

⁶⁷ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

⁶⁸ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

⁶⁹ Romania, [Criminal Judgement no.1479 of 13 November 2019 of the Local Court of Focsani](#) (*Sentința penală nr.1479 din 13 noiembrie 2019 a Judecătoriei Focșani*).

⁷⁰ Romania, Article 1357 and the following of the [Civil Code](#) (*Codul civil*).

⁷¹ Romania, [Civil Decision no.672/30 June 2020 of the Alba Iulia Court of Appeal](#) (*Decizia civilă nr. 672 din 30 iunie 2020 a Curții de Apel Alba Iulia*).

⁷² Romania, [Law no. 169/2017 on modifying the Law no.254/2014 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr. 169 din 14 iulie 2017 pentru modificarea și completarea Legii nr.254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*); Law no.169/2017 was repealed on 20 December 2019.

⁷³ Romania, [Civil Decision no.672/30 June 2020 of the Alba Iulia Court of Appeal](#) (*Decizia civilă nr. 672 din 30 iunie 2020 a Curții de Apel Alba Iulia*).

essential to be established if they benefited from the deduction of days based on Law no.169/2017⁷⁴ and if the deduction represents sufficient compensation or not.⁷⁵

There are no legal provisions in depriving detainees from complaining before the Ombudsperson, so they can file such complaints as any other person. The Ombudsperson's' annual reports mention the complaints received from detainees and the recommendations the Ombudsperson made to authorities. The recommendations are not binding.

- f) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 May 2018 to 15 April 2021; if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding these aspects (please provide the exact quotation in both, the national as well as in English language). These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference, a list of links can be found via the [OPCAT Database](#).

The Office of the Romanian Ombudsperson (*Avocatul Poporului*) is the designated as the National Preventive Mechanism under the Optional Protocol to the UN Convention against Torture (OPCAT).⁷⁶ No reports for visits in detention facilities between 1 May 2018 and 15 April 2021 can be found on the institutional website. A 2020 report has been submitted to the Subcommittee on the Prevention of Torture, which mentions 13 visits to prison and five visits to police lock-ups which were carried out in 2020, either on site or via alternative means.⁷⁷ A Romanian version of the 2020 annual report was also posted on the institution's website⁷⁸. As regards pre-trial facilities, the report finds *"lack of Sanitary Operation Authorization (Caraş Severin Detention and Remand Center, Arad Detention and Remand Center);"*⁷⁹ (*"lipsa Autorizaţiei Sanitare de Funcţionare (Centrul de Reţinere şi Arestare Preventivă Caraş-Severin, Centrul de Reţinere şi Arestare Preventivă Arad);"*⁸⁰.

During the reference period, the European Committee for the Prevention of Torture carried out one regular visit in 2018 and an ad-hoc visit in 2021 (the report is under preparation). The 2018 report⁸¹ had findings in respect of sanitary conditions in both pre-trial facilities and in prisons and concluded:

"CPT calls on the Romanian authorities to take the requisite measures to ensure that police arrest detention centres: ...

- have fully partitioned (i.e. up to the ceiling) sanitary annexes in the cells (at Bucharest detention facilities Nos. 2 , 4, 8 and the un-renovated cells of the central facility and at the Iaşi and Galaţi arrest detention centres) ;

- guarantee the regular maintenance and cleanliness of the cells and sanitary facilities and ensure regular and adequate supplies of personal hygiene products, taking into account the gender-specific needs of the detainees.

⁷⁴ Romania, [Law no.169/2017 on modifying the Law no.254/2014 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (Legea nr. 169 din 14 iulie 2017 pentru modificarea şi completarea Legii nr.254/2013 privind executarea pedepselor şi a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal); Law no.169/2017 was repealed on 20 December 2019.

⁷⁵ Romania, [Civil Decision no.528/2020 of the High Court of Cassation and Justice – First Civil Section](#) (Decizia civilă nr.528/2020 a Înaltei Curţi de Casaţie şi Justiţie – Secţia I Civilă).

⁷⁶ <https://avp.ro/index.php/domenii-de-activitate/domeniul-privind-prevenirea-torturii-si-a-altor-pedepse-ori-tratamente-cu-cruzime-inumane-sau-degradante-in-locurile-de-detentie-mnp/>.

⁷⁷ The Department for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Places of Detention, [Report 2020](#).

⁷⁸ [Romania, The Ombudsperson's 2020 Annual Report](#).

⁷⁹ The Department for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Places of Detention, [Report 2020](#).

⁸⁰ [Romania, The Ombudsperson's 2020 Annual Report](#).

⁸¹ CPT/Inf (2019) 7, [Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) from 7 to 19 February 2018.

...

The CPT recommends that the Romanian authorities take immediate steps ... that ... a rolling programme of renovation should be undertaken [at Bacău Prison] ... to upgrade the sanitary facilities (remove the mould, provide new fixtures, fix the piping) ...

...

The CPT recommends that the cells and sanitary annexes in Sections 3, 4 and 8 of Gherla Prison and in Block B of Iași Prison be renovated..."⁸²

3. Time out of cell

- a) What is the national standard set for time per day/week spent by detainees outside of their cells:
- Outdoors (within the boundary of the prison)?
 - Indoors in the common area?

The standard for time spent outside the cells is provided for in the Government Decision no. 157/2016⁸³ on approving the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation⁸⁴). For prisons, it varies depending on the different regimes, as follows:

- For maximum security – 1 hour/day outdoors exercise for detainees who work and 2 hours/day outdoors for detainees who do not work; detainees who do not work should spend 3 hours in various activities (including outdoor exercise) outside the cell.
- For closed regime – 1 hour/day outdoors exercise for detainees who work and 3 hours/day outdoors for detainees who do not work; detainees who do not work should spend 4 hours in various activities (including outdoor exercise) outside the cell;
- For semi-open regime– the detainees can freely circulate outside the cells during the day;
- For open regime – the detainees can freely circulate outside the cells during the day;
- For pre-trial detainees, the time outside is the same as for those in the closed regime.

As regards the pre-trial detention facilities under the Ministry of the Interior, according to Article 122, each person has the right to a minim of one hour of daily outside walk, in specially designed walking courts.

- b) Do sports or other recreational and/or educational facilities have to be available to detainees? If so, what types?

There are no general national standards on providing facilities for sport and other recreational and/or educational facilities to be available to detainees. The Government

⁸² CPT/Inf (2019) 7, [Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) from 7 to 19 February 2018.

⁸³ Romania, [Government Decision no. 157/2016 on approving the implementing regulation of Law no. 254/2013 \(Hotărârea Guvernului Nr. 157/2016 din 10 martie 2016 pentru aprobarea Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal\)](#).

⁸⁴ Romania, [Implementing Regulation of 2016 of Law no. 254/2013 \(Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal\)](#).

Decision no. 157/2016⁸⁵ on approving the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation⁸⁶) only mentions general measures that detainees should be included in (recreational, educational, therapeutic, religious activities). The maximum security and closed regime detainees should be included in such activities in accordance with an individual intervention plan.

c) Is there a national standard for time spent in cells? If so, what does it require?

There is no national standard for time spent in cells.

d) Are there any national standards with regard to activities and/or programmes that should be available to detainees when they are outside their cells? If so, what do they require?

The Government Decision no. 157/2016⁸⁷ on approving the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation⁸⁸) only mentions general measures that detainees should be included in (recreational, educational, therapeutic, religious activities). The maximum security and closed regime detainees should be included in such activities in accordance to an individual intervention plan. There are no further national standards for activities outside the cells.

As regards work, the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial⁸⁹ regulates the right to work for convicted persons (Articles 78 and 83 to 88). The duration of work is based on general labour provisions and convicted persons can be involved in other activities only outside working hours (Article 89). Article 112 of the same law provides that persons in pre-trial detention facilities under the Ministry of the Interior (*Ministerul Afacerilor Interne*) can only work without payment for the pre-trial detention facilities and with the approval of the prosecutor.

e) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

The time outside the cell is regulated by the Government Decision no. 157/2016⁹⁰ on approving the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation⁹¹) for each detention regime:

⁸⁵ Romania, [Government Decision no.157/2016 on approving the implementing regulation of Law no.254/2013](#) (*Hotărârea Guvernului Nr. 157/2016 din 10 martie 2016 pentru aprobarea Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

⁸⁶ Romania, [Implementing Regulation of 2016 of Law no.254/2013](#) (*Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

⁸⁷ Romania, [Government Decision no.157/2016 on approving the implementing regulation of Law no.254/2013](#) (*Hotărârea Guvernului Nr. 157/2016 din 10 martie 2016 pentru aprobarea Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

⁸⁸ Romania, [Implementing Regulation of 2016 of Law no.254/2013](#) (*Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

⁸⁹ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

⁹⁰ Romania, [Government Decision no.157/2016 on approving the implementing regulation of Law no.254/2013](#) (*Hotărârea Guvernului Nr. 157/2016 din 10 martie 2016 pentru aprobarea Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

⁹¹ Romania, [Implementing Regulation of 2016 of Law no.254/2013](#) (*Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

- For maximum security – 1 hour/day outdoors exercise for detainees who work and 2 hours/day outdoors for detainees who do not work; detainees who do not work should spend 3 hours in various activities (including outdoor exercise) outside the cell.
- For closed regime – 1 hour/day outdoors exercise for detainees who work and 3 hours/day outdoors for detainees who do not work; detainees who do not work should spend 4 hours in various activities (including outdoor exercise) outside the cell;
- For semi-open regime– the detainees can freely circulate outside the cells during the day;
- For open regime – the detainees can freely circulate outside the cells during the day;
- For pre-trial detainees, the time outside is the same as for those in the closed regime.

In addition, as regards the pre-trial detention facilities under the Ministry of the Interior, according to Article 122, each person has the right to a minimum of one hour of daily outside walk, in specially designed walking courts.

- f) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 3. a) – e), including their respective legal basis.

In accordance to Article 56 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial detainees can complain against any measure ordered by the prison administration before the judge supervising the deprivation of liberty, within 10 days since they were informed on the measure.⁹² Pursuant to Article 110 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, the same remedy is available for individuals detained in pre-trial facilities under the Ministry of the Interior.⁹³ The decision of the judge should be issued within 15 days and can be further appealed before a local court (*judecătorie*) in 5 days since it was communicated to the party.

All persons deprived of liberty, irrespective of their regime, can also seek to obtain damages before the courts based on the general tort law (*Codul civil*⁹⁴) from the Romanian State, the National Administration of Prisons and/or the prison in question, as well as from any other liable person. The general time-limit for claims under the tort law is 3 years since the party became aware of the cause of damage.

There are no legal provisions in depriving detainees from complaining before the Ombudsperson, so they can file such complaints as any other person. The Ombudsperson's' annual reports mention the complaints received from detainees and the recommendations the Ombudsperson made to authorities. The recommendations are not binding.

- g) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 May 2018 to 15 April 2021; if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding these aspects (please provide the exact quotation in both, the national as well as in English language). These reports can be found on the webpage of

⁹² Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

⁹³ Romania, [Law no.254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

⁹⁴ Romania, Article 1357 and the following of the [Civil Code](#) (*Codul civil*).

the National Preventive Mechanism. For ease of reference, a list of links can be found via the [OPCAT Database](#).

The Office of the Romanian Ombudsperson (*Avocatul Poporului*) is designated as the National Preventive Mechanism under the Optional Protocol to the UN Convention against Torture (OPCAT).⁹⁵ No reports for visits in detention facilities between 1 May 2018 and 15 April 2021 can be found on the institutional website. A 2020 report has been submitted to the Subcommittee on the Prevention of Torture, which mentions 13 visits to prison and five visits to police lock-ups which were carried out in 2020, either on site or via alternative means.⁹⁶ A Romanian version of the 2020 annual report was also posted on the institution's web-site⁹⁷. As regards pre-trial facilities, the report finds "lack of a space arranged in order to provide psychological assistance" (*lipsa unui spațiu amenajat în vederea acordării asistenței psihologice*) and in respect of prisons it finds that "in the Craiova Penitentiary - Ișalnița External Section, only a small number of courses for initiation, qualification, requalification, training and specialization of detainees were organized" ("în Penitenciarul Craiova - Secția exterioară Ișalnița s-a organizat un număr redus de cursuri de inițiere, calificare, recalificare, perfecționare și specializare a deținuților;").

During the reference period, the European Committee for the Prevention of Torture carried out one regular visit in 2018 and an ad-hoc visit in 2021 (the report is under preparation). The 2018 report⁹⁸ had findings in respect to time out of cells in prisons and recommended: [at Bacau Prison] *the CPT recommends that steps be taken to create decent walking areas which possess shelter from inclement weather as well as a means of rest and some exercise equipment.*

...
[at Aiud Prison] *the CPT recommends that the low-lying metal mesh grilles be removed from the exercise yards and that all courtyards be equipped with a means of rest, and that they be brightened up. Further, all yards should have some shelter from the rain and sun.*"⁹⁹

4. Solitary confinement

a) What are the national standards regarding solitary confinement?

Solitary confinement is the most serious disciplinary sanction regulated by Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial¹⁰⁰ and is detailed by the Government Decision no. 157/2016¹⁰¹ on approving the Regulation implementing the Law no.

⁹⁵ <https://avp.ro/index.php/domenii-de-activitate/domeniul-privind-prevenirea-torturii-si-a-altor-pedepse-ori-tratamente-cu-cruzime-inumane-sau-degradante-in-locurile-de-detentie-mnp/>.

⁹⁶ The Department for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Places of Detention, [Report 2020](#).

⁹⁷ [Romania, The Ombudsperson's 2020 Annual Report](#).

⁹⁸ CPT/Inf (2019) 7, [Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) from 7 to 19 February 2018.

⁹⁹ CPT/Inf (2019) 7, [Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) from 7 to 19 February 2018.

¹⁰⁰ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹⁰¹ Romania, [Government Decision no. 157/2016 on approving the implementing regulation of Law no.254/2013](#) (*Hotărârea Guvernului Nr. 157/2016 din 10 martie 2016 pentru aprobarea Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

254/2013 on the execution of sentences (Implementing Regulation¹⁰²). It can be applied for up to 10 days. There are no provisions that expressly allow the 10 days limit to be extended, either due to cumulative sanctions or for any other reasons, in the Law no.254/2013 or in its implementing regulation.

Article 221 of the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation¹⁰³) mentions that solitary confinement cannot be executed in rooms without access to light or ventilation. Article 225 of the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation¹⁰⁴) mentions that the solitary confinement cells must have access to natural light, ventilation, heating, water and other sanitary facilities. Article 226 of the Implementing Regulation provides that the detainees in solitary confinement should spend at least one hour per day outdoors, in areas separate from the rest of the prison population.

According to Article 142 of the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation¹⁰⁵), pregnant women and those who gave birth and are taking care of their baby in prison cannot be punished with solitary confinement.

b) Are there any national standards with regard to checking and/or monitoring the wellbeing of detainees in solitary confinement? If so, what do they require?

Article 225 of the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation¹⁰⁶) mentions that the health of persons in solitary confinement is checked by the prison doctor daily. If the doctors finds that the detainee is not fit for solitary confinement, he or she can recommend the termination of the sanction.

c) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

There are no different standards on solitary confinement applicable to different detention regimes, in prisons or in pre-trial facilities.

d) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 4. a) - c), including their respective legal basis.

In accordance to Article 56 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial detainees can complain against any measure ordered by the prison administration before the judge supervising the deprivation of liberty, within 10 days since they were

¹⁰² Romania, [Implementing Regulation of 2016 of Law no. 254/2013](#) (Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

¹⁰³ Romania, [Implementing Regulation of 2016 of Law no. 254/2013](#) (Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

¹⁰⁴ Romania, [Implementing Regulation of 2016 of Law no. 254/2013](#) (Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

¹⁰⁵ Romania, [Implementing Regulation of 2016 of Law no.254/2013](#) (Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

¹⁰⁶ Romania, [Implementing Regulation of 2016 of Law no. 254/2013](#) (Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

informed on the measure.¹⁰⁷ Pursuant to Article 110 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, the same remedy is available for individuals detained in pre-trial facilities under the Ministry of the Interior.¹⁰⁸ The decision of the judge should be issued within 15 days and can be further appealed before a local court (*judecătorie*) in 5 days since it was communicated to the party.

In addition, detainees can complain against the solitary confinement sanction itself, in accordance with Article 104 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial.¹⁰⁹ Pursuant to Article 110 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, the same remedy is available for individuals detained in pre-trial facilities under the Ministry of the Interior.¹¹⁰

The complaint based on Article 104 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial¹¹¹ should be filed against the sanctioning decision of the disciplinary board and is applicable to all disciplinary sanctions, not specifically to solitary confinement. The complaint must be filed before the judge supervising the deprivation of liberty, within 3 days since the sanction was communicated. The complaint suspends enforcement of the sanction. In maximum 10 days since receiving the complaint and after hearing the detainee, the judge can either accept it and annul or modify the sanction, dismiss it, or take notice of the withdrawal of the complaint. The decision of the judge should be communicated within 3 days and can be further appealed before a local court (*judecătorie*) in 5 days since it was communicated to the parties. The appeal suspends the enforcement of the judge's decision and the file should be sent to the local court in maximum 2 days. It is compulsory that the court hears the detainee directly before issuing a final decision.

All persons deprived of liberty, irrespective of their regime, can also seek to obtain damages before the courts based on the general tort law (*Codul civil*¹¹²) from the Romanian State, the National Administration of Prisons and/or the prison in question, as well as from any other liable person. The general time-limit for claims under the tort law is 3 years since the party became aware of the cause of damage.

There are no legal provisions in depriving detainees from complaining before the Ombudsperson, so they can file such complaints as any other person. The Ombudsperson's annual reports mention the complaints received from detainees and the recommendations the Ombudsperson made to authorities. The recommendations are not binding.

e) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 May 2018 to 15 April 2021; if no report is available for this

¹⁰⁷ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹⁰⁸ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr. 254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹⁰⁹ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr. 254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹¹⁰ Romania, [Law no.254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹¹¹ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr. 254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹¹² Romania, Article 1357 and the following of the [Civil Code](#) (*Codul civil*).

period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding this aspect (please provide the exact quotation in both, the national as well as in English language). These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference, a list of links can be found via the [OPCAT Database](#).

The Office of the Romanian Ombudsperson (*Avocatul Poporului*) is designated as the National Preventive Mechanism under the Optional Protocol to the UN Convention against Torture (OPCAT).¹¹³ No reports for visits in detention facilities between 1 May 2018 and 15 April 2021 can be found on its website. A 2020 report has been submitted to the Subcommittee on the Prevention of Torture¹¹⁴, which mentions 13 visits to prison and five visits to police lock-ups, which were carried out in 2020, either on site or via alternative means. A Romanian version of the 2020 annual report was also posted on the institution's website¹¹⁵. There are no references to solitary confinement in the report.

During the reference period, the European Committee for the Prevention of Torture carried out one regular visit in 2018 and an ad-hoc visit in 2021 (the report is under preparation). The 2018 report¹¹⁶ had findings in respect of solitary confinement in prisons and recommended:

"Care should be taken to ensure that all cells in which prisoners are placed are adequately heated.

...

The CPT recommends that prison doctors no longer be asked to certify prisoners as being fit to serve a disciplinary punishment of solitary confinement and that subsequently Article 101 (4) of Law No. 254/2013 be amended accordingly.

...

The CPT recommends that the Romanian authorities no longer suspend the right to visits for inmates as a disciplinary punishment, in the light of the above remarks, and that Law No. 254/2013 and its implementing Regulation be amended accordingly.

...

The CPT recommends that the Romanian authorities introduce a review procedure for every measure of separation for the purposes of good order in line with the above precepts with a view to reducing the length of any period of solitary confinement. More specifically, the CPT recommends that all prisoners subject to separation under Article 15 of Law No. 254/2013 should have a right to appeal the measure. Further, all decisions should be properly documented and reasoned, and a dedicated register introduced for the cell used for separating the prisoner. The prisoner should receive a reasoned written decision on the measure and the extension of any stay and information on how to challenge the measure. In addition, the CPT recommends that any measure of investigative separation comply with due process safeguards and should generally not last longer than a few hours."¹¹⁷

¹¹³ <https://avp.ro/index.php/domenii-de-activitate/domeniul-privind-prevenirea-torturii-si-a-altor-pedepse-ori-tratamente-cu-cruzime-inumane-sau-degradante-in-locurile-de-detentie-mnp/>.

¹¹⁴ The Department for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Places of Detention, [Report 2020](#).

¹¹⁵ [Romania, The Ombudsperson's 2020 Annual Report](#).

¹¹⁶ CPT/Inf (2019) 7, [Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) from 7 to 19 February 2018.

¹¹⁷ CPT/Inf (2019) 7, [Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) from 7 to 19 February 2018.

5. Access to healthcare

<p>a) What is the national standard with regard to access to medical services in prisons, including emergency care? (E.g.: Do detainees have prompt access to medical services within prisons and/or externally? Do detainees have access to dentists, opticians, etc.?) If so, what does it require?</p>
<p>The right to medical care is provided by Article 71 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial¹¹⁸ and it is specified by the Government Decision no. 157/2016¹¹⁹ on approving the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation¹²⁰). In respect of prisons, access to healthcare for detainees is also detailed in the Joint Order of the Ministry of Justice and the Ministry of Health no.429/C/125/2012.¹²¹</p> <p>Healthcare is provided free of charge and covers medical interventions, primary medical care, emergency care and specialized care, as well as both curative care and terminal care, based on the framework contract with the National Health Insurance House. Healthcare is provided by specialised personnel within the prison system, both in regular facilities and in six prison hospitals, as well as by outside doctors, when necessary.</p> <p>Access to dental healthcare within the prison system is specifically provided for by the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation¹²²).</p>
<p>b) Are there any national standards concerning the availability of qualified medical and nursing personnel? If so, what do they require?</p>
<p>According to Article 153 of the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation¹²³), primary healthcare is provided by specialized medical doctors, of which at least one is a general practitioner doctor or a family doctor, and by a minimum number of nurses in order to provide continuous (24/7) healthcare.</p>
<p>c) Are there any national standards for an initial medical examination upon deprivation of liberty or transfer of a detainees? If so, what do they require?</p>

¹¹⁸ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹¹⁹ Romania, [Government Decision no. 157/2016 on approving the implementing regulation of Law no. 254/2013](#) (*Hotărârea Guvernului Nr. 157/2016 din 10 martie 2016 pentru aprobarea Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹²⁰ Romania, [Implementing Regulation of 2016 of Law no. 254/2013](#) (*Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹²¹ Romania, [Joint Order of the Ministry of Justice and the Ministry of Health no.429/C/125/2012](#) on providing healthcare to persons deprived of liberty in custody of the National Administration of Penitentiaries (*Ordinul comun nr.429/C/125/2012 privind asigurarea asistenței medicale persoanelor private de libertate aflate în custodia Administrației Naționale a Penitenciarelor*).

¹²² Romania, [Implementing Regulation of 2016 of Law no.254/2013](#) (*Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹²³ Romania, [Implementing Regulation of 2016 of Law no.254/2013](#) (*Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

According to Article 26 of the Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures¹²⁴ approved by the Order of the Ministry of Interior no. 14/2018, the person deprived of liberty has the obligation to undergo an initial medical examination upon entry in a police lock-up, in order to identify signs of violence, or any other issues which require medical attention or measures (such as addictions, mental disturbance, suicidal risks, existence of contagious diseases or parasites, medical history etc). If the medical staff of the police lock-up is not available, the medical examination shall be carried out in a civilian hospital. Article 137 of the Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures¹²⁵ provides that all medical examinations (initial or upon request) must be carried out by observing confidentiality, as well as the dignity and the privacy of the person deprived of liberty, unless the doctor expressly requests additional supervision, for safety reasons.

According to Article 72 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, a medical examination is carried out upon entry in a prison and then periodically, during the incarceration.¹²⁶ If signs of violence are identified or the detainee claims s/he was subjected to violence, the medical doctor must note it down in the medical file. In such cases, the detainee has the right to a forensic examination on his/her own expense. In case s/he has no funds available, the costs are supported by the prison and later deducted from further earnings of the detainee.

d) Are there any national standards relating to the provision of specialist care? (E.g. for long-term diseases, for sick and elderly detainees, the mentally ill, drug addicted detainees, etc.) If so, what do they require?

Care for drug users deprived of liberty is provided as for drug users outside the prison system based on the Joint Order no. 1216/C/1310/543/2006 of the Ministry of Justice, the Ministry of Interior and the Ministry of Health.¹²⁷

There are no other specific standards for the provision of specialist care. According to the Joint Order of the Ministry of Justice and the Ministry of Health no. 429/C/125/2012, individuals with diabetes and those under psychiatric treatment are cared for in accordance with the standards of the Ministry of Health.¹²⁸ Pregnant detainees are also provided specialist care.

¹²⁴ Romania, [Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Regulamentul din 2018 privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*), approved by [Order of the Ministry of the Interior no.14/2018 on approving the Regulation on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Ordinul nr.14/2018 pentru aprobarea Regulamentului privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*).

¹²⁵ Romania, [Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Regulamentul din 2018 privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*), approved by [Order of the Ministry of the Interior no.14/2018 on approving the Regulation on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Ordinul nr.14/2018 pentru aprobarea Regulamentului privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*).

¹²⁶ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹²⁷ Romania, [Joint Order of the Ministry of Interior no.1310/2006](#) (Order of the Ministry of Justice no.1216/C/2006; Order of the Ministry of Health no.543/2006) on implementing medical, psychological and social assistance integrated programs for drug users deprived of liberty (*Ordinul comun nr. 1310/1216/C/543/2006 privind modalitatea de derulare a programelor integrate de asistență medicală, psihologică și socială pentru persoanele aflate în stare privativă de libertate, consumatoare de droguri*).

¹²⁸ Romania, [Joint Order of the Ministry of Justice and the Ministry of Health no .429/C/125/2012](#) on providing healthcare to persons deprived of liberty in custody of the National Administration of Penitentiaries (*Ordinul comun nr.429/C/125/2012 privind asigurarea asistenței medicale persoanelor private de libertate aflate în custodia Administrației Naționale a Penitenciarelor*).

The decision of the General Director of the National Administration of Penitentiaries on classifying the prisons under the National Administration of Penitentiaries mentions the medical specialty of the sections within the prison hospitals. ¹²⁹

e) Are there any national standards with regard to a medical treatment of the detainee's own choosing? If so, what do they require?

According to Article 71 the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, detainees can receive care from outside doctors, upon request, within the prison, if they cover the expense. ¹³⁰

f) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

There are no different standards on access to healthcare applicable to different detention regimes.

g) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 5. a) – f), including their respective legal basis.

In accordance to Article 56 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, detainees can complain against any measure ordered by the prison administration before the judge supervising the deprivation of liberty, within 10 days since they were informed on the measure.¹³¹ Pursuant to Article 110 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, the same remedy is available for individuals detained in pre-trial facilities under the Ministry of the Interior. ¹³² The decision of the judge should be issued within 15 days and can be further appealed before a local court (*judecătorie*) in 5 days since it was communicated to the party.

All persons deprived of liberty, irrespective of their regime, can also seek to obtain damages before the courts based on the general tort law (*Codul civil*¹³³) from the Romanian State, the National Administration of Prisons and/or the prison in question, as well as from any other liable person. The general time-limit for claims under the tort law is 3 years since the party became aware of the cause of damage.

There are no legal provisions in depriving detainees from complaining before the Ombudsperson, so they can file such complaints as any other person. The Ombudsperson's' annual reports mention the complaints received from detainees and the recommendations the Ombudsperson made to authorities. The recommendations are not binding.

¹²⁹ Romania, [Decision no. 360/2020 of the general director of the National Administration on classifying the detention facilities under the National Administration of Penitentiaries](#) (*Decizia nr. 360/2020 a directorului general al Administrației Naționale a Penitenciarelor privind profilarea locurilor de deținere din subordinea Administrației Naționale a Penitenciarelor*), with [Annexes 1 to 7](#) (*Anexele 1-7 la Decizia nr.360/2020 a directorului general al Administrației naționale a Penitenciarelor*).

¹³⁰ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹³¹ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹³² Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹³³ Romania, Article 1357 and the following of the [Civil Code](#) (*Codul civil*).

h) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 May 2018 to 15 April 2021; if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding these aspects (please provide the exact quotation in both, the national as well as in English language). These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference a list of links can be found via the [OPCAT Database](#).

The Office of the Romanian Ombudsperson (*Avocatul Poporului*) is designated as the National Preventive Mechanism under the Optional Protocol to the UN Convention against Torture (OPCAT).¹³⁴ No reports for visits in detention facilities between 1 May 2018 and 15 April 2021 can be found on its web-site. A 2020 report has been submitted to the Subcommittee on the Prevention of Torture¹³⁵, which mentions 13 visits to prison and five visits to police lock-ups, which were carried out in 2020, either on site or via alternative means. A Romanian version of the 2020 annual report was also posted on the institution's website¹³⁶. In respect of healthcare in prisons, it repeatedly indicates the shortages in medical staff and additionally finds:

"• 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;

• there was no medical office arranged at the Ișalnița exterior section of the Craiova Penitentiary, and at the Craiova Pelendava Penitentiary there was no infirmary;

• in Bistrița 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 disciplinarily as a result of suicide attempts."¹³⁷ („• registrele întocmite în penitenciar nu erau completate corespunzător; spre exemplu, în Penitenciarul Mărgineni: Registrul de leziuni traumatice și de autoagresiune – nu era respectată ordinea cronologică a însemnărilor, lipsea data calendaristică în cazul unor însemnări, lipsea semnătura cadrului medical care a constatat leziunea în cazul mai multor însemnări; Registrul de consultații și tratament – lipsea semnătura persoanei private de libertate căreia i se administra tratamentul, precum și semnătura și parafa medicului prescriptor în dreptul unor consemnări; Registrul destinat monitorizării persoanelor aflate în refuz de hrană – era dificil de distins data și ora ieșirii din această formă de protest în unele cazuri; • personalul era insuficient; • lipsea un cabinet medical amenajat la secția exterioară Ișalnița a Penitenciarului Craiova, iar la Penitenciarul Craiova Pelendava nu era o infirmerie amenajată; • în Penitenciarul Bistrița se practica sancționarea disciplinară (chiar în mod repetat a acelorași persoane) în cazul unor comportamente de tip autoagresiv (spre exemplu, unei persoane care s-a tăiat în jurul gâtului în două zile diferite în anul 2019 i s-au aplicat două sancțiuni disciplinare, de suspendare a dreptului la muncă și de primire a bunurilor și efectuarea cumpărăturilor), unele dintre

¹³⁴ <https://avp.ro/index.php/domenii-de-activitate/domeniul-privind-prevenirea-torturii-si-a-altor-pedepse-ori-tratamente-cu-cruzime-inumane-sau-degradante-in-locurile-de-detentie-mnp/>.

¹³⁵ The Department for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Places of Detention, [Report 2020](#).

¹³⁶ [Romania, The Ombudsperson's 2020 Annual Report](#).

¹³⁷ The Department for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Places of Detention, [Report 2020](#).

persoanele sancționate prezentând un diagnostic psihiatric; s-au constatat și cazurile unor persoane private de libertate sancționate disciplinar urmare a unor tentative de suicid;”)

During the reference period, the European Committee for the Prevention of Torture carried out one regular visit in 2018 and an ad-hoc visit in 2021 (the report is under preparation). The 2018 report¹³⁸ had findings in respect of healthcare in police lock-ups and recommended: *“The CPT recommends that the Medical Directorate of the Ministry of Interior take the following steps in order to improve the quality of health care provided in arrest detention centres in particular by:*

- relieving the doctor at arrest detention centre of additional duties within the Ministry of Interior;*
- informing detained persons of the possibility of receiving psychological assistance while being held in an arrest detention centre;*
- ensuring the respect of the confidentiality for distribution of medicines through the creation of individual boxes filled by health care staff;*
- supplying all arrest detention centres at the national level with basic life-saving equipment (i.e. defibrillator and oxygen);*
- providing OST programs for all opiate dependent inmates in arrest detention centres, including those who were not involved in a OST program outside prison;*
- offering a voluntary blood test for blood borne viruses (HIV, HBV, HCV) and providing hepatitis B (HBV) vaccination for HBV negative patients.*

Finally, the remarks outlined in paragraph 104 on the necessity for the Romanian authorities to consider the transfer of clinical staff to the Ministry of Health also apply to the health care personnel in arrest detention centres.”¹³⁹

As regards prisons: *“The CPT recommends that the Romanian authorities act to ensure that clinical staff are truly independent of prison staff. To this end, serious consideration should be given to the transfer of (the responsibility for) clinical staff to the Ministry of Health.*

...

The CPT recommends that the existing electronic data entry system be fully exploited and developed for the recording of patient information and that the current practice of using multiple registers to record patient information be phased out. Further, all clinical staff should be reminded of the importance to record properly and in full the findings from a consultation with a patient.

...

The CPT recommends that the health care staffing levels in the prisons visited be reviewed with a view to ensuring that:

- at Bacău Prison, 1.5 full-time equivalent general practitioners are recruited as well as a dentist;*
- at Iași Prison, 2.5 full-time equivalent general practitioners and 15 nurses, including at least one or two with a mental health training, are in post. It would also be cost-effective for a full-time administrator to be appointed to the health care service;*

¹³⁸ CPT/Inf (2019) 7, [Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) from 7 to 19 February 2018.

¹³⁹ CPT/Inf (2019) 7, [Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) from 7 to 19 February 2018.

- *an adequate provision of psychiatric input is provided at each of the five prisons visited in the light of their specific needs.*

As regards access to the health care service in the prisons visited, the CPT recommends that the Romanian authorities put in place a system whereby prisoners can make a request directly to the health care service by placing a paper in a box on their landing/wing indicating the reason for the request. The requests could be collected by members of the health care staff at the end of each day (e.g. when the final round of medication is distributed). Further, prisoners should be treated as patients and not have to stand with heads bowed when seeing the doctor and prison officers should not be placed in a position whereby they can filter access to the health care service. The CPT also recommends that the drug dispensing practices at Bacău Prison be reviewed and that the supply and storage of medication be improved.

...

The CPT recommends that at a minimum every prison be equipped with a defibrillator and oxygen as well as an ECG machine. Also, prison medical consultation rooms should be properly equipped.

...

The CPT recommends that the Romanian authorities ensure that all prisons carry out a comprehensive medical screening on admission. In addition, the CPT recommends that a gender-specific medical screening on admission for women should be introduced at Bacău and Gherla Prisons, and other prisons accommodating women prisoners. Such screening should allow for the detection of vulnerabilities, including a history of any sexual abuse and other gender-based violence, and it should inform any care plan established for the woman to ensure appropriate care and avoid re-traumatisation. Further, the CPT recommends that all newly admitted prisoners be offered a systematic, voluntary blood test for blood borne viruses (HIV, HBV, HCV) and that hepatitis B (HBV) negative patients be provided with a HBV vaccination and treatment. Also, hepatitis C positive patients should be vaccinated against hepatitis

...

The CPT recommends that the Romanian authorities ensure that all prisons carry out a comprehensive medical screening on admission. In addition, the CPT recommends that a gender-specific medical screening on admission for women should be introduced at Bacău and Gherla Prisons, and other prisons accommodating women prisoners. Such screening should allow for the detection of vulnerabilities, including a history of any sexual abuse and other gender-based violence, and it should inform any care plan established for the woman to ensure appropriate care and avoid re-traumatisation. Further, the CPT recommends that all newly admitted prisoners be offered a systematic, voluntary blood test for blood borne viruses (HIV, HBV, HCV) and that hepatitis B (HBV) negative patients be provided with a HBV vaccination and treatment. Also, hepatitis C positive patients should be vaccinated against hepatitis A.

...

The CPT reiterates its recommendation that steps be taken to ensure that any signs of violence observed when a prisoner is medically screened following an incident within the prison are fully recorded, and that the record contains: i) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment); ii) a full account of objective medical findings based on a thorough examination, and iii) the health care professional's observations in the light of i) and ii), indicating the consistency between any allegations made and the objective medical findings. The record should

also contain the results of additional examinations carried out, detailed conclusions of specialised consultations, a description of treatment given for injuries and the results of any further procedures performed. A record of the medical examination in cases of traumatic injuries should be made on a special form provided for this purpose, with body charts for marking the location and documenting the nature of traumatic injuries that will be kept in the medical file of the prisoner. Further, it would be desirable for photographs to be taken of the injuries, which should also be placed in the medical file. In addition, a special trauma register should be kept in which all types of injury observed should be recorded. The CPT recommends that procedures be in place to ensure that whenever injuries are recorded which are consistent with allegations of ill-treatment made by the prisoner concerned (or which, even in the absence of an allegation, are clearly indicative of ill-treatment), the record is systematically brought to the attention of the competent prosecuting authorities, regardless of the wishes of the person concerned. Further, dedicated registers on traumatic injuries should be introduced at all prison establishments.

...

The CPT calls upon the Romanian authorities to instruct the custodial staff that no pressure should be exercised on health care personnel to force them to conduct medical examinations of prisoners in the presence of custodial staff. Further, there can be no justification for custodial staff being systematically present during such examinations; their presence is detrimental to the establishment of a therapeutic doctor/nurse-patient relationship and usually unnecessary from a security point of view. In sum, all medical examinations should be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a particular case – out of the sight of non-medical staff.

...

The CPT recommends that the CVMC [CVMC stands for Caz Vulnerabil Medico-Contagios (i.e. medically contagious vulnerable case)] procedure be abolished as it stigmatising and a breach of confidentiality. There is no necessity for non-health care staff to be systematically informed about whether a prisoner has a specific illness or not. Health care staff may inform custodial officers on a need-to-know basis about the state of health of a detained person; however, the information provided should be limited to that necessary to prevent a serious risk for the detained person or other persons, unless the detained person consents in writing to additional information being given. Also, prisoners working as cleaners should always be supervised in areas where they could have access to records.

...

The CPT recommends that the Romanian authorities ensure that all prisons have appropriate psychiatric input from both a psychiatrist (i.e. at least one psychiatrist in each prison) and nurses dedicated to mental health. Further, prisoners with severe mental health illnesses should not be held in prison but in an appropriate health care facility.

...

The CPT recommends that the Romanian authorities undertake a comprehensive review, within six months, of the way in which psychiatric care should be provided to prisoners, including as regards the establishment of psychiatric units in prison establishments under Article 73(7) of Law No. 254/2013, in the light of the above remarks.

...

The CPT recommends that the Romanian authorities ensure that a comprehensive strategy for the provision of assistance to prisoners with drug-related problems (as part

of a wider national drugs strategy) is operating effectively throughout the prison system. 77 Access to OST should be facilitated and be managed by health care providers in the prison. Harm reduction measures (i.e. condom distribution, needle exchange programmes) should be introduced forthwith in all prisons.

...

The CPT recommends that the Romanian authorities put in place an information programme for staff and prisoners on transmissible diseases and notably on HIV. Further, it recommends that clear instructions be issued to ensure that HIV-positive prisoners are treated equally with other prisoners and have access to the same regime.

...

The CPT recommends that prisoners on hunger strike should not be moved to a separate cell but kept in their cells to avoid isolation and to prevent additional negative effects on their psychological wellbeing. Any placement in a separate cell should be exceptional and justified in writing. Further, those separate cells should offer decent conditions and the persons on hunger strike should be provided with the appropriate support from staff. Further, care should be taken to properly monitor and record prisoners on hunger strike, in accordance with the law, and all prison doctors should be educated about the effects hunger striking on the metabolism.¹⁴⁰

6. Special measures in place to protect young detainees

a) Are there any national standards with regard to the separation of young detainees from adults? If so, what do they require? (e.g. a separate juvenile ward, or part of the building, canteen, common area etc.?)

According to the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, minors are detained separately from adults in all circumstances.¹⁴¹ Minors cannot be convicted to prison sentences, but in exceptional cases, educative measures with deprivation of liberty can be applied. They are served in educational centres and detention centres for minors, depending on the measure applied.

According to Article 47 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies, during the criminal trial, young detainees aged 18 to 21 are detained separately from other detainees.¹⁴²

By decision of the general director of the National Administration of Penitentiaries prisons are assigned to detain certain categories of detainees and the sections dedicated to minors and young adults are expressly indicated.¹⁴³

¹⁴⁰ CPT/Inf (2019) 7, [Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) from 7 to 19 February 2018.

¹⁴¹ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

¹⁴² Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

¹⁴³ Romania, [Decision no. 360/2020 of the general director of the National Administration on classifying the detention facilities under the National Administration of Penitentiaries](#) (Decizia nr. 360/2020 a directorului general al Administrației Naționale a Penitenciarelor privind profilarea locurilor de deținere din subordinea Administrației Naționale a Penitenciarelor), with [Annexes 1 to 7](#) (Anexele 1-7 la Decizia nr.360/2020 a directorului general al Administrației naționale a Penitenciarelor).

b) Please indicate the age categories of young persons falling under your country's (juvenile) detention regime.
<ul style="list-style-type: none"> - Minors between 14 and 18 years old (they can be arrested only in exceptional circumstances; they can only be convicted to and serve educative measures with deprivation of liberty in educational centres and detention centres for minors). - Young adults between 18 and 21 years old.
c) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
There are no different standards for young adults applicable to different detention regimes. Minors are not subjected to detention regimes, as they cannot serve prison sentences.
d) Please indicate any remedies available to young detainees in case of a breach or violation of the standards addressed under 6. a) – c), including their respective legal basis.
<p>In accordance to Article 56 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, detainees can complain against any measure ordered by the prison administration before the judge supervising the deprivation of liberty, within 10 days since they were informed on the measure.¹⁴⁴ Pursuant to Article 110 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, the same remedy is available for individuals detained in pre-trial facilities under the Ministry of the Interior.¹⁴⁵ The decision of the judge should be issued within 15 days and can be further appealed before a local court (<i>judecătorie</i>) in 5 days since it was communicated to the party.</p> <p>All persons deprived of liberty, irrespective of their regime, can also seek to obtain damages before the courts based on the general tort law (<i>Codul civil</i>¹⁴⁶) from the Romanian State, the National Administration of Prisons and/or the prison in question, as well as from any other liable person. The general time-limit for claims under the tort law is 3 years since the party became aware of the cause of damage.</p> <p>There are no legal provisions in depriving detainees from complaining before the Ombudsperson, so they can file such complaints as any other person. The Ombudsperson's' annual reports mention the complaints received from detainees and the recommendations the Ombudsperson made to authorities. The recommendations are not binding.</p>
e) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 May 2018 to 15 April 2021; if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding this aspect (please provide the exact quotation in both, the national as well as in English language). These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference a list of links can be found via the OPCAT Database .

¹⁴⁴ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹⁴⁵ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹⁴⁶ Romania, Article 1357 and the following of the [Civil Code](#) (*Codul civil*).

The Office of the Romanian Ombudsperson (*Avocatul Poporului*) is designated as the National Preventive Mechanism under the Optional Protocol to the UN Convention against Torture (OPCAT).¹⁴⁷ No reports for visits in detention facilities between 1 May 2018 and 15 April 2021 can be found on its website. A 2020 report has been submitted to the Subcommittee on the Prevention of Torture¹⁴⁸, which mentions 13 visits to prison and five visits to police lock-ups, which were carried out in 2020, either on site or via alternative means. No visits were made in educational centres or detention centres for minors. A Romanian version of the 2020 annual report was also posted on the institution's website¹⁴⁹. In respect of police lock-ups the report finds:

"• noncompliance with the legal provisions regarding the compulsory provision of psychological assistance for minors; for example, at the Braşov 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 Braşov 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."¹⁵⁰

„(•nerespectarea, în totalitate, a prevederilor legale referitoare la asigurarea obligatorie a asistenței psihologice pentru minori; de exemplu, la Centrul de Reținere și Arestare Preventivă Braşov, în perioada 1 ianuarie 2019 - 15 septembrie 2020, au fost custodiați 89 de minori, dintre care doar 3 minori au beneficiat de asistență psihologică; • în același centru erau custodiați și minori care aparțineau centrelor sociale ale DGAPC Braşov și care nu beneficiaseră de sprijin din partea instituției (îmbrăcăminte, pachet etc.), în condițiile în care administrația centrului informează, de îndată, reprezentanții DGASPC, pentru asigurarea de bunuri (haine, încălțăminte, alimente, sume de bani etc.) și acordarea asistenței socio-juridice necesare;)"

During the reference period, the European Committee for the Prevention of Torture carried out one regular visit in 2018 and an ad-hoc visit in 2021 (the report is under preparation). The 2018 report¹⁵¹ had findings in respect of minors in police lock-ups and recommended: *"Additional efforts should be made to provide any juveniles held in arrest detention centres with a full programme of daily activities... The CPT recommends that the Romanian authorities take steps in all arrest detention centres to ensure that juveniles are held in decent conditions and provided with a purposeful regime (i.e. at least eight hours out of their cells). To this end, it will be necessary to recruit specialised staff, including educators, to work in the relevant centres. Further, every effort should be made to keep them in arrest detention centres for the shortest possible period. The CPT would like to be informed of the number of juveniles held in arrest detention centres in 2017 and for the first six months of 2018 and how many of them were held for longer than one week."¹⁵²*

¹⁴⁷ <https://avp.ro/index.php/domenii-de-activitate/domeniul-privind-prevenirea-torturii-si-a-altor-pedepse-ori-tratamente-cu-cruzime-inumane-sau-degradante-in-locurile-de-detentie-mnp/>

¹⁴⁸ The Department for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Places of Detention, [Report 2020](#).

¹⁴⁹ [Romania, The Ombudsperson's 2020 Annual Report](#).

¹⁵⁰ The Department for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Places of Detention, [Report 2020](#)

¹⁵¹ CPT/Inf (2019) 7, [Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) from 7 to 19 February 2018.

¹⁵² CPT/Inf (2019) 7, [Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) from 7 to 19 February 2018.

7. Special measures in place to protect detainees from violence

- a) Are any special measures in place to protect detainees against violence from guards/prison staff, including sexual violence? (E.g.: Are there emergency call buttons? Do guards receive special training? Do detainees have access to a complaints mechanism?)

There are no provisions dedicated exclusively to protecting detainees against violence from guards/prison staff, but some measures result from the general design of the system, especially the security system of prison facilities, regulated in accordance with the principle of the general prohibition on the use of torture, inhuman or degrading treatments, spelled out also in Article 5 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial.¹⁵³

According to Article 16 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial¹⁵⁴, means of restraint can be used as a last resort, in a limited number of serious cases, only as long as it is necessary. According to Article 21, the carry and the use of firearms (lethal and non-lethal) is not permitted in the detention area, except for critical incidents, defined by the Rules on security of detention facilities under the National Administration of Penitentiaries¹⁵⁵ approved by the Order of the Ministry of Justice no. 4800/C/2018.¹⁵⁶ The use of means of restraints and of firearms is notified to the judge supervising the deprivation of liberty (Article 26 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial¹⁵⁷). Pursuant to Article 110 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, the same provisions apply to pre-trial facilities under the Ministry of the Interior.¹⁵⁸

The Rules on security of detention facilities under the National Administration of Penitentiaries¹⁵⁹ approved by the Order of the Ministry of Justice no 4800/C/2018¹⁶⁰ provide for the general measures to ensure supervision of detainees. It regulates the use for firearms in accordance with the general provisions of the legislation on the use of firearms (Article 11), in defined critical situations and the means for protection and restraint and their use (Article 12). Among the listed means is the use of force. Article

¹⁵³ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹⁵⁴ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹⁵⁵ Romania, [Rules on security of detention facilities under the National Administration of Penitentiaries](#) (*Regulament privind siguranța locurilor de deținere din subordinea Administrației Naționale a Penitenciarelor*).

¹⁵⁶ Romania, [Order of the Ministry of Justice no. 4800/C/2018 on approving the Rules on security of detention facilities under the National Administration of Penitentiaries](#) (*Ordinul Ministerului Justiției nr.4800/C/2018 privind aprobarea Regulamentului privind siguranța locurilor de deținere din subordinea Administrației Naționale a Penitenciarelor*).

¹⁵⁷ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹⁵⁸ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹⁵⁹ Romania, [Rules on security of detention facilities under the National Administration of Penitentiaries](#) (*Regulament privind siguranța locurilor de deținere din subordinea Administrației Naționale a Penitenciarelor*).

¹⁶⁰ Romania, [Order of the Ministry of Justice no. 4800/C/2018 on approving the Rules on security of detention facilities under the National Administration of Penitentiaries](#) (*Ordinul Ministerului Justiției nr.4800/C/2018 privind aprobarea Regulamentului privind siguranța locurilor de deținere din subordinea Administrației Naționale a Penitenciarelor*).

16 of the Rules on security of detention facilities under the National Administration of Penitentiaries¹⁶¹ lists a series of manuals for prison staff, to be adopted by the director of the National Administration of Penitentiaries, including one on the use of means of restraint.

Article 8 of the Rules on security of detention facilities under the National Administration of Penitentiaries¹⁶² approved by the Order of the Ministry of Justice no. 4800/C/2018 also provides that video-surveillance must be used in all detention areas except for the detention cells and toilets.¹⁶³

As regards the pre-trial detention facilities under the Ministry of the Interior, the Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures¹⁶⁴ provides for the standard procedures for intervention and restraint (Chapter VIII). Besides defining the critical situations, in which the staff can intervene, it provides for the principle of proportionality of the means applied (analysed on a case-by-case basis based the physical traits of the persons involved, presence of arms, other relevant factors such as time and place), as a last resort. It also provides that no intervention should be carried out by just one person, unless it is urgent.

b) Are any special measures in place to protect detainees against violence from other detainees, including sexual violence? (E.g.: Are detainees supervised by prison staff? Are there emergency call buttons? Do guards receive training in de-escalation? Do detainees have access to a complaints mechanism?)

The Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial¹⁶⁵ list prevention of inter-detainee violence as a goal of the security system in prison facilities (Article 15) and pre-trial detention facilities (Article 110).

Article 23 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial¹⁶⁶ provides for protection rooms, to accommodate detainees who intend to self-harm or kill themselves, harm another person, destroy goods or seriously disturb order, upon the decision of the prison director. A person can be kept in a protection room as long as necessary, but not more than 24 hours. For individuals at risk of self-harm or suicide, medical supervision is compulsory as frequent as needed, but not less than once in 4 hours. Psychological assistance should also be provided for all persons placed in protection rooms. Such rooms are under video-surveillance.

¹⁶¹ Romania, [Rules on security of detention facilities under the National Administration of Penitentiaries](#) (Regulament privind siguranța locurilor de deținere din subordinea Administrației Naționale a Penitenciarelor).

¹⁶² Romania, [Rules on security of detention facilities under the National Administration of Penitentiaries](#) (Regulament privind siguranța locurilor de deținere din subordinea Administrației Naționale a Penitenciarelor).

¹⁶³ Romania, [Order of the Ministry of Justice no. 4800/C/2018 on approving the Rules on security of detention facilities under the National Administration of Penitentiaries](#) (Ordinul Ministerului Justiției nr.4800/C/2018 privind aprobarea Regulamentului privind siguranța locurilor de deținere din subordinea Administrației Naționale a Penitenciarelor).

¹⁶⁴ Romania, [Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures](#) (Regulamentul din 2018 privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora), approved by [Order of the Ministry of the Interior no.14/2018 on approving the Regulation on the organization and functioning of the police lock-ups and on the necessary security measures](#) (Ordinul nr.14/2018 pentru aprobarea Regulamentului privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora).

¹⁶⁵ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

¹⁶⁶ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

According to Article 110 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial¹⁶⁷, the provisions on protection rooms are not applicable to pre-trial facilities under the Ministry of the Interior (*Ministerul Afacerilor Interne*).

The Rules on security of detention facilities under the National Administration of Penitentiaries¹⁶⁸ approved by the Order of the Ministry of Justice no. 4800/C/2018¹⁶⁹ also provide for the general measures to ensure supervision of detainees. Article 8 of the Rules on security of detention facilities under the National Administration of Penitentiaries¹⁷⁰ approved by the Order of the Ministry of Justice no. 4800/C/2018 provides that video-surveillance must be used in all detention areas except for the detention cells and toilets.¹⁷¹

As regards the pre-trial detention facilities under the Ministry of the Interior, the Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures¹⁷² provides for the standard procedures for intervention and restraint (Chapter VIII). In defining the critical situations in which the staff can intervene, the regulation mentions inter-detainee violence. Article 234 of the regulation states that before the intervention, the peaceful resolution must be tried and Article 235 states that during the intervention, efforts should be made to prevent escalation.

c) Are there any special measures in place to protect LGBTI detainees, who are particularly vulnerable to violence/sexual violence?

According to the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation¹⁷³), sexual orientation is a criterion for considering a detainee as vulnerable. Article 36 of the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation¹⁷⁴) provide for protection measures for vulnerable detainees. Most of them are segregation measures. The speedy investigation of allegations of violence is also mentioned as a protection measure.

As regards the pre-trial detention facilities under the Ministry of the Interior, the Regulation of 2018 on the organization and functioning of the police lock-ups and on the

¹⁶⁷ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹⁶⁸ Romania, [Rules on security of detention facilities under the National Administration of Penitentiaries](#) (*Regulament privind siguranța locurilor de deținere din subordinea Administrației Naționale a Penitenciarelor*).

¹⁶⁹ Romania, [Order of the Ministry of Justice no. 4800/C/2018 on approving the Rules on security of detention facilities under the National Administration of Penitentiaries](#) (*Ordinul Ministerului Justiției nr.4800/C/2018 privind aprobarea Regulamentului privind siguranța locurilor de deținere din subordinea Administrației Naționale a Penitenciarelor*).

¹⁷⁰ Romania, [Rules on security of detention facilities under the National Administration of Penitentiaries](#) (*Regulament privind siguranța locurilor de deținere din subordinea Administrației Naționale a Penitenciarelor*).

¹⁷¹ Romania, [Order of the Ministry of Justice no. 4800/C/2018 on approving the Rules on security of detention facilities under the National Administration of Penitentiaries](#) (*Ordinul Ministerului Justiției nr.4800/C/2018 privind aprobarea Regulamentului privind siguranța locurilor de deținere din subordinea Administrației Naționale a Penitenciarelor*).

¹⁷² Romania, [Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Regulamentul din 2018 privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*), approved by [Order of the Ministry of the Interior no.14/2018 on approving the Regulation on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Ordinul nr.14/2018 pentru aprobarea Regulamentului privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*).

¹⁷³ Romania, [Implementing Regulation of 2016 of Law no. 254/2013](#) (*Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹⁷⁴ Romania, [Implementing Regulation of 2016 of Law no. 254/2013](#) (*Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

necessary security measures¹⁷⁵ provides for possible separation of vulnerable persons (Article 6), but does not include a separate definition of vulnerability.

d) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).

There are no different standards on protection against violence applicable to different detention regimes. The regulations for pre-trial detention facilities under the Ministry of the Interior (*Ministerul Afacerilor Interne*) and for the prison facilities under the National Administration of Penitentiaries are different, but that does not result in different standards of protection against violence for persons accommodated in different facilities. In prisons, the maximum-security regime is, in general, stricter than the others.

e) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 7. a) – d), including their respective legal basis.

In cases of violence, detainees can file criminal complaints, to be investigated as all other criminal complaints.

In accordance to Article 56 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, detainees can complain against any measure ordered by the prison administration before the judge supervising the deprivation of liberty, within 10 days since they were informed on the measure.¹⁷⁶ Pursuant to Article 110 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, the same remedy is available for individuals detained in pre-trial facilities under the Ministry of the Interior.¹⁷⁷ The decision of the judge should be issued within 15 days and can be further appealed before a local court (*judecătorie*) in 5 days since it was communicated to the party. In addition, detainees can complain against the solitary confinement sanction itself, in accordance with Article 104 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial.¹⁷⁸

All persons deprived of liberty, irrespective of their regime, can also seek to obtain damages before the courts based on the general tort law (*Codul civil*¹⁷⁹) from the Romanian State, the National Administration of Prisons and/or the prison in question, as well as from any other liable person. The general time-limit for claims under the tort law is 3 years since the party became aware of the cause of damage.

There are no legal provisions in depriving detainees from complaining before the Ombudsperson, so they can file such complaints as any other person. The

¹⁷⁵ Romania, [Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Regulamentul din 2018 privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*), approved by [Order of the Ministry of the Interior no.14/2018 on approving the Regulation on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Ordinul nr.14/2018 pentru aprobarea Regulamentului privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*).

¹⁷⁶ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹⁷⁷ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹⁷⁸ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹⁷⁹ Romania, Article 1357 and the following of the [Civil Code](#) (*Codul civil*).

Ombudsperson's' annual reports mention the complaints received from detainees and the recommendations the Ombudsperson made to authorities. The recommendations are not binding.

- f) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 May 2018 to 15 April 2021; if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding this aspect (please provide the exact quotation in both, the national as well as in English language) These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference a list of links can be found via the [OPCAT Database](#).

The Office of the Romanian Ombudsperson (*Avocatul Poporului*) is designated as the National Preventive Mechanism under the Optional Protocol to the UN Convention against Torture (OPCAT).¹⁸⁰ No reports for visits in detention facilities between 1 May 2018 and 15 April 2021 can be found on its website. A 2020 report has been submitted to the Subcommittee on the Prevention of Torture, which mentions 13 visits to prison and five visits to police lock-ups which were carried out in 2020, either on site or via alternative means.¹⁸¹ A Romanian version of the 2020 annual report was also posted on the institution's website.¹⁸² There are no references to violence against detainees in the report.

During the reference period, the European Committee for the Prevention of Torture carried out one regular visit in 2018 and an ad-hoc visit in 2021 (the report is under preparation). The 2018 report¹⁸³ had extensive findings in respect of ill-treatment and safeguards against ill-treatment. As regards the police lock-ups the CPT recommended:

"The CPT recommends once again that the Romanian authorities ensure that all persons deprived of their liberty by the police are offered the right in practice to inform a relative or a third party of their detention from the very outset of their deprivation of liberty (i.e. with effect from the time at which they are obliged to remain with the police).

...
the CPT recommends that the Romanian authorities ensure that whenever a detained person has made a request to have a lawyer present, police officers delay the beginning of the questioning until the arrival of the lawyer, with the exception of the situation provided for in Article 209, paragraph 7, of the CCP.

...
the CPT recommends that the Romanian authorities ensure that any person deprived of his or her liberty by the police is able to talk in private to a lawyer, as provided for in law.

...
The CPT calls upon the Romanian authorities to ensure, without delay, that any juvenile taken into police custody benefits from the specific relevant safeguards for which the legislation relating to juveniles provides. Furthermore, those safeguards should apply to all juveniles under the age of 18.

...
The CPT calls upon the Romanian authorities to adopt a legal provision which expressly guarantees the right of access to a doctor to all persons deprived of his or her liberty

¹⁸⁰ <https://avp.ro/index.php/domenii-de-activitate/domeniul-privind-prevenirea-torturii-si-a-altor-pedepse-ori-tratamente-cu-cruzime-inumane-sau-degradante-in-locurile-de-detentie-mnp/>

¹⁸¹ The Department for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Places of Detention, [Report 2020](#).

¹⁸² [Romania, The Ombudsperson's 2020 Annual Report](#).

¹⁸³ CPT/Inf (2019) 7, [Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) from 7 to 19 February 2018. 6

by the police as from the outset of his or her deprivation of liberty (i.e. from the time at which the person concerned is obliged to remain with the police), as opposed to the obligation for the police to provide medical assistance".¹⁸⁴

As regards prisons, several instances of cases of ill-treatment are mentioned by the CPT and recommended:

"The CPT remains extremely concerned about the situation at Galați Prison and recommends that the Romanian authorities initiate an independent prosecutorial-led inquiry into the situation in the prison regarding ill-treatment by staff. The CPT requests that the results of this inquiry be communicated to the Committee within three months.

...

In the light of the information gathered during the 2018 visit, the CPT recommends that the national authorities hold to account all senior prison staff to ensure they fulfil their basic responsibility of guaranteeing prison staff respect the right of prisoners to physical and mental integrity. The CPT recalls that any form of ill-treatment is illegal and totally unacceptable and must be subject to appropriate sanctions. This demands that all senior and middle managers pay special attention to the actions of staff, notably prison officers, under their responsibility and take immediate steps to address any indications that staff are ill-treating prisoners. Failure on the part of supervisory staff to fulfil this role is, in itself, a serious dereliction of duty. Prison officers, notably members of the intervention groups, too must be made fully aware that no more force than is strictly necessary should be used to control violent and/or recalcitrant prisoners and that once prisoners have been brought under control, there can be no justification for them being struck. In this context, the authorities should ensure that all prison officers are trained in recognised control and restraint techniques. Moreover, the CPT recommends that the Romanian authorities put in place active measures to prevent individual prisoners being the subject of reprisals. To this end, it goes without saying that prisoners should be able to make requests and complaints without fear of reprisals. Further, access to a doctor by a prison officer should not be refused. The CPT also recommends that CCTV be installed in the stairways of accommodation blocks, starting with those buildings where maximum security regime prisoners are held.

...

The CPT recommends that Romanian authorities ensure that the management in every prison reiterates to all prison staff that verbal abuse, notably of a racist nature, and goading of prisoners is unprofessional and not acceptable. Further, all prison officers, as part of their basic education, must be trained in how to interact with and offer support to prisoners with disabilities.

...

The CPT reiterates its recommendation that the national authorities put in place a comprehensive policy for the identification and investigation of allegations of ill-treatment. In this context, where the results of a medical examination suggest that a prisoner has suffered ill-treatment, there should be an obligation on doctors automatically to notify the prosecutor's office, regardless of the wishes of the person concerned; any statement made by the prisoner concerned should also be transmitted.

...

The CPT recommends that the Romanian authorities dissolve the intervention groups in each of the 13 prisons where they are currently present. Instead, the staffing complement on the maximum-security regime wings should be augmented and a dynamic security approach be adopted, taking into account the above remarks. Pending the above review of the use of the prison-based masked intervention groups, the CPT recommends that the Romanian authorities immediately take the simple step of ending the wearing of balaclavas by all members of the intervention groups. ... The

¹⁸⁴ CPT/Inf (2019) 7, [Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) from 7 to 19 February 2018.

CPT recommends that the Romanian authorities end the 24-hour shift system for members of the intervention groups, until such time as the groups are dissolved.

...

The CPT recommends that the Romanian authorities take due note of these basic precepts should they decide to create a specialised national or regional prison intervention team to deal with specific incidents....The CPT recommends that the Romanian authorities establish clear operating rules for the command and control of specialised intervention teams. Further, the members of all such teams should be clearly identifiable.

...

The CPT recommends that the Romanian authorities take pro-active steps to combat inter-prisoner violence in light of the above remarks. Part of the strategy to combat inter-prisoner violence and bullying will have to include investing far more resources in recruiting additional staff and developing staff professionalism and training as well as offering prisoners a purposeful regime and decent conditions.

...

The CPT recommends that the Romanian authorities ensure that prison health care services and prison management are properly trained and equipped to support victims of sexual violence.

...

The CPT recommends that the Romanian authorities ensure that a thorough investigation is systematically carried out into every death in prison by an authority independent of the prison system to ascertain, inter alia, the cause of death, the facts leading up to the death, including any contributing factors and whether the death might have been prevented. Further, an analysis should be undertaken of each death in prison to consider what general lessons may be learned for the prison in which the death occurred and whether in the case of self-inflicted death there are any systemic, nationwide measures that need to be taken.

...

The CPT recommends that the Romanian authorities ensure that a comprehensive suicide prevention and management approach is introduced at Aiud, Iași and Galați Prisons and other prisons, taking into account the above remarks. See also paragraph 131 below which recommends that acts of self-harm and attempted suicide stop being considered as a disciplinary offence.”¹⁸⁵

8. Women in detention

a) Are there any national standards for conditions of detention of women in general? If so, what do they require?

There are no general national standards for conditions of detention of women, different than those for male detainees. Standards are applicable to all detainees, irrespective of gender, without discrimination. In addition, there are a few specific provisions directly aimed of women.

According to Article 39 of the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation¹⁸⁶) prison staff supervising female detainees must be women, and male staff can enter female detainee sections based on special regulations. The same is applicable in the pre-trial detention facilities under the

¹⁸⁵ CPT/Inf (2019) 7, [Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) from 7 to 19 February 2018.

¹⁸⁶ Romania, [Implementing Regulation of 2016 of Law no.254/2013](#) (Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

Ministry of the Interior, Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures¹⁸⁷ (Article 190).

According to Article 203 of the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation¹⁸⁸) the female detainees should be included in educational, psychological and social assistance activities in accordance with their specific needs and character, but no concrete details are provided.

According to Article 142 of the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation¹⁸⁹), pregnant women and those who gave birth and are taking care of their baby in prison are allowed to have eight visits from the outside per month. Their right to receive visits and packages cannot be suspended as a disciplinary sanction and they cannot be punished with solitary confinement.

In the pre-trial detention facilities under the Ministry of the Interior, the Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures¹⁹⁰ has special provisions for pregnant women: the daily activities of pregnant women are decided by the doctor (Article 74); that pregnant women cannot work during the nights or in dangerous conditions (article 84); pregnant women have the right to specialized medical care and must be moved to a prison hospital 30 days before the due date and in a prison after birth, if she is taking care of her baby until one year old (Article 143); a pregnant woman cannot be handcuffed (Article 214).

b) Are there any national standards for holding and accommodating male and female detainees separate from each other? If so, what do they require?

According to the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, female detainees are detained separately from male detainees in all circumstances.¹⁹¹

By decision of the General Director of the National Administration of Penitentiaries, prisons are assigned to detain certain categories of detainees.¹⁹² There is one prison assigned to detain mostly women (Târgșor Penitentiary) and sections with various detention regimes for women in Arad Penitentiary, Bacău Penitentiary, Poarta Albă

¹⁸⁷ Romania, [Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Regulamentul din 2018 privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*), approved by [Order of the Ministry of the Interior no.14/2018 on approving the Regulation on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Ordinul nr.14/2018 pentru aprobarea Regulamentului privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*).

¹⁸⁸ Romania, [Implementing Regulation of 2016 of Law no.254/2013](#) (*Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹⁸⁹ Romania, [Implementing Regulation of 2016 of Law no.254/2013](#) (*Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹⁹⁰ Romania, [Regulation of 2018 on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Regulamentul din 2018 privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*), approved by [Order of the Ministry of the Interior no.14/2018 on approving the Regulation on the organization and functioning of the police lock-ups and on the necessary security measures](#) (*Ordinul nr.14/2018 pentru aprobarea Regulamentului privind organizarea și funcționarea centrelor de reținere și arestare preventivă, precum și măsurile necesare pentru siguranța acestora*).

¹⁹¹ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

¹⁹² Romania, [Decision no. 360/2020 of the general director of the National Administration on classifying the detention facilities under the National Administration of Penitentiaries](#) (*Decizia nr. 360/2020 a directorului general al Administrației Naționale a Penitenciarelor privind profilarea locurilor de deținere din subordinea Administrației Naționale a Penitenciarelor*), with [Annexes 1 to 7](#) (*Anexele 1-7 la Decizia nr.360/2020 a directorului general al Administrației naționale a Penitenciarelor*).

Penitentiary, Craiova Penitentiary (Iaşniţa exterior section), Gherla Penitentiary (the exterior section), Buziaş Educational Centre and Craiova Detention Centre. The same decision establishes the transit penitentiaries, out of which some are exclusively for male detainees.

c) Are there any national standards for special hygiene conditions and/or hygiene products for female detainees? If so, what do they require?

There are no special standards for hygiene conditions for female detainees.

The list of goods the detainees are allowed to have, enshrined in the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation¹⁹³), includes a special reference to goods specifically allowed for women only:

- in prisons:
three dresses, three skirts, menstrual tampons (in the needed quantities)
- in police lock-ups:
two dresses, two skirts/pants, one hairdryer¹⁹⁴ (to be stored in the depot)

For detainees in prison facilities under the National Administration of Penitentiaries, Order no. 2890/C/2017 of the Minister of Justice on approving norms for clothing provided by the prison administration to persons deprived of freedom¹⁹⁵, have specific lists of clothes to be provided free of charge for those in need, separately for women and men.

Based on Article 101 of the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation¹⁹⁶), at the beginning of detention, all detainees must receive, free of charge, a sanitary package. The provision is applicable also to pre-trial detention facilities, based on Article 245 of the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation¹⁹⁷). The content of the package, irrespective of prison facilities, is detailed by the Decision no. 468/2016 of the Director of the National Prison Administration on the content of the sanitary package provided to persons deprived of freedom, upon arrival in the units under the National Administration of Penitentiaries.¹⁹⁸ Women are to receive a pack of sanitary towels with 10 pieces, in addition to other products listed for both, male and female detainees. The package is provided one time during detention.

d) Are there any national standards for special healthcare for female detainees that respond to their specific needs, including i.e. pregnancy and post-natal

¹⁹³ Romania, [Implementing Regulation of 2016 of Law no.254/2013](#) (Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

¹⁹⁴ Hairdryers are also allowed in prisons, but for all detainees, irrespective of gender.

¹⁹⁵ Romania, [Order no. 2890/C/2017](#) of the Minister of Justice on approving [norms for clothing provided by the prison administration to persons deprived of freedom](#) (Ordinul nr.2890/C/2017 pentru aprobarea Normelor de echipare și a duratei de folosință a ținutei asigurate de administrația locului de deținere persoanelor private de libertate).

¹⁹⁶ Romania, [Implementing Regulation of 2016 of Law no.254/2013](#) (Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

¹⁹⁷ Romania, [Implementing Regulation of 2016 of Law no.254/2013](#) (Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

¹⁹⁸ Romania, [Decision no. 468/2016 of the Director of the National Administration of Penitentiaries on the on the content of the sanitary package provided to persons deprived of freedom, upon arrival in the units under the National Administration of Penitentiaries](#) (Decizia nr.467/2016 a Directorului Administrației Naționale a Penitenciarelor privind conținutul setului de produse igienico-sanitare pus la dispoziția persoanelor private de libertate cu ocazia primirii în locurile de deținere din subordinea Administrației Naționale a Penitenciarelor).

treatment, and treatment/support of mother and child? If so, what do they require?
Article 160 of the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation ¹⁹⁹) details the healthcare provided to pregnant detainees. It includes regular medical check-ups, moving the woman to a prison hospital 30 days prior to the expected delivery date and the obligation to take the necessary steps to ensure that the delivery takes place in a hospital outside the prison system.
e) Are there any national standards on pregnant detainees in terms of special prison cells for pregnant detainees and/or special facilities for female detainees with babies or young children? If so, what do they require?
<p>According to Article 34 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, pregnant women or women with babies under one year old cannot be held under the maximum-security regime.²⁰⁰ According to Article 39 of the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation²⁰¹), pregnant women or women with babies under one year old are detained under the closed regime.</p> <p>According to Article 48 of the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation²⁰²), the daily activities of pregnant women or women with babies under one year old are established by the prison doctor or the medical director, in prison hospitals. The Government's Ordinance no. 26/1994²⁰³ provides for a diet of 2,500 to 3,175 calories per day for pregnant women, with supplements of 500 to 860 calories, or 600 to 1,255 depending on specific circumstances (advanced pregnancy, breastfeeding etc).</p> <p>According to Article 113 of the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation²⁰⁴), the diet for pregnant detainees, detainees who are breastfeeding and babies is decided by the prison doctors based on their specific needs.</p>
f) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
The special standards for women are applicable to all and do not depend on detention regimes.

¹⁹⁹ Romania, [Implementing Regulation of 2016 of Law no.254/2013](#) (Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

²⁰⁰ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

²⁰¹ Romania, [Implementing Regulation of 2016 of Law no. 254/2013](#) (Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

²⁰² Romania, [Implementing Regulation of 2016 of Law no. 254/2013](#) (Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

²⁰³ Romania, [Government's Ordinance no. 26/1994 on the rights to food of the national defense, public order and national security personnel and of persons deprived of liberty, in times of peace](#) (Ordonanța de Guvern nr. 26 din 22 iulie 1994 privind drepturile de hrană, în timp de pace, ale personalului din sectorul de apărare națională, ordine publică și securitate națională și ale persoanelor private de libertate).

²⁰⁴ Romania, [Implementing Regulation of 2016 of Law no.254/2013](#) (Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

g) Please indicate any remedies available to female detainees in case of a breach or violation of the standards addressed under 8. a) – f), including their respective legal basis.

In accordance to Article 56 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, detainees can complain against any measure ordered by the prison administration before the judge supervising the deprivation of liberty, within 10 days since they were informed on the measure.²⁰⁵ Pursuant to Article 110 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, the same remedy is available for individuals detained in pre-trial facilities under the Ministry of the Interior.²⁰⁶ The decision of the judge should be issued within 15 days and can be further appealed before a local court (*judecătorie*) in 5 days since it was communicated to the party.

All persons deprived of liberty, irrespective of their regime, can also seek to obtain damages before the courts based on the general tort law (*Codul civil*²⁰⁷) from the Romanian State, the National Administration of Prisons and/or the prison in question, as well as from any other liable person. The general time-limit for claims under the tort law is 3 years since the party became aware of the cause of damage.

There are no legal provisions in depriving detainees from complaining before the Ombudsperson, so they can file such complaints as any other person. The Ombudsperson's annual reports mention the complaints received from detainees and the recommendations the Ombudsperson made to authorities. The recommendations are not binding.

h) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 May 2018 to 15 April 2021, if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding this aspect (please provide the exact quotation in both, the national as well as in English language) These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference a list of links can be found via the [OPCAT Database](#).

The Office of the Romanian Ombudsperson (*Avocatul Poporului*) is designated as the National Preventive Mechanism under the Optional Protocol to the UN Convention against Torture (OPCAT).²⁰⁸ No reports for visits in detention facilities between 1 May 2018 and 15 April 2021 can be found on its website. A 2020 report has been submitted to the Subcommittee on the Prevention of Torture, which mentions 13 visits to prison and five visits to police lock-ups which were carried out in 2020, either on site or via alternative means.²⁰⁹ A Romanian version of the 2020 annual report was also posted on the institution's website²¹⁰. There are no references to women in detention in the report, but the report indicates that the *Ișalnița* exterior section of the Craiova Penitentiary (which is designated to accommodate female detainees) has no medical staff and that the educational activities were insufficient.: *"there was no medical office arranged at the Ișalnița exterior section of the Craiova Penitentiary ... • in the Craiova Penitentiary - Ișalnița External Section, only a small number of courses for initiation,*

²⁰⁵ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

²⁰⁶ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

²⁰⁷ Romania, Article 1357 and the following of the [Civil Code](#) (*Codul civil*).

²⁰⁸ <https://avp.ro/index.php/domenii-de-activitate/domeniul-privind-prevenirea-torturii-si-a-altor-pedepse-ori-tratamente-cu-cruzime-inumane-sau-degradante-in-locurile-de-detentie-mnp/>.

²⁰⁹ The Department for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Places of Detention, [Report 2020](#).

²¹⁰ [Romania, The Ombudsperson's 2020 Annual Report](#).

qualification, requalification, training and specialization of detainees were organized;²¹¹ ("lipsea un cabinet medical amenajat la secția exterioară Ișalnița a Penitenciarului Craiova ... în Penitenciarul Craiova – Secția exterioară Ișalnița s-a organizat un număr redus de cursuri de inițiere, calificare, recalificare, perfecționare și specializare a deținutelor;")²¹².

During the reference period, the European Committee for the Prevention of Torture carried out one regular visit in 2018 and an ad-hoc visit in 2021 (the report is under preparation). The 2018 report²¹³ had findings in respect of the Bacău Penitentiary accommodating female detainees and recommended:

"The delegation also noted that the hygiene packs provided to women inmates on a monthly basis were insufficient to cover their needs. The packs should be correspondingly augmented. The CPT recommends that immediate steps be taken to reduce the severe overcrowding in the female units, particularly as regards those in closed regime and to initiate a rolling programme of renovation, starting with the sanitary annexes. Steps must also be taken to meet the special hygiene needs of women prisoners.

...

The CPT recommends that steps be taken to ensure that all women prisoners, including maximum security regime inmates and pre-trial detainees, are offered a range of purposeful out-of-cell activities, including educational, work and vocational as well as recreational and sports. These activities should take into account gender-appropriate needs (the aim should be for prisoners to spend 8 hours out of their cells every day). An immediate step would be to offer all women prisoners at least two hours of outdoor exercise a day under decent conditions, where they can associate out of hearing and out of sight of male prisoners. In addition, particular efforts should be made to provide appropriate services for women prisoners who require psychosocial support, especially those who have been subjected to physical, mental or sexual abuse.

...

The CPT recommends that in all those prisons where women prisoners are held for short periods in transit:

- *female staff should be on duty in those wings where they are accommodated;*
- *all staff working with women prisoners should receive training to enable them to understand and attend to their biology-specific needs;*
- *appropriate supplies of hygiene products for women should be provided;*
- *all "transit" cells should offer 4m² of living space per prisoner and be equipped with a fully-partitioned sanitary annexe (where no in-cell toilet exists, staff must be attentive to the demands of the prisoners) which offers a regular supply of water for personal care."²¹⁴*

9. Nutrition

a) Are there any national standards with regard to nutrition in detention in general? If so, what do they require?

²¹¹ The Department for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Places of Detention, [Report 2020](#).

²¹² [Romania, The Ombudsperson's 2020 Annual Report](#).

²¹³ CPT/Inf (2019) 7, [Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) from 7 to 19 February 2018.

²¹⁴ CPT/Inf (2019) 7, [Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) from 7 to 19 February 2018.

According to Article 50 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, the nutrition standards are approved by order of the Ministry of Justice.²¹⁵ The Order of the Ministry of Justice no. 1365/C/2020 on the approval of updated financial values of the nutrition norms of persons deprived of liberty²¹⁶ provides for the maximum costs for each type of nutritional norms. The nutritional norms are defined by content in calories and are provided for in the Government's Ordinance no. 26/1994.²¹⁷ Standards 12C1, 15 to 20 and 22 to 23 are applicable to persons deprived of liberty and are either main daily standards or supplements for special situations (personal or event related). They apply both to the National Penitentiary Administration facilities and the Ministry of Interior facilities.

Standard	Caloric intake/person/day		Application
	minimum	maximum	
Nutritional norm no. 12 C-1	600	925	Festive days supplement
Nutritional norm no. 14B (Substitutions)	-	-	Food substitutions
Nutritional norm no. 15	3.000	3.820	For the underaged and young persons in 24 hours custody, under preventive arrest, convicted to imprisonment or life imprisonment, as well as for the persons against whom was issued an educative measure with deprivation of liberty – placed in pre-trial detention facilities, prisons, detention centres or educative centres.
Nutritional norm no. 16	2.250	2.855	For the adults in 24 hours custody, under preventive arrest placed in pre-trial detention facilities, prisons, as well as for the persons against whom was issued an educative measure with deprivation of liberty – placed in detention centres or educative centres.
Nutritional norm no. 17	2.250	2.855	For the adults convicted to imprisonment or life imprisonment, as well as for the persons against whom was issued an educative measure with deprivation of liberty.
Nutritional norm no. 17 A: - cold meal – warm meal	600	790	Supplement for easy or medium work
Nutritional norm no. 17 B: - cold meal – warm meal	800	1.065	Supplement for hard work
Nutritional norm no. 17 C	255	410	Antidote supplement
Nutritional norm no. 18	2.500	3.175	For sick persons and pregnant women

²¹⁵ Romania, [Law no.254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

²¹⁶ Romania, [Order of the Ministry of Justice no. 1365/C/2020 on the approval of updated financial values of the nutrition norms of persons deprived of liberty](#) (Ordinul nr.1365/C/2020 privind aprobarea valorilor financiare actualizate ale normelor de hrană ale persoanelor private de libertate).

²¹⁷ Romania, [Government's Ordinance no. 26/1994 on the rights to food of the national defense, public order and national security personnel and of persons deprived of liberty, in times of peace](#) (Ordonanța de Guvern nr. 26 din 22 iulie 1994 privind drepturile de hrană, în timp de pace, ale personalului din sectorul de apărare națională, ordine publică și securitate națională și ale persoanelor private de libertate).

Nutritional norm no. 18 A	500	860	Supplement. For persons in 24 hours custody, under preventive arrest, convicted to imprisonment or life imprisonment, as well as for the persons against whom an educative measure with deprivation of liberty was issued – pregnant women months 5 to 9 included and women who gave birth and who are not breastfeeding (for 12 months after giving birth).
Nutritional norm no. 18 B	600	1.255	Supplement. For persons in 24 hours custody, under preventive arrest, convicted to imprisonment or life imprisonment, as well as for the persons against whom an educative measure with deprivation of liberty was issued – women who gave birth and are breastfeeding their baby until 1 year old.
Nutritional norm no. 18 C	900	1.195	Supplement. For persons in 24 hours custody, under preventive arrest, convicted to imprisonment or life imprisonment, as well as for the persons against whom an educative measure with deprivation of liberty was issued – under insulin treatment before comatose state.
Nutritional norm no. 18 D	1.000	1.400	Supplement. For persons in 24 hours custody, under preventive arrest, convicted to imprisonment or life imprisonment, as well as for the persons against whom an educative measure with deprivation of liberty was issued – TB, HIV/AIDS.
Nutritional norm no. 18 E	600	825	Supplement. For persons in 24 hours custody, under preventive arrest, convicted to imprisonment or life imprisonment, as well as for the persons against whom an educative measure with deprivation of liberty was issued – dystrophic.
Nutritional norm no. 19	2.400	3.160	Cold meal for the underaged and young persons in 24 hours custody, under preventive arrest, convicted to imprisonment or life imprisonment, as well as for the persons against whom an educative measure with deprivation of liberty was issued – placed in pre-trial detention facilities, prisons, detention centres or educative centres.
Nutritional norm no. 20	2.000	2.725	Cold meal for the adults in 24 hours custody, under preventive arrest, convicted to imprisonment or life imprisonment, as well as for the persons against whom an educative measure with deprivation of liberty was issued – placed in pre-trial detention facilities, prisons, detention centres or educative centres.
Nutritional norm no. 22	920	1.190	For children 0 to 5 months accompanying their mothers in places of detention.
Nutritional norm no. 23	1.200	1.650	For children 6 to 12 months accompanying their mothers in places of detention.

b) Are there any national standards with regard to frequency and regularity of provision of meals (warm and cold)? If so, what do they require?

According to Article 113 of the of the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation²¹⁸), detainees must receive three meals per day. There are no specific provisions on how many meals should be warm or cold.

c) Are there any national standards with regard to healthy food, special diets or dietary restrictions? If so, what needs to be provided to detainees?

According to Article 113 of the of the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation²¹⁹), meals are provided in accordance with the religious and health related dietary restrictions.

According to Article 48 of the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation²²⁰), the daily activities of pregnant women or women with babies under one year old are established by the prison doctor or the medical director, in prison hospitals. The Government's Ordinance no. 26/1994²²¹ provides for a diet of 2,500 to 3,175 calories per day for pregnant women, with supplements of 500 to 860 calories, or 600 to 1,255 depending on specific circumstances (advanced pregnancy, breastfeeding etc.).

According to Article 113 of the Regulation implementing the Law no. 254/2013 on the execution of sentences (Implementing Regulation²²²), the diet for pregnant detainees, detainees who are breastfeeding and babies is decided by the prison doctors based on their specific needs.

Some of the nutritional standards provided for by the Government's Ordinance no.26/1994 are designed for certain categories of detainees based on their health conditions, but are defined only in terms of number of calories per day. ²²³:

Standard	Caloric intake/person/day		Application
	minimum	maximum	
Nutritional norm no. 18	2.500	3.175	For sick persons and pregnant women
Nutritional norm no. 18 A	500	860	Supplement. For persons in 24 hours custody, under preventive arrest, convicted to imprisonment or life imprisonment, as well as for the persons against whom an educative measure with deprivation of liberty was issued – pregnant women months 5 to 9 included and women who gave birth and who are not breastfeeding (for 12 months after giving birth).

²¹⁸ Romania, [Implementing Regulation of 2016 of Law no. 254/2013](#) (Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

²¹⁹ Romania, [Implementing Regulation of 2016 of Law no. 254/2013](#) (Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

²²⁰ Romania, [Implementing Regulation of 2016 of Law no. 254/2013](#) (Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

²²¹ Romania, [Government's Ordinance no. 26/1994 on the rights to food of the national defense, public order and national security personnel and of persons deprived of liberty, in times of peace](#) (Ordonanța de Guvern nr. 26 din 22 iulie 1994 privind drepturile de hrană, în timp de pace, ale personalului din sectorul de apărare națională, ordine publică și securitate națională și ale persoanelor private de libertate).

²²² Romania, [Implementing Regulation of 2016 of Law no.254/2013](#) (Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal).

²²³ Romania, [Government's Ordinance no. 26/1994 on the rights to food of the national defense, public order and national security personnel and of persons deprived of liberty, in times of peace](#) (Ordonanța de Guvern nr. 26 din 22 iulie 1994 privind drepturile de hrană, în timp de pace, ale personalului din sectorul de apărare națională, ordine publică și securitate națională și ale persoanelor private de libertate).

Nutritional norm no. 18 B	600	1.255	Supplement. For persons in 24 hours custody, under preventive arrest, convicted to imprisonment or life imprisonment, as well as for the persons against whom an educative measure with deprivation of liberty was issued – women who gave birth and are breastfeeding their baby until 1 year old.
Nutritional norm no. 18 C	900	1.195	Supplement. For persons in 24 hours custody, under preventive arrest, convicted to imprisonment or life imprisonment, as well as for the persons against whom an educative measure with deprivation of liberty was issued – under insulin treatment before comatose state.
Nutritional norm no. 18 D	1.000	1.400	Supplement. For persons in 24 hours custody, under preventive arrest, convicted to imprisonment or life imprisonment, as well as for the persons against whom an educative measure with deprivation of liberty was issued – TB, HIV/AIDS.
Nutritional norm no. 18 E	600	825	Supplement. For persons in 24 hours custody, under preventive arrest, convicted to imprisonment or life imprisonment, as well as for the persons against whom an educative measure with deprivation of liberty was issued – dystrophic.
Nutritional norm no. 22	920	1.190	For children 0 to 5 months accompanying their mothers in places of detention.
Nutritional norm no. 23	1.200	1.650	For children 6 to 12 months accompanying their mothers in places of detention.
d) Please indicate whether there are different standards applicable to different detention regimes (pre-trial and post-trial detention and for example, if applicable in your jurisdiction: open, semi-open, closed etc.).			
The rules on providing food are the same, irrespective of detention regime, both in prisons and in pre-trial detention facilities.			
e) Please indicate any remedies available to detainees in case of a breach or violation of the standards addressed under 9. a) – d), including their respective legal basis.			
<p>In accordance to Article 56 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, detainees can complain against any measure ordered by the prison administration before the judge supervising the deprivation of liberty, within 10 days since they were informed on the measure.²²⁴ Pursuant to Article 110 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial, the same remedy is available for individuals detained in pre-trial facilities under the Ministry of the Interior.²²⁵ The decision of the judge should be issued within 15 days and can be further appealed before a local court (<i>judecătorie</i>) in 5 days since it was communicated to the party.</p> <p>All persons deprived of liberty, irrespective of their regime, can also seek to obtain damages before the courts based on the general tort law (<i>Codul civil</i>²²⁶) from the Romanian State, the National Administration of Prisons and/or the prison in question,</p>			

²²⁴ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

²²⁵ Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

²²⁶ Romania, Article 1357 and the following of the [Civil Code](#) (*Codul civil*).

as well as from any other liable person. The general time-limit for claims under the tort law is 3 years since the party became aware of the cause of damage.

There are no legal provisions in depriving detainees from complaining before the Ombudsperson, so they can file such complaints as any other person. The Ombudsperson's annual reports mention the complaints received from detainees and the recommendations the Ombudsperson made to authorities. The recommendations are not binding.

- f) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 May 2018 to 15 April 2021, if no report is available for this period, please provide links to the most recent one and the relevant CPT reports from the reference period) and whether there are any recommendations regarding these aspect (please provide the exact quotation in both, the national as well as in English language) These reports can be found on the webpage of the National Preventive Mechanism. For ease of reference a list of links can be found via the [OPCAT Database](#).

The Office of the Romanian Ombudsperson (*Avocatul Poporului*) is designated as the National Preventive Mechanism under the Optional Protocol to the UN Convention against Torture (OPCAT).²²⁷ No reports for visits in detention facilities between 1 May 2018 and 15 April 2021 can be found on its website. A 2020 report has been submitted to the Subcommittee on the Prevention of Torture²²⁸, which mentions 13 visits to prison and five visits to police lock-ups which were carried out in 2020, either on site or via alternative means. A Romanian version of the 2020 annual report was also posted on the institution's website.²²⁹ There are no references to nutrition in the report.

During the reference period, the European Committee for the Prevention of Torture carried out one regular visit in 2018 and an ad-hoc visit in 2021 (the report is under preparation). The 2018 report²³⁰ has the following finding in respect of nutrition of detainees in prisons:

"As was the case during previous visits, meagre and inadequate portions of food were provided to inmates at the prison establishments visited; the absence of fruit and vegetables was striking. The quality and quantity of food provided should be improved.

...

As for the food in the prisons visited, the delegation once again was able to observe for itself the meagre portions and the inadequacy of the diet with little fruit and vegetables, too much fatty meat and a lot of starch (mainly bread and potatoes).

...

The CPT again recommends that the Romanian authorities take steps to guarantee that the quality and quantity of food distributed to prisoners in the prisons visited, and in all other Romanian prison establishments, comply with minimum standards on daily food intake in proteins and vitamins."

As regards individuals held in police stations:

"The CPT recommends that steps be taken to ensure that ... all persons held in police stations be offered ready access to drinking water and given food at appropriate times."

²²⁷ <https://avp.ro/index.php/domenii-de-activitate/domeniul-privind-prevenirea-torturii-si-a-altor-pedepse-ori-tratamente-cu-cruzime-inumane-sau-degradante-in-locurile-de-detentie-mnp/>.

²²⁸ The Department for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Places of Detention, [Report 2020](#).

²²⁹ [Romania, The Ombudsperson's 2020 Annual Report](#).

²³⁰ CPT/Inf (2019) 7, [Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) from 7 to 19 February 2018.

As food for police lock-ups is provided by the penitentiaries, the CPT had the same recommendations for pre-trial detention facilities as for prisons.²³¹

²³¹ CPT/Inf (2019) 7, [Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment \(CPT\)](#) from 7 to 19 February 2018.

Part II: National jurisprudence

Romania, Local Court of Sector 5 Bucharest (Judecătoria Sectorului 5 București), criminal sentence no.147, 25 January 2021

Thematic area	Section 1.b.) Cell equipment, furniture and facilities / Section 1.f.) Remedies
Decision date	25 January 2021
Reference details	Local Court of Sector 5 Bucharest (Judecătoria Sectorului 5 București), criminal sentence no.147, 25 January 2021 http://www.rolii.ro/hotarari/60161c44e49009640300003e
Key facts of the case	On 3 December 2020, a detainee held in the Bucharest Rahova Penitentiary, complained to the judge supervising the deprivation of liberty about several breaches of his rights: lack of heating in the cells, lack of proper healthcare (he was not receiving medication for his chronic diseases or dental care), temporary lack of nutrition in accordance with his medical needs (he did not receive food adequate to his diabetes for 3 days), the room for personal storage was missing shelves and the door, the bath did not have a shelf and a hanger for towels/clothes, the shower did not have the hose and the head, the closet for hygienic goods was missing the door. The judge allowed his complaint in part, as regards the missing doors for the personal storage room and ordered the penitentiary to fix the issue. The detainee further appealed to the local court
Main reasoning/argumentation	The court upheld the facts as decided by the judge supervising the deprivation of liberty, based on the documents provided by the penitentiary. It considered that only the issue of the missing door of the personal storage room was proven, therefore, it found that the decision of the judge supervising the deprivation of liberty – to allow the complaint only in this regard – was well founded.
Key issues (concepts, interpretations) clarified by the case	The decision is one example of how Article 56 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial can be used as a remedy for material conditions of detention in cells.
Results (sanctions) and key consequences or implications of the case	In so far as the complaint of the detainee was found well-founded by the judge supervising the deprivation of liberty, the penitentiary was ordered to take the necessary measures to improve material aspects of detention conditions.
Key quotation in original language and translated into English with reference details	<i>„Astfel, privitor la susținerea petentului că în perioada 09.-12.11.2020 în camera sa nu a fost căldură, instanța reține că în perioada menționată petentul era cazat în camera E7.9, cameră la care furnizarea energiei termice a început la 04.11.2020, prin centrala proprie a</i>

penitenciarului, temperatura monitorizată fiind în intervalul 20,3 – 20,8 grade celsiu, valorile fiind trecute în registrul ținut în acest sens.

Privitor la susținerea petentului în sensul că în perioada 12 – 19.11.2020 nu a primit tratamentul medicamentos, instanța reține din referatul întocmit de cabinetul medical că petentul a primit medicamentele la data de 12.11.2020 la cabinet, fiind consemnat în registrul de consultații.

Privitor la susținerea că dușul de la baie nu are furtun și pară, instanța constată că aceasta nu este o defecțiune, dușurile fiind de tip antivandalism, funcționând corespunzător.

Privitor la norma de hrană de care beneficiază petentul, instanța reține că acesta este alocat și beneficiază de norma de hrană 18 diabet și a primit de la blocul alimentar hrana respectiv, inclusiv în datele reclamate.

Față de cele expuse mai sus, instanța apreciază că Încheierea judecătorului de supraveghere este legală și temeinică și va respinge contestația formulată de petentul A___ A_____ ca neîntemeiată”

“As regards the applicant’s submission that between 9-12.11.2020 his room had no heating, the court finds that during that period the applicant was held in room E7.9 and that heating was provided in this room starting with 4.11.2020 by the penitentiary heating system and that the temperature was between 20.3 – 20.8 Celsius, as mentioned in the temperature log.

As regards the applicant’s submission that between 12-19.11.2020 he received no medical treatment, the court finds that the document provided by the medical ward mentions that the applicant received medication on 12.11.2020 and he was registered in the medical consultation log.

As regards the submission that the bathroom shower had no head and hose, the court finds that this is not a deficiency, as the showers are protected against vandalism and they function properly.

As regards the food received, the court finds that the applicant is allocated to nutritional standard 18 for diabetes and that he received food accordingly from the kitchen, including during the days he complained about.

Based on the above, the court considers that the decision of the judge supervising the deprivation of liberty is legal and well-founded and will dismiss the applicant’s complaint as ill-founded.”

Romania, Alba Iulia Court of Appeal – First Civil Section (Curtea de Apel Alba Iulia – Secția I civilă), civil decision no.672, 30 June 2020

Thematic area	<i>Moral Damages for Detention Conditions (Cell space, Hygiene conditions of cells and sanitary facilities, Nutrition; Inadmissibility of cumulated remedies</i>
Decision date	30 June 2020
Reference details	Alba Iulia Court of Appeal – First Civil Section (Curtea de Apel Alba Iulia – Secția I civilă), civil decision no.672, 30 June 2020, http://www.rolii.ro/hotarari/5f446aabe49009540e00002a
Key facts of the case	In 2017, a detainee filed a claim for moral damages against the Aiud Penitentiary, the National Administration of Penitentiary and Romanian State, for the detention conditions he was held in, including overcrowding, the presence of parasites, improper sanitary conditions, low quality of food. The same year, the Alba Tribunal allowed the claim in part and awarded the applicant EUR 1,500 as moral damages for the cumulative effect of the material detention conditions.
Main reasoning/argumentation	Law no. 169/2017 introduces a form of compensation for poor detention conditions, as deduction of days from the sentence, but the law provides that this form of compensation cannot be applied to detainees who received moral damages from domestic courts or the European Court of Human Rights. It results that the opposite is also applicable and that the benefits cannot be cumulated. As the claimant received a 408 days deduction for poor detention conditions during the same period of time, he cannot be awarded moral damages.
Key issues (concepts, interpretations) clarified by the case	The case illustrates that in principle detainees are entitled to moral damages for poor detention conditions, but not if they benefited from other forms of compensation for the same period of time.
Results (sanctions) and key consequences or implications of the case	The Alba Iulia Court of Appeal dismissed the claims as the detainee already benefited from deduction of days from the sentence based on the poor detention conditions he was held in. The detainees can receive moral damages in civil courts for poor detention conditions, but only if they did not benefit from other forms of compensation, such as the deduction of days from their sentence. As the Law no 169/2017, which provided the deduction of days, was repealed, it follows that in the future the moral damages awarded by the courts are the only form of compensation available under domestic law.
Key quotation in original language and translated into English with reference details	<i>"Așadar, prin Legea nr. 169/2017 pentru modificarea și completarea Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal se statuează asupra principiului unicității avantajului</i>

	<p><i>acordat în cazul în care un deținut a executat pedeapsa în condiții necorespunzătoare, el având posibilitatea să primească zile câștig sau despăgubiri.”</i></p> <p>” Thus, the Law no. 169/2017 on modifying the Law no. 254/2014 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial provides on the principle of single advantage awarded to a detainee, in case, he executed his sentence in unproper conditions; he has the possibility to receive either deduction days or damages”.</p>
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Romania, High Court of Cassation and Justice – First Civil Section (Înalta Curte de Casație și Justiție, Secția I Civilă), Bucharest / Civil decision no.460, 19 February 2020

Thematic area	<i>Obligations of the courts deciding on claims for damages for poor detention conditions; Only the Romanian State has standing as a respondent in claims for damages for overcrowding in detention rooms</i>
Decision date	19 February 2020
Reference details	High Court of Cassation and Justice – First Civil Section (Înalta Curte de Casație și Justiție, Secția I Civilă), Bucharest / Civil decision no.460, 19 February 2020 http://www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=159009
Key facts of the case	The High Court of Cassation and Justice examined an appeal on points of law in a case, which originated from a claim for moral damages for overcrowding, in which the first instance court awarded RON 5,000 (approx. € 1,000) and decided that the National Administration of Prison has no standing to compensate the applicant, but only the Romanian State. The decision was upheld in appeal and by the High Court of Cassation and Justice in the appeal on points of law.
Main reasoning/argumentation	The High Court of Cassation and Justice found that the lower courts correctly dismissed the claim against the National Administration of Penitentiaries and allowed the claim against the Romanian State, given that only the latter is responsible for the penal policy, which results in overcrowding of prisons.
Key issues (concepts, interpretations) clarified by the case	The High Court of Cassation and Justice clarified that only the Romanian State can be held responsible for overcrowding in detention rooms as this is a structural and systemic problem and a direct result of the state's penal policy and not an issue under the control of the National Administration of Penitentiaries. For other poor material detention conditions, the National Administration of Penitentiary might be held liable as well.
Results (sanctions) and key consequences or implications of the case	The decision no. 460/2020 of the High Court of Cassation and Justice resulted in a change of jurisprudence of the European Court of Human Rights in detention condition cases. On 20 July 2021, the European Court of Human Rights found that the decision no. 460/2020 of the High Court of Cassation and Justice is a change in the domestic jurisprudence and that the claim for damages for poor detention conditions under the domestic tort law is now, consequently, an effective remedy for persons that are no longer held in improper detention conditions at the time they seek compensation. As decision no. 460/2020 was published on 13 July 2020 and 6 months are needed for interested persons to become aware of the change, since 13 January 2021 a domestic claim for compensation became an effective remedy for poor detention conditions (judgement Polgar v. Romania of 20 July 2020, §§95-96). http://hudoc.echr.coe.int/eng?i=001-211234
Key quotation in original language	<i>"... în speță, răspunderea Administrației Naționale a Penitenciarelor a fost înlăturată, reținându-se că s-ar fi justificat</i>

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reference details**

chemarea în judecată a acestei autorități publice pentru a răspunde pentru producerea unui eventual prejudiciu ca urmare a condițiilor efective de detenție, altele decât supraaglomerarea din penitenciare.

Astfel, câtă vreme instanța de apel a constatat imposibilitatea obiectivă a Administrației Naționale a Penitenciarelor de a se conforma standardului prevăzut în legislația ce reglementează modalitatea de efectuare a stării de detenție, prejudiciul, raportat la condițiile inadecvate de executare a pedepsei privative de libertate astfel cum au fost reținute, fiind cauzat de împrejurări independente de posibilitățile sale de decizie și control, o atare statuare este în concordanță cu jurisprudența Curții Europene a Drepturilor Omului, potrivit cu care această situație este cauzată de o problemă structurală și sistemică, ce nu poate fi rezolvată decât de Statul Român.

Așadar, în mod corect s-a reținut în sarcina recurenteii o răspundere directă pentru deficiențele sistemice de natură a afecta demnitatea umană, similare celor care au fost constatate și de instanța europeană.

În consecință, Înalta Curte reține că, în mod corect, recurenteii i-a fost recunoscută calitatea procesuală pasivă în litigiul dedus judecății, față de natura faptei ilicite reținute, supraaglomerarea penitenciarelor în care reclamantul a fost deținut putând fi imputată doar statului, iar acordarea de despăgubiri morale pentru prejudiciul născut din această faptă putând fi dispusă doar în sarcina acestuia, deoarece Statul este cel care stabilește politica penală.”

“... in this case, the liability of the National Administration of Penitentiaries was removed, as it was found that the suing of this public authority would have been justified only for being responsible for the potential damages incurred due to the material detention conditions, other than the overcrowding.

Thus, as long as the appeal court found the objective impossibility of the National Administration of Penitentiaries to comply with the legal standard on executing detention, the damage produced by improper detention conditions, as found by the court being caused by circumstances outside the decision and control [of the National Administration of Penitentiaries], the [appeal court’s] decision is in line with the case-law of the European Court of Human Rights, according to which such a situation is caused by a structural and systemic problem, which can only be solved by the Romanian State.

So, [the appeal court] was correct in finding a direct liability of the Romanian State for the systemic deficiencies able to affect the human dignity and similar to those also found by the European Court.

Consequently, the High Court finds that the legal standing of the Romanian State was correctly recognized in relation to the nature of the damage incurred, the overcrowding being

	imputable to the state alone and the obligation to compensate only applies to the state, as the state is the one deciding on its penal policy.”
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Romania, High Court of Cassation and Justice – First Civil Section (Înalta Curte de Casație și Justiție, Secția I Civilă), Bucharest / Civil decision no.528, 25 February 2020

Thematic area	<i>Obligations of the courts deciding on claims for damages for poor detention conditions; Romanian State has standing as a respondent in claims for damages for poor detention conditions</i>
Decision date	25 February 2020
Reference details	High Court of Cassation and Justice – First Civil Section (Înalta Curte de Casație și Justiție, Secția I Civilă), Bucharest / Civil decision no.528, 25 February 2020 http://www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=170311
Key facts of the case	The High Court of Cassation and Justice examined an appeal on points of law in a case, which originated from a claim for moral damages for poor detention conditions, in which the first instance court awarded the claimed EUR 1,500. The High Court of Cassation and Justice allowed the appeal on point of law and sent the case for a retrial of the appeal.
Main reasoning/argumentation	The High Court of Cassation and Justice found that the appeal court wrongly dismissed the claim against the Romanian State for the lack of standing and that the Romanian State does have standing to be a respondent in claims for civil damages for poor detention conditions. It also found that the appeal court has not analysed whether the claimant benefited from Law no. 169/2020 and whether the compensation awarded based on the Law no. 169/2020 was sufficient. Therefore, the appeal should be retried.
Key issues (concepts, interpretations) clarified by the case	The High Court of Cassation and Justice clarified that the Romanian State can be held responsible for poor detention conditions as they do not result from the failures of the prison administration alone, but from greater structural problems, including the penal policy of the state. It also held that the issue of compensations received by a detainee under Law no. 169/2020 is key for allowing or not his/her claim for moral damages for poor detention conditions.
Results (sanctions) and key consequences or implications of the case	The detainees can receive moral damages in civil courts for poor detention conditions, but only if they did not benefit from other forms of compensation, such as the deduction of days from their sentence. As the Law no. 169/2017, which provided the deduction of days, was repealed, it follows that in the future the moral damages awarded by the courts are the only form of compensation available under domestic law. The State is responsible for the damages incurred by the detainee, if the poor detention conditions result from a structural problem and not the failures of the prison administration alone.
Key quotation in original language and translated	<i>"... [I]nstanta de apel trebuia să rețină în sarcina Statului Român o răspundere directă pentru deficiențele sistemice de natură a afecta demnitatea umană, similare celor care fost constatate, de altfel, și de instanța europeană...[S]ituația de fapt din cauză nu a fost pe deplin lămurită, .. instanța nu a verificat ... beneficiul</i>

**into English with
reference details**

acordat reclamantului de Legea nr. 169/2017, aceste chestiuni fiind relevante în determinarea îndreptățirii acestuia la despăgubirile solicitate ...”

“... [T]he appeal court should have found that the Romanian State has direct liability for the systemic deficiencies affecting the human dignity, similar to those found by the European Court [of Human Rights]....[T]he facts of the case were not entirely established ... the [appeal] court has not verified ... the benefit awarded to the applicant based on Law no.169/2017, these issues being relevant to determine his right to received the claimed compensations ...”

Romania, Local Court Focșani (Judecătoria Focșani), Focșani / criminal judgement no.1479, 13 November 2019

Thematic area	Remedies for sanitary conditions in detention
Decision date	13 November 2019
Reference details	Local Court Focșani (<i>Judecătoria Focșani</i>), criminal judgement no.1479, 13 November 2019 http://www.rolii.ro/hotarari/5dec649be490095017000033
Key facts of the case	A detainee complained before the judge supervising the deprivation of liberty that the bath of the detention cell is unsanitary. The judge dismissed the complaint finding that, during an inspection in the cell as a result of a complaint, the toilet was found in good condition and that the lack of a sink in the bath does not represent a breach of the detainee's rights. The detainee appealed the decision before the local court.
Main reasoning/argumentation	The court dismissed the complaint with no analysis regarding the lack of the sink in the bathroom.
Key issues (concepts, interpretations) clarified by the case	The decision is one example how Article 56 of the Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial ²³² can be used as a remedy for sanitary conditions, but with limited success.
Results (sanctions) and key consequences or implications of the case	The court dismissed the complaint and upheld the decision of the judge supervising the deprivation of liberty, based on the findings of the inspection.
Key quotation in original language and translated into English with reference details	<p><i>"Din analiza înscrisurilor dosarului și a probelor administrate, instanța reține faptul că la data de 14.01.2019 a fost efectuată o cercetare la fața locului la camera 11 secția I din Penitenciarul Focșani, unde este cazat petentul S_____ P_____ M_____ și s-a constatat că petentul condamnat este cazat în condiții optime.</i></p> <p><i>Aspectele relevate anterior rezultă din probele administrate în cauză, respectiv : procesul verbal de cercetare la fața locului și dosarele nr. 11/2019 și 68/2019.</i></p> <p><i>Față de cele menționate, instanța apreciază că încheierile judecătorului de supraveghere a privării de libertate nr. 83 / 22.03 .2019 pronunțată în dosarul nr. 68/2019 și nr. 23 / 22.01 .2019 pronunțată în dosarul nr. 11/2019 de la Penitenciarul Focșani prin care a respins ca neîntemeiate plângerile formulate de condamnat sunt pertinente și legale."</i></p> <p>"Analysing the documents in the case file and the administered evidence, the court held that on</p>

²³² Romania, [Law no. 254/2013 on the execution of punishments and measures with deprivation of liberty ordered by judicial bodies during the criminal trial](#) (*Legea nr.254/2013 privind executarea pedepselor și măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*).

	<p>14.02.2019, an inspection was carried out in room 11 Section I of the Foçşani Penitentiary, where the applicant S.P.M. is detained and it was found that the detainee is held in optimal conditions.</p> <p>These aspects result from the evidence administered in the case: the minute of the inspection and the files no.11/2019 and 68/2019.</p> <p>Consequently, the court finds that the decisions of the judge supervising the deprivation of liberty in Foçşani Penitentiary no.83/22.03.2019 (file no.68/2019) and no.23/22.01.2019 (file no.11/2019), by which he rejected the complaint of the convict are pertinent and legal”</p>
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