

The Penitentiary System in Romania
1995-2004

Abbreviations

DGP – General Direction of Penitentiaries

CEDO – The European Court of Human Rights

ONU – United Nations Organisation

ANP – National Agency of Penitentiaries

OUG – Government Emergency Ordinance

DGPA – General Direction for Protection and Anticorruption

CRM – Reeducatin Center of Minors

BOR – Romanian Ortodox Church

SRSS – Social Reinsertion and Observation Services

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FOREWORD

APADOR-CH (Association for the Defence of Human Rights in Romania – the Helsinki Committee) was founded in 1990 with the generous, but stupendous task of promoting and protecting human rights. In time, the association set its priorities and focused its activity on certain *civil rights and liberties*, in accordance with the European standards based on the European Convention for the Protection of Human Rights and Fundamental Freedoms, on the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and on the case-law of the European Court of Human Rights.

Detention conditions in the Romanian prison system constitute one of these priorities. For 10 years (1995-2004) representatives of the Association visited prisons, prison hospitals and reeducation centres for minors, talked with thousands of detainees and hundreds of prison staff. After each visit, the findings and recommendations of the association have been transmitted to the General Direction of Penitentiaries (which in 2005 became the National Administration of Penitentiaries – from here on the ANP) under the Ministry of Justice. All the reports are public documents and can be found on the Association’s web-page (www.apador.org).

Between 1995 and 1998, the representatives of the Association were allowed access into penitentiaries based on the approval of DGP prior to each visit. As a result, many times, the representatives of the Association were under the impression of last-minute “improvements” done especially for the “inspection”. Since 1998, the Association was able to visit any penitentiary, at any time, based on an annually renewable approval.

Besides, of all the institutions of the repressive system with which APADOR-CH had contacts, DGP was the most open and cooperating, accepting the fact that the suggestions and critics coming from the Association had – and have – the sole purpose of improving detention conditions and implementing European standards on prisons.

Due to objective causes (insufficient funds; indifference of other authorities, but also of the public, towards the quality of life in detention; the long delay in adopting a modern framework¹), but also to subjective causes (mainly **the change of mentality and behaviour of prison staff**), the Romanian penitentiary system has advanced

¹ The new law on the regime of serving prison terms has been adopted in 2004 and should have been in force since June 29, 2005, together with the new Criminal Code. As the latter’s entering into force was delayed for 2006, Law n°23/1969 on the detention system is still “actual”. Given the obvious obsolete nature of this law, the Ministry of Justice made commitments to find solutions in order to gradually implement those provisions of the new law which have no connection with the Criminal Code.

quite slowly). Nevertheless, in comparing the situation of 1995 to that of 2004, one can find a long series of improvements, some of substance like the *demilitarization of the system*, and others concrete, for example building new prisons, adapting buildings taken over from other institutions or refurbishment of old buildings.

APADOR-CH helped trigger a different type of change inside the penitentiary system:

1. Repeated amendments to the Criminal Code and Criminal Procedure Code, with emphasis on limiting situations in which one can be deprived of freedom and on introducing judicial control in issuing and extending arrest warrants. For the penitentiary system, the consequence was a lower number of persons under preventive detention, therefore less overcrowding;
2. Institutionalization of alternatives to imprisonment for petty offenders who do not pay their fines. The consequence for the penitentiary system was that this type of detainees – which needed separate detention rooms, therefore contributing to overcrowding – disappeared;
3. Changing the procedure for sanctioning detainees in breach of internal regulations, by granting detainees the right to defend themselves and to appeal (even before courts) against a sanction considered unjustified;
4. Drafting the Government Emergency Ordinance no. 56/2003, which, among other things, allowed detainees to be examined by doctors outside the penitentiary system, upon request of the detainee who also bears the costs of the examination;
5. Elimination of a legal provision that **classified** information on medical care received by detainees prior to their death in penitentiaries;
6. Observing the confidentiality of the prisoners' mail (The European Court of Human Rights delivered two judgements against Romania – in 1999 and 2003 – for the violation of Article 8 of the European Convention on Human Rights regarding the respect of private life, including of correspondence).

The above are only a few of the Association's initiatives which resulted into concrete measures taken by the legislative or the executive. Obviously, APADOR-CH also had initiatives that were either ignored, or only partially accomplished by the competent authorities - the Ministry of Justice and/or the National Administration of Penitentiaries.

The aim of the report entitled “Penitentiary System in Romania.1995-2004” is to point out to *those* unsolved problems, which APADOR-CH considers important

for providing decent detention conditions, as close to the European standards as possible, as well as for the reintegration of released detainees into their families and into community. The report places a special emphasis on the *minors in detention*, a category considered by APADOR-CH as **very vulnerable**. The situation of *women in detention* is also one of interest for the Association.

The facts and situations presented are based on direct discussions with detainees and on the direct findings of the Association's representatives.

The data on penitentiary system (population, diseases etc.) are taken from the annual statistics of DGP published during 1999 – 2003. The **interpretation** of these data belongs to the Association. For the comparison with the other member states of the Council of Europe, the statistics were taken from the 2003 Penological Information Bulletin, edited by the Council of Europe. **Comments** based on the statistics belong to APADOR-CH.

I. COMPARISON BETWEEN THE PRISON POPULATION IN ROMANIA AND IN OTHER MEMBER STATES OF THE COUNCIL OF EUROPE

Romania has one of the most severe criminal legislation in Europe. Deeds with medium – or low – degree of social danger are drastically sanctioned with prison terms. For example, theft is punished with one to 12 years of prison and aggravated theft (planned, committed by more perpetrators, during the night or in other situations, but without violence) with three to 15 years of prison. One has to note that in most cases the Romanian courts combine the two crimes, perpetrators being convicted for *theft and aggravated theft*. **Approximately half of the detainees from the overcrowded Romanian penitentiaries have been convicted for theft (plus aggravated theft).** Annual statistics of the General Department of Penitentiaries between 1999 and 2003 show the following data on the nature of deeds for convicted detainees:

- 1999: total prison population – 49,778, out of which for theft – 27,569 (55.4%)
 - 2000: total prison population – 48,296, out of which for theft – 24,296 (50.3%)
 - 2001: total prison population – 49,841, out of which for theft – 23,092 (46.3%)
 - 2002: total prison population – 48,075, out of which for theft – 21,571 (44.8%)
 - 2003: total prison population – 42,815, out of which for theft – 17,367 (40.6%)
- (Based on Law n^o543 of October, 10, 2002, 3,664 persons were pardoned)

Other 7,000-8,000 detainees convicted every year for robbery - that is theft **with violence**, can be added – may be added to the figures above.

The data above become more relevant when compared with similar data from other countries. According to the Penological Information Bulletin no. 25 of December, 2003, edited by the Council of Europe, Romania is the seventh in terms of total prison population per 100,000 inhabitants (229.5‰). The first six are all ex-socialist/communist countries, with Russia (638.5‰) and Ukraine (405.7‰) in the lead. Among the countries with solid democratic systems, the worst situation is in the UK (137.1‰), Portugal (132.8‰) and Spain (126.2‰). Among Romania's neighbours, Hungary has prison population of 177.4‰ and Bulgaria – 121.7‰. In this chart, the *last* place is occupied by Lichtenstein (17 detainees out of a total population of 33,500 inhabitants) and San Marino (**one** detainee out of a total population of 28,200 inhabitants).

Beyond statistics, one can ask **why such a high number of detainees per 100,000 inhabitants in Romania?** One answer could be the precarious **economic** situation that can be an explanation for the high number of crimes against property. But then why is the proportion lower in countries like Azerbaijan (225‰) or Albania (surprisingly, only 52.5‰), which surely do not have an easier “transition”? May the

large prison population be a result of the **criminal legislation**? The answer is **definitely yes**. Romanian criminal legislation is **way behind European standards**. **The new Criminal Code, which will come into force on September 1st, 2006, will be only a partial solution of the big problems in this area**. May the high number of detainees be also a consequence of the obsolete **mentality** of judges and prosecutors? The answer is, again, **definitely yes**. Prosecutors are too easily sending before courts persons guilty of stealing a six-pack of mineral water (a real case, currently before the European Court of Human Rights) or of other items worth only a few cents; judges apply the law mechanically. In addition, in many cases the *ex officio* lawyers defend their clients just as a formality.

The absolute numbers from the Penological Information Bulletin show that, for example, Greece has about 8,000 detainees out 10.5 million inhabitants, while Romania has **six times** more detainees out of 22.4 million inhabitants. France, with a population almost three times higher, and Spain, with a population two times higher, have almost the same number of detainees as Romania. Turkey has 69.2 million inhabitants and only 10,000 more detainees. Bulgaria (7.9 million inhabitants) has more than 20% less detainees than Romania; Hungary (10.1 million inhabitants) has a little more than one third of Romania's prison population. And examples may continue.

Statistics from the same Information Bulletin with regard to the number of detainees for each type of crime are also interesting – and relevant. In what concerns the number of detainees convicted for **theft**, Romania is the second (out of 47 countries), with **18,938 detainees; only Ukraine has more**. Out of the rest of the countries, only Great Britain and Germany have more than **10,000 detainees imprisoned for theft**. In Hungary there are 5,642 imprisoned “thieves”, in Bulgaria – 3,202, in Spain – 3,035, in Italy 1,546 etc. Most probably the number of thefts is not lower in these countries. But **the alternatives to imprisonment are functioning** (community service, probation, fines etc.). In Romania, the “thief” is almost automatically sent to prison. Community service is used as a sanction only for petty offenders – those committing minor offences, which are not sanctioned under the criminal law (see Government Ordinance no. 55/2002, amended by Government Emergency Ordinance no. 108/2003).

In what concerns robbery, Romania stands “slightly better”, on the fourth place (6,220 detainees), after Russia, Spain and England. The above comments on theft are also applicable to robbery, with the note that, according to Romanian laws and mentality, any theft is considered as robbery if the perpetrator has pushed – or touched – the victim. This explains why we have **eight times** more “robbers” than Bulgaria, **twice** as many as in France or **one and a half times** more than Germany or Italy.

The Penological Information Bulletin also contains statistics on the ratio between prison staff and detainees. With 7.9 detainees for one guardian, Romania is once again “in the top”, coming third, after Lithuania – 8.8 detainees per guard – and Ukraine – 8.7. On the opposite side – the positive example - one can find San Marino (0.2 detainees per one guardian), Northern Ireland (0.8) and the Republic of Ireland (one detainee per one guardian). In most countries, the ratio is between 1 and 5. Only Poland (6.3) and Hungary (5.6) exceed the limit of 5 detainees per one guard, considered the maximum acceptable by the Committee for Prevention of Torture of the Council of Europe.

It is obvious that in no country, no matter how democratic it might be, there is no public interest and even less sympathy for prisoners. In the almost general apprehension, the place of a criminal is “behind bars”. Free people ignore the fact that detainees will return to the community after serving their sentences. In other words, the population rather perceives the *punitive* side and less – or not at all – the *educative* side of imprisonment. In Romania, this attitude was clearly expressed in 2002, during a debate on general pardon. Due to the negative reactions of various groups in society, but also, unfortunately, of the media, the initial list of crimes to be pardoned was drastically reduced. Thus, instead of freeing around 9,000-10,000 detainees, as it had been foreseen, there were only about 3,500 beneficiaries of the pardon law. Interestingly, according to the statistics of the General Department of Penitentiaries, only 10% of the freed detainees committed new crimes and returned to the penitentiary system. The general fear that the pardon will result in a “wave of terror” was thus invalidated.

The direct consequence of the population’s abhorrence to the world of prisons – an attitude that may be also found at the level of the Parliament and of the Romanian Government – is the slow pace of *the much needed substance reform of the penitentiary system, under all its aspects: legislation, improvement of detention conditions, focus on reeducation and social reinsertion and, last but not least, the change of mentality. In order to achieve these goals, political will, radical changes in the training programs for the prison staff and, of course, substantial funds are needed* (theoretically, the new law on the execution of custodial sentences and the new Criminal Code – both to become effective in September 2006 – will solve, to a serious extent, problems of the legal framework; to these one can add the new statute of the prison staff, into force since September 2004, which *demilitarized the penitentiary system*).

Discrepancies between the detainees/staff ratio in Romania and that in most member states, as presented in the Council of Europe statistics, are *directly* linked with the lack of interest towards detention conditions and perspectives for social reinsertion. The solution of the authorities to solve the problem of insufficient prison staff was simple, but with severe effects on the life in penitentiaries: **detainees are kept in**

overcrowded rooms 23 hours out of 24 (in some cases even more, as the daily hour of outdoor exercise is reduced to 30 minutes in many penitentiaries). In the Romanian prison system, detainees who get out of their rooms are escorted by members of the staff, others than the guards themselves. Also due to the insufficient number of guards and escort staff, the cultural and educational activities inside the prisons are reduced to minimum (activities *outside* the prisons are out of the question, with rare exceptions in juvenile reeducation centres and in two or three penitentiaries). For the same reasons, it has become a problem to provide prisoners with access to medical care, to visitors and to (the very few) telephones inside penitentiaries *outside the rigid, bureaucratic, schedule*. **Unless the number of guards and escort staff is significantly increased and, as a consequence, the number of detainees per prison staff decreases, any initiative towards improving detention conditions and, implicitly, towards improving chances of social reinsertion of detainees will have a minimal rate of success.**

II. PRISON STAFF AND RELATIONS WITH DETAINEES

1. Guarding, escort

The 1999 statistic yearbook of the DGP has certain chapters which do not appear in subsequent bulletins. They include “sanctions”, “departures from the system” and “events in which prison staff was involved”. Out of the total of 10,042 employees (officers, petty officers, military foremen and civilian employees), **1,508** had been sanctioned, the vast majority (87.7%) being represented by **petty officers, those who come in direct contact with the detainees**. Which are the events the 1,508 employees were involved in? Besides absences/tardiness (the most frequent events, after those ambiguously listed under “other events”), traffic accidents and labour accidents, one has to note that one officer and six petty officers **assaulted inmates**, that 20 petty officers and one military foreman **misused their firearms**, that three officers and 46 petty officers had **alcohol on the job** and that two officers and 24 petty officers **had inappropriate interactions with detainees or their families**.

Even if such data are not presented in subsequent annual statistic bulletins, information on these events can be obtained upon request. Thus, in 2000, out of a total of 1,471 sanctioned officers, petty officers, military foremen and civil employees, nine **assaulted detainees**, 17 **misused their firearms**, 14 **consumed alcohol while at work** and 19 **had inappropriate interactions with detainees or their families**.

The number of sanctioned staff then decreased year after year and, in 2004, reached a total of two sanctions for **assault against detainees**, two for **misuse of firearms**, 14 for **alcohol consumption on the job** and 18 for **inappropriate interactions with detainees or their families**.

Obviously, the data above only take into consideration only cases *discovered and investigated inside the system*. But the data confirms APADOR-CH's findings, as well as numerous complaints regarding the behaviour of prison staff, coming from the detainees:

a) Assaults against detainees

In 1997, in Colibași Prison, the representatives of APADOR-CH found a detainee – Mihai Prundaru, serving a 14 years and 3 months conviction for murder - who had been transferred from Gherla Penitentiary about 3 months earlier. The detainee claimed that he had not requested to be transferred and that he had no ongoing court case in Pitești; the only reason for his unexpected transfer was the complaint he had sent to APADOR-CH from Gherla. The complaint referred to the repeated beatings he had been subjected to between 1995 – August 1997 (date of transfer), in a first

phase in Colibași, then in Gherla, after his final conviction. Mihai Prundaru alleged that, after he had sent the complaint (through intermediaries), he was again beaten by Gherla prison staff, handcuffed and isolated, and that there were four witnesses who could confirm his allegations. After August 1997, when he was brought to Colibași for a second time, MP said he had not been beaten, but as he was going to be transferred to Gherla again, the prisoner was convinced that new assaults and sanctions awaited him. APADOR-CH reminds that prison mail was still **censored** in 1997 (a practice that was partially forbidden in 1998, after the European Court of Human Rights ruled against Romania in the case of *Petra v. Romania*; censorship of correspondence in prisons was completely forbidden only in 2003, after a new European Court decision in the case of *Cotleț v. Romania*; both cases regarded the detainees' right to correspondence). The Association also notes that, back in 1997, it was still under the obligation to inform the DGP which penitentiary it would visit and when. The visit to Gherla Penitentiary took place in October 1997, when Mihai Prundaru had already been transferred to Colibași. In conclusion, APADOR-CH considered that MP's allegation of ill-treatment was not completely unfounded; **the real reason behind MP's transfer to Colibași seemed to be avoiding a discussion between the representatives of the Association and the detainee.** APADOR-CH informed DGP on the case, asking the institution to either leave MP at the Colibași Prison, or to transfer him to any other prison except Gherla (in principle, Colibași Prison accommodated prisoners serving under 10 years in jail).

In 1998, representatives of APADOR-CH went to Aiud Penitentiary, mainly for investigating the situation of **the only woman – Mariana Cetiner – convicted to three years in prison for “alluring” a person into having homosexual relations** (the aberrant Article 200 of the Criminal Code, which sanctioned same sex relations, was only abolished in 2001). MC was finally pardoned in March 1998 and left Romania. But during the discussion in Aiud, Mariana Cetiner complained that in her first place of imprisonment – Târgșor Women Prison – she had been so severely beaten by two petty officers that she still had marks on her legs and thorax. Then, in Aiud, after a quarrel with one of the guards, she had been kept on her feet, handcuffed, for about nine hours, during which she had been repeatedly beaten by a guard. In both cases, Mariana Cetiner clearly indicated her aggressors, who, of course, vehemently denied accusations. No one was even investigated, not to mention sanctions.

Also in 1998, detainee Cornel Croitoru had been transferred from Moinești police station to Bacău Penitentiary. Before the transfer, the policemen had sanctioned him with 20 days of isolation for finding on him a **razor** (in police lock-ups, internal regulations are much stricter than in penitentiaries); the sanction was to be served in the prison. But before being taken to the confinement room, two detainees complained to the governor, alleging that C.C. had made sexual advances and had assaulted them after being turned down. Cornel Croitoru was sanctioned with 10

more days of confinement, besides the initial 20. One day, C.C. was in the confinement room with another sanctioned detainee – Gheorghe Carmenel Lefter – the guards serving them the meal “forgot” to lock the doors. “They’ve done it on purpose”, Croitoru said; he was backed by another detainee (Păun Sava), who was in the nearby confinement room. It is undisputed that Croitoru and Lefter got out of the room but, after they took two-three steps, several guards appeared, beat them, took them back to the confinement room, handcuffed them and continued to hit them. In addition, they were deprived of food and were not allowed to use toilet facilities. The incident was described to the representatives of the Association by Cornel Croitoru and confirmed by Păun Sava, who had heard everything from the nearby room. Cornel Croitoru was sanctioned by five additional days of confinement for “attempted escape”. But this is **a serious offence, sanctioned with prison up to five years by the Criminal Code**. Therefore, not even the prison staff believed it was a real attempt to escape. Then why was force excessively used, even **after** the incident was solved?

In 1999, several detainees from Baia-Mare (who specifically asked not to be named) told the representatives of APADOR-CH that certain guards had beaten them with **wooden hammers**, which exist in all penitentiaries and are supposedly used for checking the bars (the prison staff say that when they hit the bars with the wooden hammers, they can tell by the sound if the metal bars are broken or not). The detainees also said that one of the petty officers was under investigation by the military prosecutor for such deeds. The General Department of Penitentiaries unsurprisingly denied the allegation that detainees were beaten with wooden hammers, but admitted that the nominated petty officer was under investigation for hitting detainees.

In 2000, complaints about physical assaults against detainees multiplied. APADOR-CH received such complaints from detainees at Vaslui, Gherla, Jilava, Miercurea Ciuc and Brăila Penitentiaries. The Association only knows a single case in which measures were taken (in Gherla Prison, three petty officers were discharged of duty).

Starting 2001, the number of complaints about brutalities committed by *identified* officers or petty officers declined, but there were more complaints about the brutal acts of the “masked squad” (see below the section on intervention units). Complaints about nominated officers or petty officers who assaulted prisoners came for Ploiești, Codlea and Rahova Prisons in 2002, and Tichilești in 2003.

In 2004, at the Botoșani Penitentiary, several detainees, including minors (see below, the chapter on minors), complained against the brutal treatment they were subjected to by certain petty officers. Detainee Petrică Marcu, who was in confinement, said that one month earlier, while he was under restrictive regime, one officer had entered in his room, had handcuffed him to the bed, had put a piece of cloth into his mouth

and then had started kicking him. Petrică Marcu was sanctioned again by 10 days on confinement, for a brawl with another detainee. Petrică Marcu had already been on confinement for eight days, although his physical state (one tumid eye, eye-ball completely red) required the immediate assistance of a specialized doctor. But the detainee was supposed to be transferred to the Tg. Ocna Prison Hospital only the following day. In addition, he was complaining of kidney pain, which he associated to the physical violence he had endured a month before. On top of all these, Petrică Marcu was under visible mental trauma, due to his late experiences. Another detainee, Adrian Munteanu, alleged that he had been beaten by a petty officer. He had filed a complaint with the military prosecutor's office, but he had subsequently been threatened by the petty officer in cause, who filed an incident report against him; therefore, the detainee withdrew his complaint.

b) Mass repressions

The Jilava Penitentiary riots (1997)

In February 1997, several detainees from Jilava peacefully protested against the new legal provisions on substantially increasing the fraction of sentence to be served before entering the parole board. The protest rapidly spread out and consisted in shouting of slogans, hanging demands inscribed on bed sheets outside the windows, throwing of pieces of bread or leftovers in the yard etc. Later, some of the detainees blocked the door to their detention rooms. For several days, all the TV stations presented the peaceful protests, which later also went against the poor detention conditions (some of the detainees said that the guards told inmates every time cameras were on the premises, actually instigating them to manifest themselves louder).

On February 23, the DGP decided an intervention in force to stop the Jilava protest. The invoked legal ground was the action plan no. 40710/21.02.1997, signed by a Secretary of State from the Ministry of Justice. But the mentioned plan authorized the use of force *only if detainees destroyed – or attempted to destroy – goods, equipment or buildings, which was not the case.*

In the first phase of the intervention, around 500 prison staff, most of them wearing masks, stormed into the rooms which had been blocked by protesters (not all rooms were part of the protest); they used - according to the governor of the Jilava Penitentiary - tear gas and rubber truncheons. Detainees were ordered to lie down on the cement floor. As the rooms were overcrowded, the detainees had to lie under the beds or on top of each other to fit into the cramped space. Those who did not instantly execute the order were hit. Those who had managed to lie down were not spared of indiscriminate kicks on the body and head. Prisoners were kept on the floor for several hours (“three-four” some said, “until late in the night”, said others),

without being allowed to move. In the meantime, the guards went from room to room, calling certain detainees by the name and taking them out of their rooms. About **one hundred detainees, considered “leaders” of the riot, but also others, labelled as “difficult” or “opinion makers”** were taken to the detainees’ reception area.

In its efforts to clarify the nature and the extent of this first phase of the military intervention, APADOR-CH encountered many difficulties and obstructions from Jilava Prison administration. During 1997 (but also in 1998), the Association successfully gathered testimonies from some of the detainees which were beaten during the intervention, but also opinions of several persons from DGP. From these testimonies and opinions, APADOR-CH reached the conclusion that the **military intervention was *disproportionate, due to the excessive and unjustified use of force against an entirely peaceful protest.* The detainees had not destroyed any property or resorted to any violence. None of the prison staff was assaulted by detainees. In addition, from the information gathered by the Association, it resulted that the prison management made no attempt to discuss with the protesters in order to calm down the spirits. On the contrary, some of the guards seemed to have incited the detainees.**

The second part of the intervention had **all the elements of an exclusively punitive, inhuman and degrading treatment.** Around 10.30 PM, the one hundred detainees which had been taken out of their rooms were brought to the prison yard and beaten by approximately 70 “masked” persons with wooden clubs and truncheons, until around 5 AM. During the “breaks between the beating rounds”, detainees were forced to pick glass shivers, breadcrumbs and pebbles up from the ground. In the morning, the beaten detainees were taken – many carried up in blankets – to *different rooms* than a day before. Only very few were brought to the prison’s medical wards (probably by chance). During the first APADOR-CH visit after the events, the Association’s representatives were only able to check the medical records in sections 3, 5 and 6, where they found mentions about **20 detainees with serious trauma and even possible fractures.** After the signals launched by APADOR-CH, a DGP commission which included a doctor, came to verify the situation and identified – **in April! – almost 70 detainees out of those beaten in the night of 23/24 of February who had *not* received medical care, although their state had required it.**

The few inmates who had the courage to talk about the events indicated DGP colonels Stroescu and Bădițoiu, colonel Pîrjol – the prison governor – and colonel Olteanu, deputy governor in charge of custody and regime of detainees at the Jilava Penitentiary Hospital, as being directly responsible for the disproportionate intervention of the first phase and the fierce repression during the night of 23/24 of February. They had been among the few military who had not worn masks. Among the “masked” squad, the inmates had recognized some of the Jilava guards.

All the prisoners who were beaten on February 23 and during the following night were sent to various other prisons. Some of them have been released in the meanwhile. One of these – a man that had suffered a lot during the repression but also had the courage to speak and, even more, to file a complaint with the military prosecutor’s office – has left the country. Another one, with a similar situation, was arrested in another case and did not want to pursue the procedures started in 1997.

The inadmissible behaviour of doctor Tănăsescu, who worked at Jilava Penitentiary both in 1997 and in 2004, needs to be mentioned: **he was present both during the events of February 23 and during the events of the following night, and his sole reaction was to recommend the military *not to hit the detainees in their vital organs!***

All the complaints filed by the detainees or by APADOR-CH against the disproportionate military intervention of February 23, and against the inhuman and degrading treatment – sometimes amounting to *torture* –, with **strictly punitive** aim, on the following night were concluded with a non-indictment decision issued by the military prosecution. ***None of the officers – including the identified colonels – and petty officers who participated in the first, the second or both phases of the repression was even investigated.***

Almost three years after the Jilava repression, the former Secretary of State from the Ministry of Justice who had authorized the “action plan” was interviewed by a central newspaper, and *admitted that in February 1997 abuses had been committed at Jilava Penitentiary.*

Manifestations of solidarity with the Jilava protest also took place in other Romanian penitentiaries, but consisted mostly in individual actions (hunger strikes, isolated and short-lived protests). Only in Timișoara and Iași, did the protests include a higher number of inmates, who, unlike the detainees in Jilava, acted with violence; they set mattresses, blankets and other goods on fire. Even so, the prison staff in Timișoara did not use force in response. In Iași, where a room full of “young detainees” (18 to 21 years old) set the mattresses on fire and tried to barricade themselves in, the prison staff immediately intervened, also using of tear gas. According to the prison governor, 36 of the most aggressive inmates were placed on confinement for one night. APADOR-CH has serious suspicions with regard to this intervention, but none of the detainees was willing to talk about it.

In conclusion, APADOR-CH maintains that, in 1997, the use of force against the Jilava protesters was **excessive in its first phase, and in total violation of the national and international standards on human rights in its second phase; the**

latter phase presented all the elements of an entirely unjustified and exclusively punitive repression.

The Iași Penitentiary riot (1999)

In September 1999, in Iași Penitentiary, detainees protested again, this time against the abusive behaviour of the chief doctor (Dr. Oatu – who remained in charge of medical care at Iași Penitentiary until the summer of 2004, despite countless complaints against him) and of officer Ghiculeasa, from the department of custody and regime of detainees (in office until the end of 2004).

Concretely, in September 3, 1999, seven detainees managed to climb to the prison's roof, where they staged a protest against the brutal and degrading behaviour of the two officers, but mostly of doctor Oatu. During their stay on the roof, the seven were helped by other detainees, who provided food, cigarettes etc. by the "carriage" (a method to pass on goods by a system of ropes outside the windows). The intervention squad stormed the rooms that provided support to the protesters, and beat the detainees. After negotiations with the prison management, the seven returned to their rooms. It was not clear for the representatives of APADOR-CH if this result was accomplished by force. Detainees were very reluctant to talk about the incident and the prison staff denied any use of force. But bearing in mind how brutally their **helpers** had been "sanctioned", it is hard to believe the protesters themselves had been not treated in the same manner. In addition, after the "spirits had calmed down", around 20 detainees harmed themselves out of solidarity with the seven protesters. On September 27, other three inmates managed to climb to the roof, where they stayed for only a few hours. According with the commander of the prison, this situation was resolved again without the use of force. All ten detainees who protested on the roof of the prison were sanctioned with ten days of confinement each; in addition, the governor of the Iași Penitentiary requested the DGP to place the ten inmates under restrictive regime for eight to twelve months.

APADOR-CH considers that **the detainees had good reasons for being dissatisfied with the two officers, out of whom one is a doctor; therefore he is directly responsible for the health of prisoners.** In the opinion of the Association, reprisals against the inmates helping the protesters on the roof were disproportionate and unjustified (the "carriage" is a widely used method in the entire penitentiary system and is rarely sanctioned). The Association expresses its doubts with regards to the assertions of the Iași Penitentiary management, according to which no other detainees than those doing the "carriage" were assaulted.

Recommendations:

1. **Systematic training of prison staff, especially of those working as guards or escort staff, with regard to the detainees' rights, including the right to life and the right not to be subjected to torture, inhuman or degrading treatment;**
2. **Strict regulations on the use of force against detainees, which is only justified in very serious circumstances, with the observance of the principle of proportionality;**
3. **Immediate and impartial investigation on any allegation of torture, inhuman or degrading treatment by prison staff, and publication of the investigation results.**

2. Special emergency squads and the use of chains

The General Department of Penitentiaries created in 2001 the so-called **special emergency squads** – something unprecedented for the Romanian penitentiary system. As far as the Association knows, EU member countries (except for Italy) do not have such emergency squads.

Actually, squad members are on the payroll of the DGP, their physical appearance is impressive, and they take violent action against inmates whenever the management considers that the situation is “explosive” or could become as such (for instance riot or the outset of a riot, a violent conflict among inmates, hostage taking, as it happened in 2004 in Colibași Penitentiary Hospital, etc.). They also escort dangerous detainees when removed from their cells. Squad officers wear black coveralls, balaclavas, visible weaponry and handcuffs and stand on the corridors, mainly in cellblocks where “dangerous” detainees are kept. The intention to impress and intimidate is obvious. Their numbers and “visibility” have increased every year. And so has the number of complaints about the brutality of their interventions.

In 2002, the special emergency squad of Gherla penitentiary made a “business trip” to Bistrița Penitentiary (that did not have such a squad as yet) and performed a live practical lesson, storming into the cells, knocking detainees off their feet and trampling them on. The intervention took place without any reason, just to show the other guards “how it’s done”. In 2003, APADOR-CH representatives received a number of complaints against the “masked squad” from detainees in Jilava, Poarta Albă, Bacău and București-Rahova penitentiaries. The emergency squad beat three detainees in București -Rahova on 25 September 2003. One of them, Marian Predică, 20, was hospitalised in a coma in the University Hospital and died on 5 October. According to the forensic report, *his death was violent and was caused by meningo-cerebral haemorrhage cause by skull, brain and facial trauma*. Of course, the Rahova Penitentiary management vigorously denied that the death of that young man was in any way associated to the intervention of the “masked officers”. But the Predică

family, with support from APADOR-CH, complained to the relevant institutions, requesting an investigation on the circumstances that led to the death of the young man and the prosecution of those responsible. The case was still unsolved at the end of 2004.

In 2004, 3 detainees at the Giurgiu Penitentiary said they had been subject to extremely brutal intervention from the emergency squad over November 2003 – March 2004. One of them – Iulian Fentzel – had pressed charges with the Prosecutor's Office.

If “masked officers” intervene promptly (and brutally) at mere misdemeanours – mostly non-violent – well, they fail to do the same in serious circumstances, where intervention by force is actually needed. This is what actually happened at the Colibași Penitentiary Hospital in November 2004. One of the detainees who had been brought over from Timișoara Penitentiary for a post-TB consultation used a home-made knife to take one doctor and the hospital manager hostages. The intervention squad – apparently unprepared for this kind of situation – only took action after **90 minutes**, but with such “force” that the manager himself had to **stop them from hitting the detainee. The detainee was then chained and transferred to a nearby penitentiary under restrictive regime and then indicted. APADOR-CH agrees that this detainee is supposed to be held criminally liable for what he did, but considers that he was subject to abuse due to the fact that the squad intervened excessively after he had been restrained and by chaining him. Also the Association considers the 12 months restrictive regime was an excessive sanction.**

Order No. 1257/C/2000 of the Ministry of Justice authorised the restraint of detainees with handcuffs and chains only if “there was a sound basis” to do so. Cuffing and/or chaining “disobedient” detainees, prohibited 3 years ago (an interdiction that has been observed only partially) made many detainees give up complaining about prison guards. But probably repeated criticism from APADOR-CH and the frequent reference to UN Minimum Standard Rules for prisons and to the European Penitentiary Rules – **both documents forbid expressly the use of the means of safe restraint** – the General Department of Penitentiaries resorted to a stratagem and issued another order (no. 383/2003), where “chains” were replaced by “means of safe restraint”, specifying that such means were to be used whenever detainees were taken **outside the precincts of the penitentiary, including while in a court of law, except for the circumstance where judges would demand that the “safe means of restraint” be removed.** Two issues should be highlighted here: 1) as far as APADOR-CH knows, Order no. 383 **does not** repeal Order no. 1257. Therefore, chains continue to be used “in circumstances where there are solid grounds to do” on the **precincts of penitentiaries** while “means of safe restraint” (which are also chains, only thinner) **were to be used outside the detention area.**

APADOR-CH insisted all through 2004 that chains and/or “means of safe restraint” should no longer be used in Romanian penitentiaries. The Association agrees that there are uncooperative detainees, but **handcuffing** is the only acceptable option **whenever all other means fail and only until detainees have calmed down**. The National Penitentiary Administration (formerly known as DGP) had taken a decision in late 2004 to send samples of “safe means of restraint” to a number of foreign experts to establish whether they can be referred to as chains or not.

Recommendations:

- 1. Chains ("means of safe restraint") should no longer be used in Romanian penitentiaries;**
- 2. Emergency squad officers should no longer wear balaclavas (detainees have the right to identify these officers and to complain against them in cases of abuse);**
- 3. Circumstances that call for a resort to force should be defined and regulated strictly and in detail.**

3. Disciplinary sanctions

According to DGP’s 1999 Statistic Yearbook, a remarkably large number of detainees were sanctioned on that particular year: 11,659, *i.e.* nearly one quarter of all the annual number of detainees or more than 10% of the total prison population (*i.e.* incoming, outgoing and permanent detainees). 2,627 of them had been subject to “severe” confinement for 10 days and 118 detainees had been subject to so-called restrictive punishments. The total number of incidents that were – of course - consequential was of 1,526.

Starting with 2000, DGP Statistic Yearbooks no longer made reference to the number of punished detainees or to the number of sanctions per categories of penalties: yearbooks continued to cover “incidents”, which saw a dramatic fall from 1,298 in 2001 to... 134 in 2003!

The interior regulations of the penitentiary system are very strict. Any breach of the rules may trigger sanctions ranging from warning or reprimand to confinement or – the most serious – restrictive regime for 3 to 12 months. The additional information provided by the ANP with regard to sanctions administered to detainees for breach of regulations indicate an increasing number of **reprimands** (from 2,621 in 2000 to 4,447 in 2004) and a decreasing number of sanctions by restriction of the **right to parcels/visitation**. **Reprimand** is a light “punishment”, while the **restriction of the right to parcels or a visitors** (generally, imposed for one month) is, as far as APADOR-CH is concerned, not recommendable at all, because penitentiary food is of poor quality and the connection with the family is extremely important since they

pave the way to social reinsertion. Surprisingly enough, **the number of sanctions by confinement has remained constant, i.e. over 2,000 a year, with a peak value of 2,500 in 2003.**

As far as restrictive regime sanctions are concerned, we need to make it clear that reports of the European Committee for the Prevention of Torture (CPT) on Romanian penitentiaries suggested on a number of occasions that the restrictive regime, involving total or partial restriction of rights – visitation, food parcels, access to TV and radio, etc. – over an extensive period of time, **must not** be imposed as a *disciplinary* penalty, but as an *administrative* penalty. In other words, if a detainee gets too dangerous for the safety of a detention facility, he or she can be relocated to a penitentiary with a higher security level, where rules – that are known to the detainees – are tougher. Detainees should only be relocated with the consent of a detention oversight authority from *outside the penitentiary system* (according to the new law, a *specially assigned judge* will be the oversight authority). For the time being (up to the end of 2004), the prison management makes a proposition, whereas the DGP decides whether to impose the restrictive regime sanction. Government Emergency Ordinance no. 56/2003 and Order no. 3352/2003 of the Minister of Justice enable detainees to take legal action against disciplinary sanctions, restrictive regime included.

Any breach of regulation is recorded by prison guards in a report that has developed from a "punishment report" into an "incident report". APADOR-CH believes that this change is also due to its repeated criticism against the previous system. This is the radical difference: the punishment report, which included both the description of the misdemeanour **and the sanction, was prepared by** a supervisor – usually, a non-commissioned officer; detainees were **not heard and therefore** had no chance to defend themselves; the sanctioned decided by the prison management was in most cases the one suggested by the supervisor. The only chance detainees had to challenge the punishment was to file a complaint with DGP. In other words, complaints could *only* be filed within the system, and the chances for a favourable solution were minimal. In 1997, DGP introduced the so-called “incident reports”, first as an experiment and then as a generalised methodology, enforced under a December 1999 Order of the Ministry of Justice: the supervisor **only** reports the misdemeanour and **does not make suggestions of sanctions**; the discipline officer investigates (talks to the detainee, the supervisor and the witnesses, if any) and the discipline board confers later, hears all parties and sets the sanctions. Detainees may contest the decision with the governor of the penitentiary. Under Emergency Ordinance no. 56/2003 of the Government and Order no. 3352/2003 of the Minister of Justice, detainees have the right to bring their claims before the court of law that has jurisdiction over the area where the penitentiary is located.

These are, of course, substantial improvements. Yet APADOR-CH has found that there is still a long way to go:

i) There are still penitentiaries where detainees are **not** brought before the discipline board unless the recommended sanction is confinement. Other sanctions - warning, reprimand and suspension of visitation/food parcel rights, usually for one month - are considered unimportant and therefore detainees are not heard for that matter. APADOR-CH considers that **all** detainees alleged to have infringed prison regulations must be heard by the boards, regardless of the suggested sanctions. This is a principle of law, above all. And secondly, **any punishment, even the warning or reprimand, can have a consequence for the detainees** (for instance, when sanctions for future misdemeanours are set, when detainees are heard by the parole board, when their type of behaviour is established, etc.). The Association has encountered cases of prisoners held in **confinement** without having been heard: in 1998, in Bacău penitentiary, **four minors were sent into solitary confinement for 5 to 10 days (on charges of gambling) although they had never been brought before the discipline board.** On the same year, also in Bacău, two other detainees, Liviu Zota and Vasile Gheți, had already been on confinement for **6 days** - when APADOR-CH visited the facility – **and no incident report had been prepared. The situation is weird, as the two detainees had already admitted their fault** (they had stolen 500,000 lei from the teacher's purse, of which 400,000 lei had been recovered). And then, **how come that no incident report had been prepared and why were they already in confinement?** Situations where disobedient detainees were not heard were also found in 2001 at Codlea, Poarta Albă and Bârcea Mare penitentiaries, and in 2002, in Bacău, Rahova and, again, Codlea. Hearing all detainees who get an incident report, regardless of the prospective punishment, only became mandatory in 2003 under an order of the Minister of Justice (yet APADOR-CH continued to receive complaints from detainees who alleged they had not been heard during the disciplinary procedure);

ii) Practical experience has proven that the detention file that (together with the medical report) usually accompanies detainees when they are moved to other correctional facilities **only** contains the **punishment decision of the discipline board.** All other papers that are prepared while the investigation is underway (the incident report, the statement of the accused and of the witnesses) are kept in a separate file **that stays at the penitentiary where that incident occurred.** This leads to cases like Adrian Badea's, who was relocated from Mândrești to Ploiești in 2001, for a lawsuit that was pending in court. Once he arrived in Ploiești, the DGP notified him that he was supposed to spend 8 months under a *restrictive punishment* for a wrongdoing he had committed in Mândrești. The detainee said no hearing had taken place and he was not brought before the board either. His allegations could not be either denied or confirmed, since his "additional file" was at Mândrești.

APADOR-CH has constantly affirmed that **all papers** that are prepared while a detainee serves time should be included in the detention file that accompanies detainees whenever they are relocated within the system. And it comes as natural that detainees **must have access to their entire file any time and to get photocopies of any paper inside that file, if they so wish**. APADOR-CH admits that there are indeed cases where the identity of persons who made a statement about a certain incident must be protected, but these people's names and/or some parts of the text could be covered;

iii) There are too many cases where detainees get sanctioned for "disrespectful attitude towards prison guards". In general, this is what prison guards usually consider to be an insult or an open threat. APADOR-CH has found out on several occasions that in such circumstances – when heard in a disciplinary procedure – officers/non-commissioned officers are trusted and detainees are distrusted. There have been many cases where detainees got confinement sanctions for such minor deeds. In 1998, a female detainee (Despina Iliescu) with troubled behaviour from Târgșor Penitentiary had been placed on confinement on several occasions (for 10 days each) for "disrespectful attitude towards the members of the staff". Similar situations happened in 2000 at Tg. Jiu and Jilava. APADOR-CH accepts that there has to be discipline in a detention facility, but pleads for more tolerance vis-à-vis detainees, given the poor detention conditions and, of course, the stress that anyone feels when deprived of freedom;

iv) There are also many instances where detainees considered to be "reluctant" get repeatedly sanctioned for minor or even imaginary deeds. In 1997, Dan Ziegler who was detained in Bistrița Penitentiary had a whole "portfolio" of sanction for his ... "big mouth". In 1998, Ioan Florea – detained at Colibași – *got three incident reports in one day, all of them for minor misdeeds* (for instance, he had turned the radio up too loud). In 1999, APADOR-CH found that detainees held at Tulcea and Baia Mare penitentiary were usually sent to **solitary confinement** cells whenever *they refused to work*. APADOR-CH has constantly requested that **refusal to work should no longer be sanctioned as long as the penitentiary system is only capable to provide jobs - even temporary jobs - to just one third of the able-bodied detainees;**

v) In most penitentiaries, "isolation from the group" is mistaken for the "**confinement**" as a sanction. If one detainee breaks the regulations and affects the other roommates, then he or she is taken to the confinement room **under the pretext of separation from the other prisoners**, and only afterwards legal steps are taken to establish the sanction and its duration. It so happens that a large number of detainees are kept in confinement for a number of days awaiting the formal sanction, and then they serve their confinement days, as **established by the discipline board**. The Association objects against the following issues: a) "isolation from the group" should be construed as a separation *from the detainees in the room where the incident took*

*place (i.e. room mates). Logically, misbehaving detainees should be moved to another cell and should not be separated from all other detainees; b) placing detainees on confinement as the first step in separating them from the group means that the discipline board will automatically **sanction them by confinement**. And then this entire procedure whose intended purpose is to give detainees a chance to defend themselves is useless; c) if this misinterpretation of the "isolation" is preserved, then the number of days that the detainee spends awaiting the formal decision should be subtracted from the total number of days established as a **sanction**;*

vi) Some confinement rooms **only have stone beds, and guards remove the mattresses, pillows and bed sheets at wake-up time (05.00 hours) and bring them back at the lights-out time (22.00)**. Since there is no other piece of furniture, detainees can only sit directly on the stone or stand. APADOR-CH has repeatedly complained to DGP that this unacceptable situation is tantamount to **inhuman treatment. Not to mention that the prisoners' health is at serious risk**. The Association found out at the end of 2004 that the DGP had ordered to replace stone beds with regular beds (iron beds, with a wire frame base). And there's another degrading aspect in confinement rooms that should be mentioned here: the toilet is not separated from the rest of the room. It is obvious that there can be no privacy, since in most cases at least two detainees share the room. But worse situations have also been encountered, more specifically in **Bacău in 1998 when 6 detainees had to share 4 beds (because one of the confinement rooms was being treated for pest infestation, the four minors who had been sanctioned for gambling had been moved to the neighbouring cell, which accommodated two adults). In 2001 at Poarta Albă 5 detainees on confinement had to share 2 beds and would take turns to sleep over the night**);

vii) The **restrictive regime for 3 to 12 months is the most severe punishment**. This kind of sanction must be approved by the DGP, following a proposal of the prison management. Under the restrictive regime, detainees need the prison management approval in order to have visitors or parcels; they are taken out of their rooms only for the daily exercise (often in handcuffs), they are not entitled to have TV or radio sets in their rooms, but just to read newspapers or books. Even their monthly ration of cigarettes is reduced to one third. The only unrestricted right is the right to correspondence. In 1997, after the Jilava, Timișoara and Iași riots were repressed; most of those considered to be "instigators" were placed on restrictive regime for up to 12 months. As a general rule, detainees who need DGP approval before they can be subject to restrictive regime are first placed on **confinement**, but **the time spent on confinement is not deducted from the duration of the main sanction**. In principle, the discipline board in each penitentiary analyses the behaviour of detainees every three months and may decide to remit certain penalties.

In 2003, a detainee held on restrictive regime at the Colibași Penitentiary told APADOR-CH that he had been forbidden **to sleep during the day**. The prison management even came up with quotes from a DGP order to justify this inadmissible measure, in circumstances in which the detainee **was not allowed to participate in any other activity anyway**.

4. Classification of detainees

Behavioural patterns of detainees are classified according to several criteria. The Association has paid constant attention to one of them, more precisely to that of "*dangerous detainee*". The detention regime is different in the case of dangerous detainees, because security is tighter and handcuffing is mandatory whenever prisoners leave the premises (sometimes even **inside the penitentiary**). The decision whether to classify a detainee as "dangerous" or not is reviewed monthly, and belongs exclusively to the prison management.

A meaningful example that illustrates the detention conditions of "dangerous" prisoners and how they get to be considered as such is the "disciplinary" section of the Giurgiu Penitentiary. In 2004, there were 57 detainees in this section, of which 34 were considered "dangerous" while the others were just on confinement or on restrictive regime. Apart from them, there were also detainees on life sentence who were being held temporarily, pending trials in Giurgiu County or in neighbouring counties. Detainees were handcuffed and taken out in groups of 5–6 people **for their "daily outdoor exercise" in metal cages installed on the roof**. Rooms had two bunk beds, one toilet and a wash basin which **were not separated from the rest of the room**. The total surface area is of about 4.5 sq. m. Windows and doors are doubled by metal gratings. Detainee Bobi Victor Garcea, who had been labelled as "reluctant" in another penitentiary in 2000 and who allegedly assaulted a detainee in 2001 at Jilava, had been transferred to Giurgiu in September 2003, but was only classified as "dangerous" about 4 months later. The detainee had **not** broken any regulation for 3 years but, he said, he had refused to have a haircut, and that was why he was considered "dangerous". B.V.G. also complained that non-commissioned officer Chirosava had beaten him in February 2004. The second "dangerous detainee" in the room, Ilie Petre, **did not know why he was there**, but he thought self-harm could be a reason. Yet according to his detention file, while he was in Pelendava (which is the most "relaxed" penitentiary in Romania in terms of detention conditions), one detainee allegedly reported I.P.'s **intention to escape** to the prison guards. And the prison management in Giurgiu considered this a good enough reason to "qualify" I.P. as "dangerous"!

In another room, detainee Iulian Ștefănescu had **both his hands cuffed to the bed**. Prison guards explained that I.S. suffered from a mental disorder that made him to

behave violently, destroy property or harming himself. The representatives of the Association could not discuss with this detainee, who lacked speech cohesion and appeared to be heavily sedated. I.S. had been sentenced to 6 years in prison on a count of robbery (he had stolen two chickens and hit the owner – with no serious consequences – when he caught I.S. in the act), and had been hospitalised several times at the psychiatry section of the Jilava Hospital. As it **happens in most of these cases**, Jilava always sent him back to Giurgiu and recommended the penitentiary to “watch him closely”. But **there is no psychiatrist at Giurgiu penitentiary**. APADOR-CH believed that Iulian Ștefănescu suffered from a serious mental disorder and **needed to be cared for in a psychiatric hospital, not in a prison, and definitely not in the “dangerous detainees” section!** Moreover, the Association considered unacceptable *the use of handcuffs to restrain the prisoner*.

Another "dangerous" detainee was Iulian Fentzel. He was so dangerous that he had spent his past 10 months alone in the room and was even taken outdoors on his own. The main reason for that kind of treatment was explained in the transfer report originated by the Jilava Penitentiary, according to which I.F. had been "one of the promoters of the riot in 1997 and he also had a predisposition of urging detainees into disobedience or disorder." Actually, I.F. was obviously more cognisant of a number of legal issues than his fellow detainees and could tell them what rights they had and whom they were supposed to complain to. Practically, he was doing **exactly what the prison management should have done, i.e. inform detainees about their rights**. APADOR-CH considered that classifying Fentzel as “dangerous” and keeping him isolation for such a long time was completely unjustified and excessive.

Also in 2004, this time at Botoșani Penitentiary, detainee Petrică Marius Monoranu had been categorized as "dangerous" because **14 years before** he had escaped from the custody of the Suceava police. In the mean time, he had spent 10 years in prison **without any breach of regulations**. Another detainee, Mr. Ioan Florin Ursan, said that a mistaken recording had been made in his detention file, according to which – while serving a previous sentence in Tg. Jiu Penitentiary – he allegedly **intended** to escape. He did not have any violation report either. Therefore, two “dangerous” detainees **were not allowed to work and had to wear handcuffs during visits for something that one of them had done 14 years back, outside the penitentiary system, and the other for a supposed intention to escape**.

The DGP constantly asserted that classifying detainees as “dangerous” was **not** a punishment, but an **administrative measure**. **The consequence of such interpretation is that detainees classified as “dangerous” have no one to complain to if they consider themselves as treated unjustly**. (Government Emergency Ordinance no. 56/2003 enables detainees subject to **disciplinary sanctions** to complain not only within the penitentiary system, but also to take legal action in a court of law). APADOR-CH states again that, in the Association’s

opinion, **penitentiary commissions should only classify detainees as “dangerous” subject to the opinion of specialists from *outside the system*. In a near future, courts shall have to decide in what *category of penitentiaries* (maximum security, closed prisons, semi-open or open penitentiaries) each detainees should serve their sentence. **But the classification of detainees by the risk they represent will still be a decision of the penitentiary system. APADOR-CH considers that 1) the input of experts from outside the system is needed to ensure an objective decision and 2) detainees classified as “dangerous” should be notified accordingly and they should have a chance to challenge the decision of the management, since their classification – even temporary – as dangerous will have direct consequences upon the *entire detention time* and, especially, upon the parole release decision.****

The most frequent violations that qualify detainees as dangerous are: escape or intention to escape and urging other detainees into indiscipline and, not lastly, **the nature of their deed**. The representatives of the Association encountered several situations where applying these criteria “by default” placed a prisoner who had escaped 30 years before, or one who had been three days late for military service and enlisted as a deserter 25 years before, straight into the category of “dangerous detainees”. Additionally, APADOR-CH has constantly maintained that the behaviour of a **detainee during their latest term in prison should be the main criterion for classification, and not acts committed during previous imprisonments or, even less, the type of crime they have committed.**

"Dangerous" detainees can be separated from the others or can stay on their own sections. In both cases, detainees are subject to stricter surveillance; they meet their visitors on separate premises and are handcuffed whenever taken out of the penitentiary area. This is the rule, at least. But in 2003 the representatives of APADOR-CH saw inmates taken to the visitation area (inside the penitentiary) **with handcuffs and accompanied by two masked guards, a practice they also encountered at the Giurgiu and Botoşani penitentiaries in 2004.**

Recommendations:

- 1. Regulating the classification of detainees as "dangerous" *only based on their behaviour during the latest imprisonment* (not during previous imprisonments);**
- 2. Informing detainees about why they have been classified as such and giving them *a chance to challenge the classification outside the penitentiary system* (before the court/delegated judge);**
- 3. Abandoning the practice of handcuffing and/or “chaining” detainees *inside the penitentiary*.**

5. The Independent Service for Protection and Anticorruption (“SIPA”)

The Independent Service for Protection and Anticorruption was subordinated to the DGP until 1999, when it was placed under the authority of the Minister of Justice. This is one of the many militarised "secret services" in Romania but, unlike the others, until 2004 it functioned **without any legal foundation and without reporting to anyone about its activity and financial resources**. Not to mention that the "legal foundation" it received in 2004 was just a Government Decision (and not a *law*) issued in a slapdash following the media scandal surrounding the then head of the service. Practically, the Government Decision changed the name of the service into a “General Directorate” of the Ministry of Justice, and introduced the obligation to present certain reports in front of the competent parliamentary commissions.

The activity of SIPA has been under constant suspicion and criticism from APADOR-CH. Actually, the 2004 country report of the European Commission refers directly to SIPA’s usefulness as a military service in a civil ministry. Since any supposition becomes legitimate in the absence of an underlying law and since SIPA’s activities have always been surrounded by mystery, SIPA workers are believed to be monitoring judges, prosecutors and prison personnel (guards who are kinder to detainees are immediately placed under suspicion of “inappropriate interaction” with prisoners). It is also believed that they only provide the prison management with irrelevant information about detainees (for instance, if they “steal” detergents).

There are also suspicions that SIPA (currently DGPA) has **wiretapped communications of detainees (and penitentiary staff) both among themselves – including inside detention rooms – and with persons from outside the penitentiary system**. For instance, in 1998, two inmates – Stelică Dragomir and Petre Stoica – had been transferred from Poartă Albă to Tulcea where they were placed on restrictive regime for 12 months. The detainees told us that everything had started when **they discovered a microphone that the prison management, or SIPA, to be more precise, had placed in their room at Poarta Albă penitentiary**. Their room was repeatedly searched; there were protests, threats, but nothing violent, from either side. In the end, S.D., P.S. and two other detainees were sanctioned by restrictive regime and transferred. **That was the first case – and the only one until 2004 – when a clue was found to prove that prison rooms are wiretapped**. For the rest, just suspicions. The DGP obviously **denied that any microphones had been planted**.

According to official information, SIPA, under the jurisdiction of the DGP until 1999 and then placed under the authority of the minister of justice, never presented at any time between 1991 and 2004 any surveillance clearance to any prison governor, based either on the National Security Law or the Code of Civil

Procedure. No person has been indicted as a result of SIPA surveillance, which has become a Directorate of the Ministry of Justice.

Pointing out that DGPA is a secret service *that has no legal basis (a government decision cannot stand for an organic law)*, APADOR-CH considers that this is the result of either *inefficiency and/or incompetence, or illegal use of the information collected over the years*. Apart from all that, APADOR-CH has encountered many cases where detainees were transferred from one category to the other because “SIPA said so”, without any explanation.

Recommendation:

APADOR-CH is of the opinion that the former SIPA (now “DGPA”) should be closed down. And if such an information service is considered necessary, then there should be *a law to govern its activity and to establish the jurisdiction and responsibilities, the institution should not be militarised and should be subject to rigorous parliamentary oversight, including in terms of financial resources and the expenditure thereof.*

III. PROBLEMS OF THE PENITENTIARY SYSTEM

1. Overcrowding

By the end of 2004, the Romanian penitentiary system included 33 penitentiaries, two penitentiaries for minors and youth (Craiova and Tichilești, which was turned from a reeducation centre into a penitentiary in 2003), 3 juvenile reeducation centres (Găești, Tg. Ocna and Buziaș) and 6 penitentiary hospitals (Rahova, Jilava, Poarta Albă, Dej, Colibași and Tg. Ocna).

According to DGP statistic data, the penitentiary system could accommodate **33,277 detainees in 1999**, according to the standard **6 m³ air/detainee**, and had **47,151 beds for 49,778 detainees**. The average floor space was **1.82 m²** per detainee.

In 2003, there were **37,363 places, 46,451 beds for 42,815 detainees**, and **2.5 m² per detainee**. The Committee for the Prevention of Torture of the Council of Europe recommended (in the CPT report followed the visit to Romania in 1999) that Romania should give up the **norm of 6 m³ of air per detainee and should adopt the square meter standard per detainee (at least 4 m²)**. **According to this standard, the prison population reached almost twice the capacity at the end of 2003.**

APADOR-CH visited an average of 8-9 penitentiaries every year from 1995 to 2004. Therefore, the Association managed to have an insight of developments and drawbacks in the system over these 10 years. It is obvious that the DGP is **not** responsible for the disproportionately large number of detainees. This institution cannot refuse to accept new detainees just because penitentiaries would get overcrowded. The responsibility falls to criminal legislation and to how courts construe it. But the DGP and the Ministry of Justice, to whom it reports, do bear the responsibility for the poor detention conditions. There is no doubt that the DGP was underfinanced year after year, since the penitentiary system is the "Cinderella" of the general budget. But perhaps a more judicious management of the scarce resources would have helped avoid situations such as the one in Galați, where the old and gloomy prison, that could not have been bleaker in the Middle Ages, was demolished and replaced with a first wing of the new penitentiary. All inmates were relocated here "temporarily" and crammed together (1,156 detainees shared 700 beds in 1997 and 1,348 beds in 2000). Rooms in the new wing, designed for 12 detainees each, had to accommodate 20 to 26. The "temporary situation" actually lasted for approximately **four years**, up to the time when the second unit was finished.

As a general rule, penitentiaries have been and are still overcrowded both according to the CPT criterion of 4m²/detainee and to the 6 m³ air/person standard, which is still considered mandatory. The original intention was that each detainee should have one bed, therefore more beds were squeezed in by **narrowing the distance between the**

existing beds (in many penitentiaries, beds are just 30-40 cm apart and there is one lane 1 meter wide at the centre of the room for access to the lavatory) and **the third and even the fourth layer up of bunk beds have been added.**

In 1997, at the Brăila Penitentiary, that can normally hold 638 beds, there were **four-layer bunk beds** for 1055 detainees. On that same year, in the maximum security facility of Craiova, there were **2,038 bunk beds on 3 and 4 stacks, while the standard capacity was of 1,450 beds only. 2,015 detainees lived in these inhuman conditions, of whom 743 on preventive custody pending trial - therefore under the presumption of innocence -.** It is hard to imagine a room with **92 beds stacked on four 4 layers** (top beds were within less than 50 cm from the ceiling) that housed **99 detainees!** In 1999, the situation **got even worse: 2,415 detainees.** In 2004, the Craiova Penitentiary was reorganised and overhauled and the number of detainees awaiting trial dropped to **93** out of a total number of **1,890**. According to the **4 m²/detainee** standard, the penitentiary was **282%** occupied in 2004!

Penitentiary in Focșani is another example of overcrowding. The normal capacity there is 670 places, but there are 1,000 beds. There were 1,345 detainees in 1995, 1,318 in 1997 (of which over 50% under preventive detention pending trial) and 1,448 in 1999. The initiative of the management to install military tents in the courts of the penitentiary is worth mentioning, since part detainees could be moved out of the rooms at least during the hot season, "relaxing" the atmosphere inside, albeit temporarily.

The Bacău Penitentiary holds a sad record of overcrowding. APADOR-CH has visited this facility four times and found a constant evolution as against a normal capacity of **468 beds:**

- 1997: **770 beds, 1,503 detainees**
- 1998: **780 beds, 1,938 detainees**
- 2002: **1,117 beds, 1,541 detainees**
- 2003: **1,031 beds, 1,604 detainees**

Therefore, occupancy rates have constantly topped 300% as against a normal capacity of 468.

The Jilava Penitentiary has been and still is constantly overcrowded. This facility should theoretically accommodate 1,530 detainees, but it actually held 2,400 beds and 3,360 detainees in 1996, 2,600 beds and 3,190 detainees in 1998, 2,555 beds and 3,373 detainees in 2000 and 2,551 beds and 3,187 detainees in 2003. In principle, Jilava should be a "transit" facility, meaning detainees from around the country should be housed here awaiting the verdict of the High Court of Cassation and Justice. Once the Court has ruled, prisoners are moved to other penitentiaries to serve their sentences. It does not mean that some detainees do not serve their full sentence

at Jilava. Around the year 2000, the school for penitentiary non-commissioned officers was relocated from Jilava to Tg. Ocna. Unfortunately, their rooms have been turned into administrative **offices**. Preferably, these rooms should have been turned into detention rooms or into a club, library and/or gym, anyway, **something to benefit the detainees and not the administrative personnel**.

Botoşani facility was not in a better position either. This facility should hold in theory 710 detainees (6 m³ air/inmate) or 510 (with at least 4 m²/detainee), but it actually had 850 beds and 1,351 detainees in 1995, 970 beds and 1,337 detainees in 2001, 1,195 beds and 1,145 detainees in 2004. Apparently progress was made in 2004. Actually, it was an excess by over 50% of the capacity – according to "classic" standards and by more than 100% according to the recommendation of the CPT.

In fact, there is no Romanian penitentiary to observe the rule of the 4 m²/detainees and not even the 6 m³ of air. And the same goes for relatively new prisons, such as the one in Ploieşti: In 2001, 864 detainees shared 625 beds (designed capacity - 500 beds), whereas in 2002 1,136 detainees shared 760 beds (new standard capacity - 574 beds). Clarification: The penitentiary in Ploieşti was designed to accommodate detainees pending trial, so that Jilava can be less crowded. But this is not what actually happened, unfortunately.

The DGP had an initiative to take over buildings that other state institutions (mainly the Ministry of Defence) no longer used and to refurbish them as penitentiary units (for instance, Valul lui Traian - Poarta Albă or Movila Vulpilor - Târgşor). During the 10 years of monitoring by APADOR-CH, besides renovations, new penitentiaries have been built too, such as the ones in Ploieşti (already mentioned), Rahova - Bucharest (that the public opinion erroneously considers to be a "luxury facility") and Giurgiu. Unfortunately, these penitentiaries also complied with the general "rule" and soon became overcrowded (except for the men's sections in the Rahova facility).

Recommendations:

- 1. Calculating the occupancy rate according to the standard area of 4m²/detainee, to have a clear picture of the actual situation in the penitentiary system;**
- 2. Building new penitentiaries or taking over extra buildings, in order to secure accommodation at the rate of 4 m²/detainee;**
- 3. Changing penal policies and enforcing alternatives to detention in order to reduce the number of detainees.²**

² Alternatives to detention are governed by the new law on the execution of sentences. Also see footnote No. 1.

2. Medical assistance

Detainees that have a health condition get medical care in penitentiaries or, if their condition is serious, in penitentiary hospitals. Each penitentiary has one or more medical quarters and infirmaries. Nearly 1,000 health professionals, dentists and medical assistants take care of the detainees, the hygiene of detention rooms, the quality and quantity of food, etc.

The main attributions of penitentiary doctors refer to:

- The health of detainees (medical examinations, treatment, hospitalisation, transfers to penitentiary or civilian hospitals, etc.);
- Hygiene of detention rooms and personal hygiene of the detainees;
- Quality and quantity of food;
- Medical examination of each detainee when first brought into the penitentiary and the preparation of the personal medical record;
- Medical examination of detainees before being sent to isolation rooms and during the isolation;
- Participation in meetings of forensic doctors from outside the penitentiary system to discuss requests to suspend imprisonment on grounds of health condition.

Most health professionals are general practitioners. In principle, there are two GP's in each penitentiary, but they **also** see personnel members and their families for two or even three hours, two or three times a week or even more. The working schedule of doctors cover seven hours a day, Monday to Friday, on-call assignments included. Under these circumstances, given the daily average of 80 inmates that doctors see every day (figures vary between 60 and 100 – 120, depending on penitentiary), the conclusion is that each detainee has 5 minutes with a doctor! Practically, what detainees manage to do is tell their names and possibly tell the doctors what disease **they know they have**. In many cases, it is only medical assistants who see the detainees and who give them either the already prescribed medication or just a painkiller, regardless of what inmates say they feel like.

The representatives of APADOR-CH have seen medical files with a big “*malingerer*” label written on them. If a penitentiary doctor says that a detainee is a malingerer, then that detainee will be disregarded, *regardless of the described symptoms, as a liar*. Without denying that there are malingerers indeed, the Association has always insisted that even this kind of people **can get sick** sometimes. Therefore, there is a risk that doctors fail to consult or take seriously such inmates because they are considered as *liars* by default.

APADOR-CH insisted on several occasions over the years that doctors and medical assistants should **only care for detainees; the personnel should only be consulted in emergency situations**. The DGP announced the Association that an order had

been issued for that matter in 1999, whereby personnel members were supposed to see family doctors only. But in the meantime, all prison GP's have become *family doctors*. As expected, personnel members and their families returned to penitentiary doctors as "*portfolio patients*". In other words, **nothing has changed**. As it happened in 1995, **visitation hours** for the staff were visibly posted in 2004 as well.

The main argument of APADOR-CH against this practice is the large number of patients whose state of health depends exclusively on penitentiary doctors. Members of the staff can resort to speciality doctors in private medical facilities or in emergency hospitals, subject to minimum formal arrangements or for a price. **But detainees do not have this opportunity**. Moreover, there have been - and there still are - penitentiaries that only employ **one medical doctor, either because no one wants to work there or because the second doctor is somewhere on a residentsip, takes speciality courses or is on maternity leave, etc.** In 1997, one single doctor (a dentist!) and 6 medical assistants were supposed to take care of 1,503 detainees plus the staff and their families at the Bacău penitentiary. On that same year, the situation was similar in Bistrița, but the number of detainees and personnel members was indeed lower.

In 1998, in Tulcea, there was, again, one doctor (the second one was on a residentship) for more than 1,500 detainees. Nearly 500 de detainees were accommodated at Chilia Veche, where one can hardly get by car (the road is often flooded), the only regular access being by boat, on Chilia channel, in a 6 hours round trip. In 1999, when the representatives of APADOR-CH arrived in Chilia Veche, there was one single medical assistant in charge with 700 detainees. As far as the Association could find out, no doctor was hired in Chilia Veche over the following years, 2004 included, whereas Tulcea Penitentiary - that has Chilia Veche under its jurisdiction - continued to employ one doctor only.

Also in 1998, Târgșor women's penitentiary had only one doctor for all 1,013 female detainees. The situation improved substantially in 2004, when three general practitioners, one dentist and ten medical assistants, plus a gynaecologist that consults once every week were assigned to take care of the 585 women the 36 men brought to Târgșor for various works.

In 1998, the situation in Mărgineni was dramatic: one doctor was supposed to provide medical services to 2,276 detainees, not to mention the staff and their families. One year later, there were fewer detainees in Mărgineni indeed (2100), but the number of doctors had stayed unchanged.

In 2000, at the Tg. Jiu Penitentiary, there were 2 doctors for 1200 detainees, plus the staff and their families. That could have been a reasonable arrangement, had they not been supposed to see personnel of the **County Tribunal as well**. Once APADOR-CH

visited that facility, the DGP assured the Association that consultation for the tribunal had ceased. But in 2002, the representatives of the Association found that penitentiary doctors continued to provide medical services to penitentiary staff and their families, plus the approximately **250 staff members of the first instance court and prosecutor's office in Tg. Jiu, and families**. Not to mention the 1,300 detainees who were housed in that penitentiary on the day of the visit.

In 2001, at Ploiești, the dentist's treatment room was being arranged and in Iași there was no dentist at all. Therefore, detainees who had tooth problems were supposed to wait for weeks on end to be taken to a dental practice outside the penitentiary. In 2002, in Ploiești, they had the treatment room ready, they had a dentist, but detainees could not see the dentist, because ...there were no **medical materials!**

2.1. Detainees' state of health

According to DGP's 1999 Statistical Yearbook, **78,799 detainees had suffered from respiratory diseases. The number is huge and the conclusion is that almost every one of the total turnover of 90,000 detainees (including incoming and outgoing detainees), had this health problem. Every year, more detainees have been affected by such diseases (121,106 persons in 2004 – new cases).** *We cannot find an explanation for this increase because, on one hand, the number of detainees dropped at a constant rate (it is true, the figure refers to the total turnover of detainees) and – on the other hand – there have been fewer detainees affected by other categories of diseases.*

APADOR-CH believes that this phenomenon is due to: overcrowding (it is hard to breathe in the rooms, especially in summer, and chances to get contaminated are very high), cold in winter, both in detention rooms and lavatories (in 1998, in Aiud, the central heating only worked for **one hour every night**), detainees being taken to work without proper clothing, and even work as such (for instance, carpentry or painting workshops are not ventilated properly).

Skin diseases – with **29,339 cases** - come up next in the 1999 "hierarchy". The number of skin disease cases grew constantly by 2002 (**40,748**), but then dropped to **32,365** in 2003 and **18,837** in 2004. (All of these figures refer to new cases.) APADOR-CH considers that the main cause is the **precarious hygiene in detention rooms and precarious personal hygiene, and the responsibility for that lies mainly with the medical staff.** Although penitentiary authorities have made substantial efforts – starting from building new penitentiaries or new units to renovating older buildings – many detention facilities are infested with lice, cockroaches and mice (we found this in 2000 – Vaslui, Botoșani, Jilava, Miercurea Ciuc, Tg. Jiu, and in 2001 – Botoșani (again), Oradea and Bârcea Mare. The situation encountered at Vaslui and Tg. Jiu in 2000 remained unchanged throughout 2002. And

other examples can be cited for 2003 and 2004). Pest control, however frequent, cannot be efficient because: most mattresses are very old, tattered and dirty, the filling – rather scarce – is worn out; bed sheets, pillow bags and blankets are usually old and filthy with dirt and food scraps (detainees who do not work, meaning two thirds of the total, spend 23 hours a day in bed and eat there too. There is just a small number of penitentiaries that have managed to have canteens, for instance Valul lui Traian, which is a section of Poarta Albă Penitentiary, or Târgșor, or the juvenile reeducation centres). Washing machines are very old and hardly efficient.

In 2002, APADOR-CH visited the Bacău Penitentiary and what they found in the **infirmary** was a detainee with an amputated leg, sleeping on the concrete floor on an extremely dirty improvised mattress; bed sheets were black with filth.

Apart from all that, in most prisons detainees are **obliged** to wear penitentiary "uniforms". Uniforms are actually – most often – odd pieces of worn-out military or police uniforms, some of which are threadbare and crudely mended. Disinfecting these clothes is practically impossible. The DGP has only invested in "court outfits", meaning inmates get decent clothes when they are supposed to appear in court, as well as in the orange overalls worn by life detainees. APADOR-CH has constantly insisted that detainees should be allowed to wear their own clothes and that penitentiary uniforms (and not the extremely worn-out ones, which were still used in 2004) should only be distributed to detainees who actually want to wear them;

The most “relevant” disease for poor hygiene is scabies (*itch mites*). Such cases appear more or less frequently in nearly all penitentiaries. But in 2002, Codlea Penitentiary was hit by a genuine epidemic of scabies (32 cases in less than two months, of which some developed infections and had to be hospitalised). In 2003, there were 10 cases of scabies at Colibași and another few at Tichilești Juvenile Reeducation Centre (that became a penitentiary for minors and youth that year). The "excuse" invoked by medical professionals in most penitentiaries is that "detainees do not wash themselves", which is somewhat true. But, in most penitentiaries, detainees can have a hot shower once a week and can wash themselves and their clothes with cold water on the rest of the days. Except for newly built or renovated units, where each detention room has its own lavatory, penitentiaries have one or two bathrooms that all detainees take turns to use. In 1998, at Colibași, there was one only bathroom with 40 shower heads for nearly 1,700 detainees. (The second bathroom with 12 showers was only used by detainees "infested with parasites".) Also in 1998, in Târgșor, over 1,000 women shared one bathroom with 31 showers. Apart from all that, many toilets (the so-called “Turkish” latrines) from the whole penitentiary system are deteriorated and squalid.

The third category of diseases which are very frequent among detainees is that of digestive conditions. According to the DGP 1999 Statistical Yearbook, **25,955**

detainees, *i.e.* more than 25% of the turnover, were affected by digestive disorders. Over the following years, digestive diseases peaked up to 78,240 in 2002 and then dropped to 70,925 in 2003 and to 60,785 in 2004. *Again, the numbers represented the total turnover of detainees who were put in prison or released every year.*

The most plausible explanation for the large number of detainees affected by digestive diseases is the poor quality of food and improper food preparation. And for the Jilava facility and the neighbouring penitentiary hospital, **drinking water is also of extremely poor quality** (detainees have complained that tap water is full of sand and frog larvae and that they are supposed to filter it through "tissues" before drinking it. In 2004, prison doctors said that Jilava drinking water had no impurities, just "nitrates", which were only dangerous to.... newborns.)

As a general rule, menus include – with little variation – tea in the morning (in fact, lukewarm coloured water) with biscuit or bread, margarine and/or marmalade, then sour soup at lunchtime (boiled water with a few vegetables and possibly bones, but no meat) and the second course (*i.e.* potatoes, cabbage or beans, very liquid, with some fat and a little meat), whereas dinner comes with pasta or rice or potatoes. With few exceptions, the second course served at lunchtime amazingly resembles the first course. Whereas the pork - as much as we could see it in the marmites – is actually carcass, meaning bones, fat and small bits of meat, plus heads, hooves and tails. The standard number of daily calories per detainee is covered indeed, but the quality and quantity of food leaves much to be desired. Additionally, the Association believes, it often happens that the amount of meat reported in the daily records **is not what detainees can actually find on their plates.** (In one of their visits to Galați, APADOR-CH representatives found that about 8 kg of meat of the daily ration of the detainees had been concealed.) Nevertheless, doctors will always say that food is good (food is "*organoleptically proper*", a generic term that doesn't indicate much).

Nearly all penitentiaries have their own farms where detainees work (the Pelendava Penitentiary is actually a farm) mainly on swine growing and vegetable farming. Nevertheless, detainees only get carcass meat and by-products while good and very good quality meat is served in the mess hall, and the personnel can also buy it at a "producer's price". Just a few types of vegetables are cultivated (potatoes, cabbage, onion) and are stored in poor conditions. APADOR-CH representatives have seen – in many of their visits – onion and potatoes that had germinated or (semi)putrid cabbage and carrots.

The low nutritional value and the poor quality of the food, and the non-compliance with food hygiene norms are the main reasons for the high occurrence of digestive diseases. It is good that Order no. 3131/2003 of the Ministry of Justice allows detainees to get more food parcels (2 to 4). But many detainees are no longer

connected to their families or friends and many of them come from a poor background and families cannot afford to feed them too.

Penitentiary stores are also a good idea. But money is the problem here. *Detainees who do get money and food parcels from their relatives* can spend as much as a minimum national salary in these stores (that meant about 80 Euros/month at the end of 2004). Detainees who are no longer connected to their families can spend up to two minimum national salaries in these stores, provided that they have **work**. Nearly one third of the overall able-bodied detainees do **work, in most cases, on a temporary or seasonal basis. Moreover, they only get 10% of what they earn** (the rest goes to the penitentiary). In general, salaries are equal to minimum national salaries. As a consequence, it is practically impossible that detainees who have lost contact with families and friends can have two minimum salaries to spend every month in the penitentiary store.

Besides the three most common categories of disease (mental conditions are a separate chapter of the report), other two other frequent pathological conditions need to be mentioned: tuberculosis and lues. (Detainees with HIV or AIDS are presented separately).

2.1.1. Tuberculosis

According to DGP statistics, there were 2,747 TB patients in 1999. There is no information about what happened in 2000. From 2001 to 2004, **new** cases were reported: 2001 – 751, 2002 – 852, 2003 – 934, and 2004 – 664. These are - of course - cases **found** both with incoming detainees (the police, where most of them come from, has the **obligation to attach the lung radiology report to the medical file**) and later, during detention. It is certain – any many penitentiary doctors half-heartedly admit it - that many detainees get sick **while on detention** (in 2000, doctors in Jilava admitted that nearly half of the TB patients had contracted this disease **after** being brought into the penitentiary system). The ANP has many good intentions to fight TB, but sometimes intentions do not materialise for sometimes risible reasons. For instance, in 2004, the Colibași Penitentiary Hospital could not use a modern TB test lab that should have tested detainees in several penitentiaries because **one more driver should have been hired (besides the 9 drivers who were already there) and because the only radiologist of the hospital could not work on-call, as that would have meant to abandon – even temporarily – patients in Colibași.**

Separate TB quarters have been set aside in nearly every penitentiary, but usually *stable* patients go there, meaning patients who have been already treated in a penitentiary hospital (Jilava or Tg. Ocna). Detention is of course as bad as for anyone else, but they do get a special diet, meaning some extra calories.

In 1995, the representatives of APADOR-CH found at the Jilava Penitentiary Hospital (the only one in the system at the time) a room where **71 TB patients shared 30 beds. Some of them had to sleep on the floor, on mattresses that were worn out, dirty and full of lice. TB patients wore old threadbare pyjamas provided by the hospital and were not allowed to wear underwear.** The room had a lavatory consisting of two toilet cabins and a wash basin with three taps, while the whole section used one bathroom with 6 showerheads. Hot water was provided once a week for two hours, so every patient had about 2-3 minutes for a shower! **37 patients were sharing 19 beds in another, equally squalid room.** Additionally, two of them also had infected scabies. The medical staff say these two patients could not be transferred to the dermatology section, since they could spread the TB. And transmitting scabies to the other patients was not an issue, because scabies is less serious than the TB.

Although the situation in Jilava improved over the following years, APADOR-CH believes that his hospital was – even in 2004 – far from the minimum hygiene and healthcare standards for ailing detainees.

2.1.2. Lues

According to DGP statistics, 1,091 detainees had syphilis in 1999. In 2001 (there is no data for 2000) there were 1,158 detainees suffering from this disease. The number of cases fell gradually over the next year and in 2004 only 652 cases of lues were reported.

All doctors said in concord that detainees had got the disease **while at large, before being arrested.** APADOR-CH is not so sure about that. For many years, penitentiary personnel denied that detainees had homosexual relations. That is why penitentiaries refused constantly to distribute condoms even at very low, nearly symbolic costs. Their attitude changed once same-sex relationships were no longer incriminated (in 2001), as reality came to be accepted. Yet, some time will have to pass before penitentiaries distribute condoms to detainees. They did take a small step forward in 2004: detainees get condoms when released. Therefore, detainees still have unprotected sex in the penitentiaries (or protected by improvised and extremely harmful means) and the risk of transmitting diseases – including lues or, worse, HIV - is extremely high.

APADOR-CH insists that condoms should be distributed in penitentiaries. Costs will surely be much smaller than the expenses usually involved by medical treatment.

2.2. Medical examination of incoming patients

The vast majority of detainees stay in police custody before being taken to prison. Until 7 or 8 years ago, detainees would remain in police custody until the prosecutor finished preparing the indictment, which could take months or even years. Starting 1998, after a decision of the Constitutional Court, **courts** gradually started to reconsider the reasons why a certain person is imprisoned on **a monthly basis**. The procedure was turned into legislation only in 2003, when the Criminal Procedure Code was amended. But even with this kind of guarantee, persons deprived of freedom may spend up to six months in police custody under a warrant which is extended every month. Apart from the detention regime, which is far more restrictive in custody facilities (that are within the jurisdiction of the General Police Inspectorate which, in its turn, reports to the Ministry of Administration and Interior) than in penitentiaries (the Penitentiary Authority is subordinated to the Ministry of Justice), the major issue, though never admitted by the Ministry of Administration and Interior, is **physical and/or psychological abuse that police officers commit against the arrested in order to make them admit the offences they are suspected of, or to admit the to cries committed by unidentified offenders.**

Police officers prepare the "detention file" for each arrested person (this name comes from the past and it suggests that the suspect will definitely go to prison, thereby disregarding the presumption of innocence) and the medical report. According to the law, a person held in custody/arrested should be seen by a doctor within 24 hours and should have pulmonary X-rays. Test results are written down in the medical report that – together with the detention file – accompany that person throughout the penitentiary system. Incoming arrested are always seen by prison doctors who write their findings in the medical report. APADOR-CH **has never seen a medical report in which a police or prison doctor has inscribed battering marks**. All penitentiary doctors said in one voice that **they had never seen battering marks on detainees transferred from a police custody facility. Had that been the case, they would have denied access to the prison and would have returned the prisoner to police custody.** APADOR-CH believes that even this hypothetical solution is incorrect. Detainees with traces of violence should not be returned to custody of those who allegedly battered him or her. The penitentiary should accept them and should write a detailed report on the findings and a detailed account of the statements of the detainee and a separate mention in the transfer protocol.

In 2002, police officers in Tg. Cărbunești took Nelu Bălăsoiu, who had just turned 18, into custody for stealing a car wheel. An arrest warrant was issued and he remained in police custody for **six weeks**. APADOR-CH *believes that, over these six weeks, police officers had repeatedly and fiercely beaten N.B. Although transferred to Tg. Jiu without a medical record*, the penitentiary doctor accepted him. N.B. was so shocked by the violent treatment in police custody and by the repeated threats of the police officers who warned him they would get him if he told anything to anyone, therefore he did not dare tell anything to anyone. But the penitentiary doctor should

have noticed formally that there was no medical report and that the detainee's legs and abdomen were swollen. N.B. vomited and urinated blood for several days before being sent to the infirmary. After being misdiagnosed twice (once at the County Hospital), N.B. was taken to Jilava Penitentiary Hospital where he died after 16 hours. The urologic test taken right after he was hospitalised in Jilava pointed out clearly **that both kidneys had been actually smashed, that blood urea was nearly 4 times higher than normal and that creatinine levels were 10 times higher.**

Military prosecutors in Craiova (notified by both the relatives of the deceased and APADOR-CH) decided non-indictment for both the medical staff at Tg. Jiu Penitentiary and the police officers in Tg. Cărbunești. Once the victim's family had gone through all avenues of appeal, they took criminal action in a court of law to challenge the solution proposed by the prosecutors, with support from APADOR-CH and Romani CRISS Association. There was no final decision in this matter at the end of 2004.

2.3. Transfer of ailing detainees to hospitals

If a penitentiary doctor considers it necessary, sick detainees may be transferred to one of the five penitentiary hospitals or to a civilian facility (from outside the penitentiary system).

There are cases where penitentiary doctors never take this decision, even though detainees should definitely get specialized care. If in the Nelu Bălăsoiu case (presented above) there was a chance of survival, had he been transferred to a hospital earlier (either to Tg. Jiu County Hospital or Jilava Penitentiary Hospital), in an older covered by APADOR-CH **it is certain that a 18 year old detainee would not have died if hospitalised in due time.** In 1992, Radu-Daniel Achim, 16, was sentenced to 30 months at the Juvenile Reeducation Centre in Găești (the facility was then entitled the Special School for Work and Reeducation) for stealing candy. In August 1993, he was taken to the Jilava Penitentiary Hospital and diagnosed with lung TB. Due to deficient treatment, his condition worsened. A decision was made to suspend detention and transfer him to the TB Hospital in Bucharest, but formalities lasted for 3 months. He arrived in Bucharest on 14 January 1994 but died one week later. The diagnosis was tuberculosis in both lungs, acute renal failure and cachexia. He was so thin that doctors could not give him an injection! Achim's mother tried every avenue of appeal for **10 years**, with constant support from APADOR-CH. Military prosecutors repeatedly decided non-indictment, therefore Achim's mother resorted to the last legal possibility at the time - a civil suit against the state authorities whereby she claimed moral and material damages. The case was adjourned several times, but in 2004 courts of law issued a final decision whereby Achim's mother was compensated with damages worth 140 million lei, and a motion has been filed to have this amount updated.

APADOR-CH has repeatedly flagged out the circumstances where – whenever hospitalised in a civilian facility – **detainees are handcuffed for as long as they stay there. Additionally, two non-commissioned officers guard detainees, in shifts covering 24 hours a day. The Committee for the Prevention of Torture has insisted several times that sick detainees *should not be handcuffed*** but restrained by any other means, elastic bandage, for instance, if at all necessary. APADOR-CH believes that even this kind of restraint *should only be used if the doctor – who is aware of the type and seriousness of the disease – requests it. Apart from that, the Association has called on the DGP to find a solution to avoid the permanent presence of non-commissioned officers in a civilian facility.* A suggestion would be to provide one or two hospital rooms with bars at the windows, so they may accommodate sick detainees. If there are no sick detainees, other patients may use those rooms. Under the circumstances, security could be assured by one guard, who would station on the corridor and not inside the hospital room. In 2004, after the fire at Craiova Penitentiary for Juveniles and Youth (see the "minors" section), the representatives of APADOR-CH visited the Burn Unit of the County Hospital where the two surviving minors were hospitalised. They had major burn injuries and were constantly sedated. Nevertheless, two penitentiary guards were permanently at their side, in their room (it is true, though, that the two minors were *not* handcuffed). **APADOR-CH has constantly protested against this common practice that runs counter to the international standards.**

2.4. Penitentiary hospitals

At the end of 2004, there were 6 hospitals in the penitentiary system. The Rahova Penitentiary Hospital is the last to have been commissioned (2003) and mainly covers surgery cases. Jilava has been the most frequently designated hospital destination, especially the TBC and psychiatry sections. The psychiatric section holds not only detainees with mental disorders, but also detainees who await psychiatric expertise, which is mandatory under the criminal law. The average expertise lasts for two or three weeks and observation cannot last for more than 45 days. In November 2004, nearly 30% of the 84 psychiatric inpatients were being subject to expert examination.

Detention is undoubtedly better in penitentiary hospitals than in detention facilities in terms of housing, food, hygiene, and staff behaviour. Reports of patients being subject to punishment are rather rare and usually sanctions are light. Unfortunately, there are no activities involving the patients, because – the managers argued - they are on treatment and their stay is supposed to be brief.

Out of the overall 6 penitentiary hospitals, Jilava has been and still is an unfortunate exception from all points of view. In 2004, part of the main unit was under general repair. Patients were still housed in the rest of the unit, **in some of the worst**

conditions: radiators were cold and it was freezing cold; toilets and washbasins were partially or totally damaged in some rooms and some windows were also broken; 6 inpatients in a room received one tooth paste every three months and one tube of shaving cream every month.

But what the worst thing was that **sick detainees were still handcuffed. At the Jilava Penitentiary Hospital, detainees are handcuffed not only during transportation, but are also restrained with handcuffs and chains in other situations as well.** In 1996, the representatives of the Association found a detainee, C. Bădoi, infected with TB, handcuffed to his bed because he had repeatedly attempted to harm himself. Moreover, he had refused medical treatment. Not only is it *inadmissible to handcuff sick detainees*, but there certainly existed other means of talking C.B. into understanding that this type of protest was both dangerous (to himself and other people too) and inefficient. (C.B. wanted to be transferred back to Deva Penitentiary, because he did not want to "miss the parole board". He had already served 6 years, out of a 9 years and 7 months term on a count of robbery.)

In 2004, Ionel Garcea, detained in Jilava, told APADOR-CH that *in August 2004, while he was still a patient at Jilava hospital, an emergency squad beat him up and then handcuffed his hands to the bed and chained his legs for two weeks. The conclusion is that hospitals do have chains, and use them too.* Both the brutal action of officers and the subsequent period of restraint were due to the suspicion that the detainee might have intentionally flooded the room by breaking the water pipes, which he vehemently denied.

APADOR-CH would like to make it clear once more that violent intervention is *only justified in exceptional circumstances* (which is not the case, of course, when a pipe is broken) *and should go according to the principle of proportionality. And any immobilisation of detainees should only last for as long as it takes to calm them down. The Association requests from the National Administration of Penitentiaries to regulate precisely and concretely all of the situations where this kind of interventions can take place and also the procedures that can be used and the duration.*

In 2004, APADOR-CH visited the Colibași Penitentiary Hospital (inaugurated in 2002). Housing there was acceptable, treatment rooms were in good condition and clean, equipment was modern. But the hospital depended on the neighbouring penitentiary for its hot water supplies (once a week, for two hours, which is obviously not enough) and for heating, food ("Norm 18" for stabilised TB and diabetes, which is actually an unsubstantial improvement of the general food selection), laundry, the visitation area and public payphones (which are at the entrance into the penitentiary, therefore patients are supposed to walk a long way just to make a phone call to meet a guest). The hospital has quite an impressive "ornament" – a state of art mobile TB detection lab – that just lied there in the parking, instead of travelling around to test

detainees in 11 penitentiaries that it should cover. (See the chapter entitled "Medical and sanitary assistance" – TB).

Colibași detainees are handcuffed whenever moved out to “civilian” hospitals too, but they are “selected” depending on how serious their disease is and how serious their offence was. *The method per se is inadmissible anyway and it goes counter to the standards, even if it is **only selectively used.***

Recommendations:

- 1. Abandoning the practice of restraining ailing detainees with chains;**
- 2. Abandoning the practice of handcuffing ailing detainees when moved to “civilian” hospitals, including during transportation.** If a sick detainee’s *behaviour in detention indicates he might be really dangerous*, then he can be restrained with *other*, less harmful means;
- 3. Designing and enforcing special regulations for ailing detainees in penitentiary hospitals and infirmaries;**
- 4. Preparing and running cultural and educational programs for hospitalised detainees (tailored to the type of disease and the duration of hospitalisation);**
- 5. Preparing and running special programmes/activities for mentally ill detainees;**
- 6. Excluding from the doctors’ schedules the special hours devoted to prison staff and their families, no to mention to the personnel of other institutions.** If penitentiary doctors are also family doctors, they may examine their portfolio patients after the regular schedule (7 hours daily), that should be devoted to detainees alone;
- 7. Increasing the number of health professionals (doctors and assistants) in order to provide efficient healthcare for detainees.**

3. Cultural and educational activities

Detainment has **two purposes**: coercion and education/preparation of detainees for social reinsertion after they have served their sentence. Until not so many years ago, the Romanian penitentiary system focused almost exclusively on **the punishment**. Cultural and educational activities were mostly “on paper”, actually more of a sinecure for some officers or their wives. Things moved with difficulty *inside the system*. The impulse to change something came from *outside*, because *non-governmental associations, foundations and some religious cults involved themselves in this kind of activity*.

It should be pointed out that the Romanian Orthodox Church started to work in penitentiaries through a number of priests, **hired and paid by the DGP (there is chief-chaplain in the DGP that sets the rules)**. APADOR-CH does not question

either the necessity to have Orthodox priests in Romanian penitentiaries or the quality of their performance – because there are penitentiary chaplains who really try to help the detainees – but just the *monopoly* that they claim in terms of religion. An older order of the chief-chaplain, that was still enforceable in 2004, **forbids detainees to pass from one religion to the other during detention**; their argument is – quite arguably – that prisoners are under stress and cannot think straight. The DGP order violates **Article 29 of the Romanian Constitution and Article 8 of the European Convention on Human Rights, which guarantee the freedom of conscience and religion**. Secondly, APADOR-CH considers it as unacceptable that penitentiary chaplains attend **meetings of detainees with representatives of *other* cults**. **This is interference in the relationship between believers and clergy of other religions which can in no way be justified by an attempt to prevent *proselytism***, which is often invoked in front of the representatives of APADOR-CH. Moreover, *APADOR-CH does not agree to certain attributions of Orthodox clergy, such as membership in parole boards and the approval of “room representatives” appointed by the inmates – since this kind of task could discriminate detainees of a different religion.*

3.1. Participation in activities

The number of penitentiary staff working in the educational and cultural departments is small - about 3 % of the total number of employees. The programs they organize for detainees are usually prepared at DGP level. Unfortunately, these are mainly formal activities, hardly taking into account the level of understanding, not to mention the interest of detainees. Of course, literacy courses are organized in almost every prison. There are even detainees who are encouraged to continue their education by distance courses at high schools or faculties outside the penitentiary system. But such cases are rare, and are not representative for the vast majority of prisoners.

It is true – and worth mentioning – that the boring standard lectures given to scores of passive and probably disinterested detainees have been abandoned in favor of small-group projects (15, 20, 30 detainees), supposed to be interactive. Surprisingly, however, none of the detainees who talked to the representatives of APADOR-CH remember having ever asked a question or made a comment in class, related to any of the topics. Not even in sex education courses (prudishly included in the sanitary education module) or after watching a film. Of course, some of the programs could not take place without the direct involvement of detainees (aggressiveness control, group therapy, drama therapy, etc.). But they only involve very small groups of inmates and, with a few exceptions due mainly to NGO's, only take place sporadically.

One of the few constant activities is individual therapy, provided by psychologists. But, naturally, the one or at most two psychologists employed by a penitentiary cannot cope with the total number of prisoners.

Theoretically, working in small groups is good. But if there are two or three programs running in a prison with over one thousand detainees, it means that just a few dozen prisoners are involved in the activity, while the majority have nothing better to do than sit in their room (excepting about one third of the prisoners, who go to work). It is obvious that no progress can be made for successful reinsertion into society. In 1998, the Timișoara Penitentiary did not have **any** employee in the cultural and educational department, whose activities were covered by associations and institutions outside the system. In the same year, at Mărgineni, four educators had to work with 2200 detainees, but the only tangible results were a painting class and HIV/AIDS education project organized by an NGO. A notable exception is Tulcea Penitentiary, where detainees were taken to shows **in town, six times in two years** (1998 and 1999) and an exhibition was organized, **also in town**, with artefacts sculptured by detainees, and with their participation. **There had been no incidents on any of the occasions and detainees behaved very well.** Unfortunately, the other prison managements are obsessed with the fear that something might go wrong, and therefore reject from the start any such initiative. The rule is that detainees stay in, and if someone may come and do something for them, it's all right. If they don't, that's it. The only ones that have been getting more attention over the last few years are juveniles (see chapter "Minors in detention").

Another concern for APADOR-CH is the way detainees are selected to participate in programs/projects. The Association noted that detainees who were not repeated offenders and who did not cause problems to the staff (never complained, never "incited" others to defend their rights, perhaps even provide information on their inmates, etc) were preferred. The same criteria applied when selecting detainees for programs/projects organized by external organizations, which could not select prisoners themselves. As a result, **repeated offenders - more numerous than first-time offenders - only take part in occasional activities or festivities (religious services, Easter and Christmas events, film projections at the club).** In the opinion of APADOR-CH, **all detainees, but especially the most "difficult" ones must be included in cultural and educational activities, so designed as to arouse their interest and have a positive impact upon them. The Association has repeatedly suggested that detainee should be *consulted* on the nature and content of these activities.** This may be done by having inmates fill up questionnaires.

There is also a problem with **using the spaces for common activities** (clubs, exercise yards) **in an efficient way**, and especially with **the working schedule of the staff.** With rare exceptions, the representatives of APADOR-CH *have not encountered any on-going activity during their visits.* Again, with rare exceptions, *there was no*

activity organized in the afternoon. In fact, the cultural and educational department employees spend 3-4 hours a day working with detainees, till lunchtime. In some cases, they work for one more hour after lunch and... their day is over! The 12 hour program followed by 48 hours off duty is not appropriate. Each educator is in charge with certain programs that cannot be passed on to their colleagues. Most detainee programs last for *three months, with weekly sessions lasting for one and a half or at most two hours.* Adding up, it turns out that the effective participation of detainee in a three months program **totals at most 24 hours.**

Therefore, **there are too few people involved and they work for too few hours. Under such circumstances, it is hard to believe that cultural and educational activities may have any effect on detainees.** Moreover, activities only take place at the club or in exercise yards. Educators **never go into detention rooms, where the only contacts with inmates are through the cell's peephole.** Few were those who admitted that they were simply *afraid.* APADOR-CH reminds that **working with detainees is a higher risk profession, but the members of the penitentiary staff are aware of the risks when committing to the job.** Those who do not have the physical and mental strength for this difficult profession should try something else.

Another concern for the Association is the lack of cultural and educational programs for long term detainees, mainly for lifers (who actually become eligible for parole after serving 20 years of their prison term). In fact, "lifers" (about 120 detainees, mostly concentrated at the Rahova and Craiova Penitentiaries) are completely isolated from the others, including during the open-air exercise. APADOR-CH suggested that lifers and long term detainees (over 10 years) should participate *together* in the few activities organized for the two categories, including the daily exercise. Apart from the fact that this is the current practice in high security or closed prisons from several European countries (a long term or life detainee is not automatically sent to a high-security prison. And if his behaviour is good, he may be transferred to an open regime prison), it would also be a simple and costless modality to reduce the terrible stress endured by detainees, due to their long (lifetime) cohabitation with the same inmates and to the lack of activity. An example to follow is that of the women-only facility at Târgșor, *where the three lifers and long-term prisoners are not separated in any way from the others.* Moreover, long-term prisoners and lifers need special therapy, which they often don't get because there are not enough psychologists in the penitentiary system. The only psychologist working at Rahova Penitentiary cannot cope with the requirements of so many detainees, no matter how well trained and strong he was.

3.2. Daily exercise

Law no. 23/1969 on the execution of custodial sentences, still in effect at the end of 2004³, provided “minimum 30 minutes” for the daily outdoor exercise of detainees in both prisons and police custody, while international standards provide “at least **one hour**”. Besides, in the Romanian penitentiary system the exercise does **not** take place every day. Usually, prisoners are taken outdoors 4 days a week; one day is bath day and Saturdays and Sundays are reserved for “administrative activities” (cleaning the rooms). The representatives of the Association have also encountered cases when not even the half-hour of exercise was granted. At Iași prison in 2001, for instance, detainees went outdoors only twice a week. So did they at Galați, in 2002, although the prison had three exercise yards and a football field. “Lack of personnel” was **not** a plausible explanation in either case. There are other understaffed penitentiaries, but they have found solutions (as have Tulcea or Mărgineni) not to deprive prisoners of their daily exercise.

APADOR-CH points out that the prisoners should go outdoors for at least one hour every day. A more careful scheduling would also allow the staff to take them out during the afternoon (the exercise hour is scheduled in the morning in most penitentiaries). **The Association also asks that prison staff – and first of all the staff of the cultural and educational departments – should initiate various games and sporting activities** (other than football, for which some prisons have made special field and a separate schedule) **to use the 60 minutes for real physical exercise, not just standing outside and, possibly, “walking” (stepping around in a circle, following draconic discipline rules: no stepping out, no talking, detainees are taken back to their rooms at the slightest incident, etc.).** If the weather does not permit outdoor activities, these must be replaced by exercise at the gym (if there is one) or at least at the club. APADOR-CH reminds that Tulcea Penitentiary, for instance, has a “fitness gym”, although it is not clear who and when is allowed to use it. The situation is similar at Giurgiu, though the equipment here was bought by *one of the detainees* who, in 2004, could not enjoy his own “investment” (apparently, no prisoner used the gym).

Recommendations:

- 1. Limiting the activity of Orthodox priests to providing religious assistance to prisoners of Orthodox faith. Any other attributions or interference of the Orthodox priests in the affairs of other religious cults may generate discriminating treatment;**
- 2. Creating extra positions in the cultural and educational departments, especially for psychologists, so that all detainees may have access to therapy and participate into educational and cultural activities;**

³ See footnote no. 1

3. Involving problem cases such as dangerous detainees or lifers in cultural and educational activities;
4. Involving detainees in designing some of the activities, to make sure these will trigger some interest on their part;
5. Observing the one hour program for outdoor exercise and diversifying the sports activities for prisoners.

4. Conflicts among detainees

Serious conflicts among prisoners are “homicide” and “serious injuries”. In 1999, there were 3 homicides, between 2000 and 2002 there was one case every year and in 2003 there was none. “Serious injuries” reached an all-time high in 2001 (378 cases), then dropped to 72 in 2002 and to 68 in 2003. There is still a lot of fighting going on, but not followed by complaints to the prison management, and therefore not sanctioned. In 1996, for instance, detainee R.T. was brought to the Jilava Hospital with a broken jaw. He had been beaten by one (or more) inmates, but had categorically refused to identify the perpetrator. Another instance: in 2003, minor C.A.H., who committed suicide at Botoșani Penitentiary, had been beaten by room mates (as declared by a minor from the same room) but had been afraid to complain.

APADOR-CH would not – and could not – investigate the **reasons** that have generated and still generate conflicts among detainees. However, there are some indications, gathered during the 10 years of visits to penitentiaries, which may be interpreted as essential or subsidiary causes for the state of conflict among prisoners. Except for the primary cause – overcrowding, and its corollaries (poor conditions of accommodation, hygiene, lack of activity, etc.), all contributing to a state of permanent tension among detainees and between them and the staff – there are also other sources of conflict such as:

4.1. Dealing

Commodities dealing among detainees includes mainly cigarettes, food, drinks, but also clothes, cosmetics and even drugs. In prisons, anything can be exchanged for anything (inmates do not handle money; the payment for their work, money sent by family and friends, coming in by mail or brought over during visits are placed into an account with the prison management). The “in-house trade” generates conflicts which sometimes turn violent if one part feel cheated by the other (in 2004, Ionuț Maftel, imprisoned at the Iași Penitentiary, died in extremely strange circumstances while he was attempting to exchange a hat for some cigarettes with a prisoner in the neighbouring cell). **The question is whether and how the dealing can be kept under control and, of course, whether the members of the staff can or cannot be “bought”.** The DGP yearly statistic book for 1999, included, under the heading

“events involving penitentiary staff” a category named “inappropriate interaction with detainees or their families”. Two officers and 24 petty officers were found guilty of such relations, which actually refer to bribes and undue advantages. Over the following years, the number of prison staff sanctioned for such behaviour went from 22 in 2001 to 15 in 2003.

In 2001, a drug dealing network, involving at least one supervisor, was discovered at the Jilava Penitentiary. It is known that some detainees use **cell phones, which are totally prohibited in prisons** (all visitors must leave their cell phones before entering). This would not be possible without the complicity of guards.

4.2. Sexual relations among detainees

Until the year 2000, penitentiary staff categorically refused to discuss the matter, claiming that such relations “do not exist in this place”. It is true that some prison doctors (who went for training in European countries or at least met their Western colleagues) admitted the existence of same sex relationships and even accepted the Association’s idea of distributing condoms. APADOR-CH, a stark supporter of non-incrimination with regard to same sex relations (only accomplished in 2001), is more concerned about the cases of rape.

The penitentiary system makes it very difficult, if not impossible, for a detainee who has been raped to file a credible complaint. The procedure is complicated even in freedom, an even more so for prisoners. A detainee who has been raped by one or several inmates must report immediately to the prison doctor or to the governor. The latter must inform the prosecutor in charge of the penitentiary, who, in turn, must require a forensic exam, the only type of evidence accepted in a criminal case. All these may happen on condition that the doctor, the prison management and the prosecutor **consider the complaint as credible. This bureaucratic cycle must be closed in about 24 hours.** After that deadline, the forensic exam may become irrelevant, **unless the victim has lesions.**

Apart from the procedural difficulties, the vast majority of prisoners who fall victims of rape have other reasons **not to fill complaints against the perpetrators. It is almost impossible to keep such a complaint – or any other complaint made by one detainee against another – a secret. The others are sure to find out and** the plaintiff may be “punished” at any moment. The protection offered by moving the prisoner to another room or even to another penitentiary is an illusion. Detainees throughout the country find out immediately who was brought in, wherefrom and why, and reprisals may take place at any time.

APADOR-CH is persuaded that **sexual abuse is a practice** in Romanian penitentiaries (including the women’s penitentiary and women’s sections from other

prisons), but complaints are not filed or, when they are, they are considered unjustified by prison authorities and/or by prosecutors in charge with the execution of custodial sentences.

4.3. Attitude towards homosexual detainees

There is information that homosexual detainees are constantly humiliated by the other inmates. Not only are they sexually abused, but also forced to do all the menial works (cleaning toilets, rubbing the floors, picking up the trash, etc.) as well as all sorts of “jobs” for the “tough guys”, becoming some sort of servants. They are also forced to give away part of their parcels. They seldom complain, and when they do, they do it anonymously. The fear of retaliation is stronger than the suffering they have to endure. Dumitru Chețan, convicted just for being *gay* at a time when same sex relation between adults were still a crime, was one of the few people who accepted to talk openly – after his release – about his traumatizing prison experience, which can be boiled down to three words: rape, abuse, battering.

A somewhat similar story came from a former detainee from Târgșor women-only facility, where in 2004 the place of “tough guys” was taken by “tough girls”. However, when APADOR-Ch visited the penitentiary, none of the prisoners was willing to talk about that. The governor declared that, although she had suspicions, she could not do anything because there had been no complaints.

The system put into place for the protection of detainees from vulnerable categories consists in moving them from one room to another, or to another prison. Another possibility is that the prisoner himself asks to be separated (which is tantamount to isolation until release). In 2004, the representatives of APADOR-CH encountered such a case (a minor from the juvenile centre in Tg. Ocna was isolated, at his request, because of “the attitude of room mates”) Voluntary isolation poses a risk for the mental state of such a detainee, especially a teenager. It should only be use if the detainee is to be released soon.

Besides all these, in the absence of condoms, there is a permanent risk that detainees contract venereal diseases or HIV, or get infection from improvised protection.

APADOR-CH has not registered any complaints regarding abusive behaviour of the staff towards homosexual detainees. One prisoner notified however the Association about n incident that allegedly involved another inmate: in 1998, at Bacău Penitentiary, D.V., known as *gay*, was allegedly forced by guards to masturbate his partner, for the amusement of the watchers. The representatives of APADOR-CH were unable to discuss the incident with D.V., who had been moved to another prison.

4.4. Attitude towards paedophilic detainees

The exact number of detainees accused/convicted for paedophilia is not known. It is only known that they are a small and extremely vulnerable category. Prisoners have their own “hierarchy”, in which paedophilia is considered the most despicable crime. In 2002, detainee Marius Năstase, under preventive detention for having allegedly raped a minor boy, was brought to Vaslui Penitentiary. Soon after his arrival, all the prisoners knew there was a "paedophile" among them. After the 21 days of mandatory quarantine, he was placed in a room with “quiet” inmates. After a few minutes, Năstase was hit so violently by one of the roommates that he died almost instantly. In the opinion of APADOR-CH, the incident may be partly blamed on the prison staff, who failed to foresee and prevent the violent reaction of the “quiet” inmates.

In the same year, at Iași Penitentiary, detainee Kurt Treptow and his accomplice, Tatiana Popovici, involved in a highly publicized paedophilia case, were assaulted by the other inmates. Probably bearing the "Vaslui lesson" in mind, the staff promptly intervened to avoid a tragic ending and calm down the “justiciary enthusiasm” of the others. Their imprisonment was definitely not easy.

Recommendations:

- 1. Including open discussions on sexual orientation other than heterosexuality in the programs so prudishly entitled “sanitary education”;**
- 2. Combating the hostility of prisoners against certain categories of convicts (mainly paedophiles, but also rapists). Detainees must know they *cannot and must not* think themselves as *avengers*;**
- 3. Treating any complaint of abuse among detainees with utmost seriousness. Instructing the staff with regard to their obligation to keep such complaint *confidential*, and imposing severe sanctions against those who don’t would be welcome.**

IV. MINORS IN DETENTION

According to the law, children under 14 have no penal responsibility. Minors between 14 and 16 years old who have committed crimes must undergo a psychiatric assessment, no matter the offence they have committed. For minors between 16 and 18 (when they come of age), the evaluation is only compulsory in the case of serious crimes.

APADOR-CH claims that no juveniles, even if they are aware that they have committed a crime, should be punished by prison. Freedom under (strict) observation, community service (within the limits provided by the law) or fines are alternatives to prison which, in the case of juvenile crime, should make the rule. For very serious crimes, deprivation of freedom should be applied, but only in a correctional facility (an educational measure). The Criminal Code expected to become effective by September 2006 provides alternatives to prison but, unfortunately, also prison terms for juveniles (truly, they are somewhat reduced compared to the 2004 law). APADOR-CH will continue efforts to see this type of punishment abolished.

According to DGP statistics, the number of juveniles detained in the penitentiary system, including juvenile reeducation centres, kept constantly around 1400 during 1999 and 2000, dropped to 9000 in 2003 and reached 851 in 2004. Around 95 % of each year's total number of detainees consists of male juveniles. In most of the cases, the sentences are passed for *theft or robbery* – like in the case of adults.

A juvenile is deprived of freedom if the court sentences him/her to prison (the sentence is carried in Penitentiaries for Youth and Juveniles - PMT and in juvenile sections from regular penitentiaries) or to the educative measure of confinement in a reeducation centre – CRM. The essential difference resides in the duration of terms for juveniles. Confinement in a CRM may last until 18 (with an extended term until 21), while prison terms are clearly limited, and parole may be granted after serving a fraction of the sentence. Moreover, there are only 3 CRM's throughout the country (la Găești, Tg. Ocna and Buziaș, the latter opened in 2004), making it difficult for families to visit. There are only two PMT's, in Craiova and in Tichilești, the latter turned from a CRM to a PMT in late 2002, and therefore problems in keeping connected with families are the same. The vital importance of these connections explains why most penitentiaries in the country have juvenile sections. Yet, the three categories of juvenile detention are very different in terms of detention conditions and chances of reinsertion after release.

1. Reeducation Centres

1.1. Detention conditions in Găești

APADOR-CH visited the Juvenile Centre in Găești in 2000 and 2003. Substantial refurbishment had taken place between the two visits. In 2000, the boy's rooms (a two storey building) had no lavatories; there was a common lavatory on each floor with about 20 sinks and three toilet cabins. The building accommodated almost 400 juveniles, yet there was a single shower room, with 12 showerheads and hot water once a week. The rooms contained no other furniture than metallic beds with old mattresses, as worn-out as were the mandatory uniforms. The girls' unit

(accommodating 28 persons) looked better, but there was only one lavatory with 3 sinks and 3 toilet cabins. And the whole centre was extremely cold.

By 2003, both units had been repaired and refurbished and each room had its own lavatory (sink, shower and toilet), thermo pane windows, wooden beds with orthopaedic mattresses and TV set. Apart from outdoor sport fields (for football, handball or volleyball) and ping-pong tables, the indoor sport facility had also been modernized. The school has also been renovated, with an extra pavilion for the girls. The juveniles, a fourth of the numbers in 2000 (101 boys and 16 girls) were allowed to wear their own clothes.

The cultural and sports activities had multiplied and diversified, both inside and outside the centre (school camps alongside children from “civilian” schools, trips into the nature or into town, meetings with parents who manage to come to the CRM, etc.). The daily activities have become more attractive (classes in the mornings, cultural and educational modules in the afternoons), allowing more time for physical exercise and sport games.

What did not change during those years

a) punishments for breach of regulations

In most cases, infringements are sanctioned by “warning” or “reprimand”. But both in 2000 and in 2003, **confinement was still used as a punishment, an unacceptable penalty for minors, APADOR-CH considers.**

In the year 2000, minors who committed infractions used to be heard by a board, and statements used to be taken from both perpetrators and witnesses. **But they were not brought before the discipline board – the one deciding the punishment – unless they explicitly asked that.** Apart from the fact that many of the minors **ignored this right**, the DGP procedures, even if they often generated confusion, could not be interpreted as depriving the minor of this last defence. That year, for instance, minor F.M. had been sanctioned by 10 days of confinement without having been heard by the discipline board. APADOR-CH representatives looked at penitentiary files pertaining to minors who were sanctioned by up to 10 days of confinement for “irreverent language or gestures” addressed at the guards or technical trainers. During a routine search, minor P.A.L. refused to take off his trousers, because the room was extremely cold. As the guards threatened him, he swore at the penitentiary system, in general, and was therefore sanctioned by 3 days of confinement. Another minor, D.C., received 3 days of confinement for “inappropriate language addressed at the

kitchen staff”. Minor C.C.C. was sanctioned by 10 days of confinement for “swearing”.

In 2003, the deputy manager for education, who was also chairman of the disciplinary board, declared that 10% of the minors had received disciplinary sanctions during that year. Of those, 10 had been sanctioned by confinement, although in a softer version than the adults: sanctioned minors went to school in the morning and attend a special course for “repeated offenders” in the afternoon. Unlike in 2000, minors **were now brought before the disciplinary board**. V.M., who was serving a 10 day confinement sanction, was excluded from afternoon activities because his offence (pushing a teacher) was considered very serious. V.M. had admitted his guilt. Minors from other rooms, who had witnessed the incident, confirmed that V.M. had indeed pushed the teacher, but only **after having been hit by the latter**.

Not surprisingly, girls were also punished by confinement. A.B. was placed on confinement twice: 5 days for insulting a supervisor and 3 days for breaking a window. The record belonged to E.T., who had 23 incident reports, concluded by 13 confinement sanctions, most of which for “irreverent attitude and swearing at the staff”. Moreover, in one instance, the CRM had notified the Prosecutor’s Office because the minor had allegedly thrown a chair at the section representative – also an inmate.

b) the attitude of certain teachers, supervisors and technical trainers

In 2000, minors nominated 4 supervisors and 4 technical trainers who used to punch, kick or hit them with the wooden hammers used for checking the bars. By October 2000, one of the two technical trainers had punched minor D.C.M in the mouth, uprooting a tooth. Everybody knew it, but no steps were taken to sanction the man (the 1999 DGP Statistic Yearbook mentioned that two members of the Găești staff were “transferred to other military units”, without providing a reason, while a third one was sanctioned for “irregular use of arms”, without any further details). Right before the visit made by APADOR-CH (November 10), the second technical trainer had called G.P. a “bloody gypsy” and had filled an incident report only because the minor had made ironical remarks regarding his dress.

In 2003, juveniles did not complain of violence. It is possible that the spectacular drop in numbers at the CRM improved the relations between juveniles and guards, trainers and teachers.

c) Lack of correlation between professional training and the labour market needs

In 2003, boys were able to train as locksmith mechanics and construction workers, whereas girls only as seamstresses. In 2000, options were more numerous (including car bodywork, coil winding, carpentry, etc, besides the ones that were still taught in 2003), but they all provided little chance to find a job after release. Besides, the workshops were as poorly fitted in 2000 as in 2003, with obsolete and worn out equipment. It is obvious that the qualification diplomas hardly helped the trainees get a job.

The cultural and educational modules were more like hobbies, welcome, of course, but unproductive for the future.

d) Medical assistance and food

As in 2000, there was a single GP providing medical assistance in 2003 as well. The second doctor had been on an internship program ever since 1999 (for **5 years**). It is unacceptable that one of 2 medical positions should remain unoccupied for such a long period. A CPT recommendation, expressly made at Găești in 1999, referred to the need for a specialist in child and juvenile psychiatry. No steps had been taken by 2003 to comply with that recommendation. Minor N-L.I. was kept at the CRM infirmary ward after becoming severely depressed. The only treatment he received was medication. A positive fact was that, unlike in the year 2000, juveniles taken to hospitals outside the penitentiary system were no longer handcuffed. But they were still kept under permanent guard (two guards per shift) during the whole stay in hospital.

It should be added that in 2000 the minors had complained about bad and insufficient food. In 2003, some were satisfied with the food, some weren't. The representatives of the Association were able to see for themselves, on both occasions, the lack of hygiene in the kitchen and the poor quality of food, especially the absence of meat (practically, just lard and bones).

e) The presence of adult detainees

From about 90 adult detainees in 2000, the centre had dropped to 23 in 2003. These detainees were age between 21 and 60. The management explained that the adults worked at the animal farm (GAZ) and had no contact whatsoever with the juveniles. It was however unclear whether the GAZ was as large as in 2000, since the number of workers had dropped by two thirds in 3 years.

1.2. Detention conditions at CRM Tg. Ocna

Reopened in August 2001, the reeducation centre functioned in 2004 in the same building as the School for Penitentiary Non-Commissioned Officers. The students

and the 71 minors confined at the CRM were accommodated separately on the two floors of the dorm unit, learned in the same building and shared the canteen. On their floor, juveniles were free to circulate from one room to another, to the club, lavatory, food storeroom, reading room and educational activities hall, which were all perfectly functional. Minors were accompanied by guards only when they left the floor. A notable thing was the partnership between the CRM and the School, which placed a minor under the care of each student – and obviously generated a relaxed atmosphere. To these we may add the genuine preoccupation of the CRM for the education of juveniles and for training them in sought after trades, as well as an impressive list of educational and cultural activities that took place inside and **outside** the centre. Therefore, conditions were good or very good. However, there were some more or less serious negative aspects.

a) *The uniform*

Minors had to wear a uniform inside and a different one outside the centre. The clothes were decent, but still meant to inhibit - by clothing details - the personality of juveniles and label them as “criminals” among outsiders.

b) *The regime of sanctions for breach of Interior Regulations*

In 2003, 11.5% of the juveniles had been sanctioned by **reprimand or confinement, the latter in cases of physical violence against their colleagues (4 cases in the second semester of 2003)**. H.D. received 5 days of confinement in 2004 for having allegedly beaten a colleague. He said he had not hit anyone, but a non-commissioned officer had signed an incident report against him. He was brought before the discipline board but afterwards failed to contest the sanction because he didn't know he could. D.V.I. was sanctioned by 10 days of confinement for fighting a colleague in January 2004 (the director explained that the minor had had repeatedly infringed the regulations). But he was placed under confinement for **4 days** before the sanction was decided, so that, in the end, **the punishment totalled 14 days**.

A very special case was that of minor D.C.A., 15, a homosexual who had requested to be separated from the rest of the juveniles **because of their attitude**. The representatives of the Association noted that D.C.A. had lunch on his own at a table. The minor did not provide any information or detail regarding the hostile behaviour of his colleagues, but preferred to avoid watching TV since this meant going to the club, where other minors went. APADOR-CH **considers that a psychologist** (there are 4 psychologists working at the CRM) **could have attenuated - or even eliminated – the hostility of the other minors towards D.C.A. and his fears. The Association believes that D.C.A.'s voluntary isolation is a traumatic experience with unforeseeable effects on the boy's adult life.**

c) *Close-shaving the minors' heads*

The 21 days quarantine period is compulsory for all persons brought into the penitentiary system, including at the CRM. The three weeks include medical check-ups, learning regulations and getting familiarized with detention. The quarantine room at CRM Tg. Ocna accommodated 8 minors who had been *close-shaved upon arrival, although none of them had had lice or other parasites*. Having one's head shaved is considered as degrading **treatment and is no longer used in the Romanian penitentiary system unless in exceptional situations decided by doctors**. But even the centre's doctor admitted this case had nothing to do with hygiene. No one was able to offer an explanation for the "initiative"

d) *The attitude of CRM staff towards minors*

In January 2003, three non-commissioned officers beat a minor with the clubs. The sanctions against the perpetrators (community work, a mention in the personal file and removal from guarding duty) were *insufficient. It would have been an example for all members of the penitentiary staff if they were fired and sent to justice, as it should have but unfortunately did not happen*.

1.3. Detention conditions at CRM/PMT Tichilești

CRM Tichilești was visited by APADOR-CH in 2000 and 2003. Actually, on the second visit the centre had already been transformed into a penitentiary for juveniles and youth (the change of status took place in November 2002).

The year 2000

During their visit in 2000, the representatives of APADOR-CH noted several serious and very serious aspects. First of all, the water was not running, due to break the previous. The CRM had experienced such problems before and there was a risk that the thermal plant be also closed. Secondly, although it was April, juveniles were still in their winter uniforms – dirty and worn out. This was because the CRM Tichilești observed an anachronistic 1972 decree, stipulating that prison uniforms were mandatory. An unexplained aspect was the unhinged window panes. "To air the rooms", the staff explained. *Why unhinged and not just opened? And why two of the window panes were in the rooms and the other two had gone missing? While in another room, one of the three panes was missing and another was broken, with the wooden frame damaged?* Besides these oddities, the representatives of the Association also found torn and dirty mattresses, worn out bed sheets, broken toilets. There was no canteen and minors had to eat in their rooms. There was no payphone either. The daily schedule was so busy that minors had no time for recreation, as their

age would have required. Moreover, the staff showed an obvious lack of interest in organizing any activity besides the rigid schedule, either inside or outside the CRM. The worst situation was in confinement rooms. One of the two confinement rooms accommodated **7 minors on 6 beds and just 4 mattresses. Minors slept huddled together due to the lack of mattresses and the cold.** Although the management claimed that all minors who disobeyed the regulations were heard by the board, M.S. - accused of having insulted a teacher – had been **on confinement for 8 days without any hearing or decision of the discipline board. “Confinement pending the board’s decision”, was the explanation,** based on the erroneous interpretation of a DGP order. **The days spent by M.S. in confinement were *not* going to be deducted from the total number decided by the board. In other words, if M.S. was going to be sanctioned by 10 days of confinement, he would have done a total of 18 days in the end.** Another minor in the same room, O.A., had been in a similar situation, but “only” for 6 days, for having slapped a colleague. In the second confinement room, there were, quite inexplicably, only **3 minors on 6 beds**, two of whom had received **5 days of confinement** for having broken – “by mistake” they said – a blackboard.

As a result of the visit, APADOR-CH reached the following conclusions: a) very poor hygiene and sanitary conditions; b) lack of interest for the reeducation and preparation of minors for reinsertion into society; c) exaggerated use of *punitive* tactics that did not serve the educative purpose of confinement.

It must also be said that **almost half of the CRM effectives were adult detainees brought to Tichilești "for work"**. But the representatives of the Association found at the infirmary ward, an adult detainee serving an 8 year definitive sentence and **unable to work.** Consequently, his presence in the centre was completely unjustified.

The Year 2003

On the following visit by APADOR-CH, in 2003, Tichilești had become a penitentiary for juveniles and youth (PMT). Some improvements were already visible, while some were planned for 2004 (building 2 extra detention units, with rooms accommodating at most 4 detainees; rehabilitating the water pipe system, etc.). Among the successes: the canteen, a public payphone, a more flexible schedule, special programs for those about to be released, running water, activities that take the minors outside the prison (visiting institutions and associations that may help their reinsertion after release, planting trees, etc.). Such progress was also possible due the substantial decrease in the numbers of juveniles and youth (a total of 198, of whom 22 detainees aged 18-19). At the same time, the number of adult detainees was cut down **to a tenth of year 2000 level (now 20, all working on the farm, where they are also accommodated).** This raises (again) the question: why the same farm tended

in 2003 by 20 people required in 2000 a force of 220 detainees, for the same activities?

What was not solved between the two visits?

a) Clothing

Minors and young detainees had been allowed to wear their own clothes, but had to put on **gowns** over their clothes when they went to the visitation area. “So they don’t mix with visitors and escape”, the staff explained; a hypothetical risk, of course. As gowns, too, are uniforms, the juveniles appeared before their families wearing a “stigma” of their crime, a source of discomfort for both sides.

b) Cold and scabies

As in the year 2000, the whole penitentiary, including the infirmary ward, was cold. In some of the rooms, the representatives of the Association found the same old mattresses (“full of lice”, as the minors said) as in 2000. A most concerning thing, there were cases of scabies among the inmates. As a first measure against scabies, detainees showered twice a week, as compared to once a week, the general rule of the penitentiary system. Minor A.G., brought to Tichilești 5 months earlier, had contracted scabies all over his body. Other two scabies patients were kept at the infirmary ward. It was clear that bi-weekly showers were not enough to prevent the spread of the disease, as long as worn-out mattresses were not replaced. Moreover, minors said that the shower time was too short (between 3 and 10 minutes). Besides, there was an unbearably foul smell coming from the sewage pipes.

c) The regime of sanctions

Sanctions by confinement also continued in 2003. Minors C.C. and C.-N.C. had been sanctioned by 5, respectively 10 (subsequently reduced to 4) days of confinement for having broken some windows. A very **serious** fact was that they and two other colleagues (D.T. and R.B.) **were handcuffed to their beds for a day and a night, which is unacceptable.** The fact that four minors declared being handcuffed at different times for different reasons indicates that **this is, quite unacceptably, an ongoing practice of the PMT staff.**

d) The attitude towards detainees

In 2003, the representatives of APADOR-CH received no complaints from the minors with regard to the behaviour of teachers and trainers. However, quite a number of minors complained about abusive behaviour from the guards. **The most severe abuse was handcuffing. There have also been two cases of battering. Moreover, there**

were cases when, during routine searches, non-commissioned officers cut the mattresses open and took the filling out, then forced the minors to put them together again. This abusive behaviour is tantamount to *inhuman and degrading treatment, while also putting the minors' health into jeopardy, since old, filthy mattresses are known to be sources of infection.*

e) The professional training of minors

Although some of the trades less sought after on the labour market have been abandoned, the PMT professional training list fails to include **any of the three most required qualifications (apparel worker, masonry worker – plasterer and house painter)** established by the Brăila County Labour Agency. The penitentiary still used the old system of choosing the trades *by the technology available in the already obsolete workshops of the facility, not by the offer/request evolution of the free market.* Under such circumstances, it was hard to imagine that minors released after such training would have any real chance to find a job, an essential condition for their social reinsertion and prevention of repeated offences. The PMT had tried to introduce, in collaboration with the County Labour Agency, qualification courses (lasting 3 months or one year) in more sought after trades, but had not managed to solve the matter of graduation diplomas.

1.4. CRM Buziaş

Inaugurated in 2004, the centre was visited by APADOR-CH in June, when the minors had not been brought in yet. Therefore, excepting a general impression of the very good accommodation, the Association is unable to formulate any opinions on the detention regime.

Recommendations for reeducation centres:

- 1. Abandoning uniforms;**
- 2. Abandoning sanctions for infringements of the Interior Regulation, or at least abandoning confinement sanctions. Rewards like praise, leaves, outings with the family, may have much more influence upon juveniles than sanctions do;**
- 3. Completely prohibiting the use of handcuffs against minors, *no matter what they did.* If a minor becomes aggressive, he/she needs to be restrained by other means *than the use of force or handcuffs.* Also, penitentiary staff that uses handcuffs to restrain minors must be *immediately released from duty and indicted for inhuman treatment;***
- 4. Sanctioning staff members in charge with hygiene and sanitary conditions (see the Tichileşti case);**

5. **Urgently modifying the professional training list to include trades requested by the labour market;**
6. **Encouraging contacts between minors and the outside world. The CRM Tg. Ocna is an example with good potential for development;**
7. **Abandoning the practice of extending terms for those who come of age (up to 21 years). The criterion used in 2004 – extending the term of stay for detainees who undertook a course - is irrelevant, and three extra years spent in the centre provide no guarantee that the young detainee would not become a repeated offender. Moreover, cohabitation – even though partial – of minors with young detainees who have come of age – may be detrimental to the former;**
8. **Paying special attention to sex education, since 14-16 is a critical age for teenagers. As far as the Association knows, sporadic “sanitary education” courses are held, which are not enough for minors who are deprived of freedom and forced to live together for months or even years, exactly in the period when sexual instincts arise and mature. It would be advisable that mixed teams of doctors, educators and psychologists prepared attractive programs that *encouraged the minors to ask questions and openly discuss such matters.***

2. The Juvenile and Youth Penitentiary (PMT) Craiova

Before 1997, PMT Craiova was a reeducation centre. APADOR-CH visited the penitentiary in 1999 and twice in 2004. The reason for the second visit is presented in a separate chapter.

As in reeducation centres, the juvenile penitentiaries are focused on training, including professional courses. The problems are very much the same: the professional training list is out of touch with the requirements of the labour market, the technical equipment is obsolete and trainees are selected according to the available trainers and workshops, not according to their own wishes and abilities. There have been attempts at providing the juveniles a chance to learn a more sought after trade – either initiatives of the detention facility in collaboration with local authorities, or courses offered by NGO’s. Unfortunately, the issue of professional certificates remained unsolved throughout 2004.

School goes from 1st to 8th grade (and there is one 9th grade), plus separate literacy courses. The number of illiterate juveniles in the whole penitentiary system went up to 200 in 2003, and as many had only graduated primary school (1st to 4th grade).

The key difference between PMT’s and CRM’s consists of the much stricter detention regime of the penitentiary. Actually, the PMT applies the same Interior

Regulation as regular prisons, with some exceptions, the most notable of which is the participation of juveniles and young detainees in activities **outside the detention place** – though less often than those in a CRM.

Detainees at PMT Craiova (male only) are minors sentenced by the court to limited prison terms, minors transferred temporarily from reeducation centres pending trial, young detainees (18 to 21) transferred from CRM's upon coming of age or placed in a PMT by court decision, but also **adult detainees**, who do some of the work.

What was not solved in the years between the visits?

i. Overcrowding

In 1999, PMT Craiova had 558 functional beds and accommodated 308 minors and 264 young detainees (the total was 572, already more than the number of beds), plus **101 adult detainees working for the capital** repairs at one of the buildings. Of course, adults were kept separately.

Extra beds had been brought in, so that the vital space for each detainee was substantially reduced. Therefore, it was no surprise for APADOR-CH representatives to find a room where 21 juveniles slept in 8 beds and another where 28 juveniles shared 21 beds. A high number of minors (110) has recently arrived at the PMT and were in quarantine for 21 days. There was a single educator to prepare all of them for life in detention (mainly to explain the interior regulations). The representatives of the Association could not understand **why the management had not appointed at least another of the 16 educators employed by the PMT to handle this massive “wave” of new arrivals.**

In June 2004, the situation had improved but was still unsatisfactory. 100 minors, 196 young detainees and 36 adults were accommodated in groups of 10-14 in rooms of up to 25 sq. m, which meant about 2-2.5 sq m for each. Moreover, due to an engineering error, the lavatories in each room **had not been provided with a floor drainage system** during the capital repairs in 1999 and 2000. As water failed to drain, juveniles had a hard time washing themselves at the sink (there were no showers in the rooms). Surprisingly, although the situation had been the same for 4 years, no steps had been taken and, as far as APADOR-Ch understood, **no one had been made answerable for the mistake.**

ii. Punishments

In 1999, the “punishment” report system was still in place (the guard who noted an infringement of the regulation also established the sanction, which was usually confirmed by the management). In 2004, the procedure included “incident” reports

(the guard described the incident and the discipline board decided the sanction, following hearings). According to the PMT governor, no detainee had been placed on confinement since the end of year 2003. However, unlike in 1999, the PMT had now introduced, as had the whole penitentiary system – **the category of “dangerous” detainees**. In June 2004, 8 juveniles and a young detainee had been classified as “dangerous”, mainly after the deed they were serving time for, and had been separated from the rest. As in the case of adults, “dangerous” minors were **handcuffed when taken out of the prison perimeter**. Moreover, as **chains had been reintroduced in 2003, dubbed as “means of safe restraint”, APADOR-CH remained unconvinced that these were not used on minors as well, despite all assurances offered by the PMT management.**

iii. Handcuffing ailing detainees

Another situation when minors are **handcuffed is when they are taken to hospitals outside the penitentiary system. Just like adult detainees, minors and young detainees from the PMT are not just handcuffed to their beds, but also permanently guarded by two petty officers during the whole duration of their stay in hospital** (minors in reeducation centres are **not** handcuffed in hospital, but merely guarded). APADOR-CH **considers unacceptable that any ailing detainee should be handcuffed during his/her stay in a “civilian” hospital, not to mention juveniles.**

Although the cultural and educational programs were more attractive in 2004 than they had been in 1999 (two programs for detainees about to be released), other problems had not been solved. They are summarized below, in the report on the second visit made in 2004 to PMT Craiova.

The 2004 fire incident at PMT Craiova

On September 24, 2004, **six juveniles at the Juvenile and Youth Penitentiary in Craiova set their room on fire as a protest**. The fire raged out of control and **five of the juveniles suffered severe burns – fatal for three of them**. On October 1st, 2004, two representatives of APADOR-CH went to the penitentiary to conduct independent investigations on the case.

The six minors in room 36, where the fire took place, were: Ionuț Dumitru Pleșa (born on January 8, 1987, dead at the County Hospital from his burns, the room representative); Constantin Viorel Stamatie (born on September 1st, 1987, died in hospital from his burns); Szasz Nika Attila (born on December 1st, 1986, severely injured in the fire); Marius Poienar (born on March 23rd, 1987, died in hospital from

his burns); Florin Marin Gălan (born on July 25th, 1988, severely injured); Constantin Lucian Mititelu (born on April 18th, 1987, escaped with minor injuries).

Of all these detainees, Stamatie was the one with recurrent disciplinary problems. During his almost 6 month stay at Găești, the juvenile had been sanctioned 5 times: four times by “reprimand in front of the group”, plus three days of solitary confinement after the juvenile actually obstructed the door of the room. As a consequence, both prison staff and SIPA agents (of the Independent Antiterrorist and Protection Service – in fact, the much debated “secret service” of the Ministry of Justice) **knew** that Stamatie had used door obstruction as a form of protest. Moreover, after being transferred to the penitentiary, the juvenile was sanctioned again for breaking regulations, including for “disrespectful attitude to the officer on duty”. APADOR-CH considered that at least 4 of the 7 sanctions were too readily imposed by the staff in Găești and at the penitentiary. Stamatie might have been a difficult detainee. **But that was exactly why the staff from the Găești Centre and the Juvenile Penitentiary should have sought the appropriate methods to help him. In prison, the only “help” had come from the psychologist, who had allegedly tried to determine Stamatie “to change his attitude”. Repeated sanctions, especially for mere misdemeanours, can only have a reverse effect on a juvenile. APADOR-CH notes once more that only “good” detainees (those who do not pose problems) are included in penitentiary educational projects/programs, while the “bad” ones are left in their rooms for 23 hours out of 24, with no activity whatsoever. Or it is exactly the latter category that should benefit from more attention. Even in the case of NGO-run projects, detainees are still selected by the prison management, according to the same criteria.**

By corroborating the stories told by the various participants, it resulted that the protest was sparked by deficiencies in the administration of the warehouse. Ionuț Dumitru Pleșa had received a parcel from his family but was unable to claim it because his name had been misspelled. Convinced that his garments had been stolen – such complaints had been heard of in many penitentiaries – the minor complained to a supervisor, who assured him the problem would be “fixed” by 15.00-15.30, according to some witnesses, or by 19.00 hours according to others. Ionuț Dumitru Pleșa would not wait that long and decided to stage a protest. Most probably, the garments he received were meant to be exchanged, and Pleșa had seen himself unable to keep his part of the deal.

It’s also important to remind the fact that Pleșa had expressed his anger at not having got his parcel loudly, during lunch at the canteen. Of course, no one could have foreseen the dimensions of his protest, but things could have been prevented if someone checked, in front of the boy, whether the parcel really existed and what had become of it. After all, it all boils down to the attitude of contempt and indifference towards detainees and their apparently petty problems.

Pleșa staged his protest, with the help of room mates, after lunch. They barricaded the door, piled the mattresses in front of the windows and broke all the window panes. A supervisor came right away, saw that the door was blocked, asked the juveniles what their demands were and they answered that they would only talk to the commander (in fact, the governor). According to procedures, in such cases the management must be informed, “negotiations” must take place and, if no deal is reached, the guards may break in. The supervisor informed his colleagues and superiors (the governor was not at the penitentiary and only got there around 15.00, after the incident), which took, he maintained, “about one minute”. When he came back to room 36, he heard screams, because the juveniles had set fire to the mattresses - the re-enactment of the fire showed that a synthetic foam mattress burns in 1 minute and 50 seconds, producing unbearable heat and smoke - which determined him to take immediate action.

The six minors were taken out of the room but the thick smoke invaded the corridor and reached neighbouring rooms, creating panic among detainees. According to statements made by the current management of the penitentiary, the juveniles were immediately taken to the infirmary ward and the SMURD ambulance service was called. The whole operation, from the first attempt to open the door to the moment when five of the juveniles – Constantin Lucian Mititelu escaped with only slight injuries - were sent to the County Emergency Hospital, was said to have lasted for 15-20 minutes.

Three of the five minors died at the County Emergency Hospital. The other two were still in serious condition at the time when the representatives of APADOR-CH visited.

As a result of this incident, the governor and the chief of Security were replaced.

APADOR-CH identified the following general aspects that had an impact on the Craiova incident.

a) The atmosphere at PMT Craiova

- On the day of the visit by APADOR-CH, **tensions within the penitentiary were almost “material”, both among detainees and between them and the staff.** One of the causes, apparently unimportant but actually crucial for detainees, was the fear that “*in-house barter*” was going to be banned. The barter system is widespread in Romanian penitentiaries, but also in prisons from democratic countries, **the only issue being that such exchanges should be closely observed and kept under control. Otherwise, crises (beatings and violence among detainees) or even tragedies may occur (like at PMT Craiova or at the Iași penitentiary, where a 23 year old detainee was killed last summer).** *In-house trade* cannot and must not be

prohibited, at least not as long as the prison management is unable to provide detainees with decent food and clothing, radio and TV sets, bed linen and personal effects, etc.

Cigarettes remain the ultimate commodity for barter in prisons. **Irrespective of European tendencies, restrictions or recommendations, many detainees are smokers, including, unfortunately, many juveniles. All six juveniles in Room 36 were smokers.** The representatives of APADOR-CH believe that the trainers and sports outfit in Pleșa's parcel were going to be bartered, mainly for cigarettes. That is why Pleșa was so angry: for not being able to "keep his part of the deal". **The Association agrees in principle that smoking should be banned among juveniles, but the real effects of such a ban are two major dangers: a) to their health, since in the absence of cigarettes, juveniles end by "smoking" anything (rags, saw-dust from windows and doors, fillings from mattresses, etc) which are far more noxious than tobacco; b) to the safety of detainees and of the detention place, since tensions created by such a ban may erupt into violence, as was the case at PMT Craiova.**

b) The lack of interest for the reeducation of detainees

As shown before, "bad" detainees are generally excluded from educational programs/projects. NGOs which run projects in penitentiaries are unable to fill the gap left by the absence of permanent educational programs for **all** detainees. Of course, penitentiaries have limited human and material resources, but even the existing ones are not used properly (there are rooms that stay empty instead of being used for various activities, the staff of the cultural and educational department work until 15.00, so that there are no activities in the afternoon, not to mention the two hour lunch break). APADOR-CH has asked the DGP to reshape the whole cultural and educational schedule, so that space and time are more wisely used and the specialized staff is encouraged to take initiatives and make activities more attractive for detainees, and especially for juveniles. **Of course, an increased number of specialized personnel are absolutely necessary.**

PMT Craiova employs only one psychologist and one social worker for the over 330 detainees (over one hundred minors and the rest young detainees, mostly between 18-21 years old).

c) The temporary transfer of minors to prisons

There is also the problem of juveniles who have been sentenced to confinement into a reeducation centre (**an educational measure**) and who are temporarily transferred to penitentiaries during court trials for **other** offences. APADOR-CH points out that juveniles are transferred **within the constituency of the court of justice – to either a**

juvenile or adult penitentiary - and their stay may last for months. Thus, the reeducation activities are interrupted (the reeducation centre offers a different regime) and any progress is lost. As an alternative solution, **juveniles from reeducation centres could be brought directly before the court on the day of the hearing** (at present, they have to spend the whole duration of the trial in prison). Of course, the solution is costly and requires more effort, but the Association is convinced that its effects would be beneficial for the juveniles. Another possible solution would be to transfer all criminal trials involving minors from reeducation centres to nearby courts. This option should also be taken into account when future juvenile tribunals are created. By the end of 2004, a juvenile court had been created in Braşov (the nearest CRM – at Găeşti – is 150 km away).

d) The efficiency of the Probation Services

The development of Social Reinsertion and Observation (Probation) Services (SRSS) is equally important. For the moment, such services only function in county capitals and employ two or three counsellors each, not enough, of course, to cover the existing attributions. In fact, their whole activity now consists of drawing assessment reports at the request of courts and of monitoring detainees for whom the court decided the suspension of the penalty's execution under observation. The Services are hardly at all involved in any reeducation activities in prisons or juvenile centres (with the applauded exception of SRSS Arad). **Since, according to the law, the SRSS must also give assistance to adult detainees, before and after release, and, more recently, to victims of crimes, APADOR-CH asks the Ministry of Justice, which coordinates the SRSS, to take urgent steps to increase the number of employees and provide them with the equipment and materials they need to effectively do their job.**

Recommendations for juvenile prisons:

- 1. Completely abandoning the practice of handcuffing minors, *irrespective of the circumstances* (ailing, transferred, “dangerous”, out of penitentiary premises, etc.);**
- 2. Abandoning the practice of sanctioning minors by confinement. “Isolation from the group” should be strictly interpreted as *transfer* to another detention room;**
- 3. Abandoning the practice of classifying minors as “dangerous” detainees. The nature of their deed should not be considered a criterion for classification, while their behaviour under custody must be monitored and improved tactfully and understandingly by the staff, especially that from the cultural and educational department;**
- 4. Including all minors in *long-term* cultural and educational programs, *especially difficult personalities*;**

5. Obliging the staff to pay attention and solve – within the limit of their competencies – any problem detainees might have, even if it might appear as petty;

6. Reconsidering the status of minors temporarily transferred from a reeducation centre to a PMT pending trial. The best solution is bringing juveniles from CRM's directly before the court. Transferring them from the centre to a PMT – or to juvenile sections in adult prisons – for the whole duration of the trial, that is for months or even years, may severely jeopardize previous reeducation efforts.

3. Juvenile sections in adult prisons

Most adult penitentiaries also include juvenile sections, theoretically completely separated. There are however cases when the number of juveniles is too small to create sections, or even to fill a separate room. Many of the minors in adult prisons are pending trials, after which they are moved to a CRM or PMT. There are also minors serving definitive sentences in prisons, so they can be closer to their families. Most juveniles in detention come from poor families who cannot afford visits to the CRM or PMT (involving transportation fees, perhaps accommodation, etc.). Another advantage of adult prisons is the special attentions minors here get from the SRSS, the authorities and local NGO's in view of their social reinsertion (they are in relatively small numbers and easier to work with). Unfortunately, these advantages are counterbalanced by numerous disadvantages such as overcrowding (absent in CRM's and bearable in PMT's), disruption of the education process, reduced cultural activities. To these, one must add the bad influence of contacts with adult detainees, which, despite regulations, remains unavoidable.

Overcrowding has constantly decreased over the ten years in which APADOR-CH visited the penitentiaries. However, the Association's statistics clearly indicated that detention conditions in adult prisons in general, and particularly for minors, have remained deplorable. In 1995, the Mândrești-Focșani facility accommodated 55 minors, all **under preventive detention**. In one of their rooms, **18 minors shared 12 beds and a lavatory with 2 toilet cabins and a two-tap wash basin**.

In 1997, at the Colibași Penitentiary, **only 8** of the 1825 detainees **were juveniles**. **Since the number was so small, it is easy to imagine that juveniles had *neither separate accommodation nor* reeducation “programs” in that overcrowded facility**. In Iași, 44 minors (of a total number of 1660 detainees) slept in 30 beds. At Gherla, there were 63 minors (32 shared a room of 27 beds and a single toilet).

A year later (1998), at Bacău, 55 minors from a total number of 1938 detainees slept **four by four, sharing two adjoining beds**. On the same year, in Aiud, there were 60

minors and 2367 adults (with extra bunks on three and even four levels up!). Examples go on over the following years: in 2000, at Mărgineni, 37 minors shared 20 beds; in 2001, at Botoșani, 54 minors shared 30 beds; in 2002, at Ploiești, minors (like young and adult detainees, totalling 1136) slept two in a bed or three in two adjoining beds.

In 2003, minor C.A.H., detained in Botoșani, hanged himself. The Prosecutor's Office investigated the case and concluded that no one was to blame. The minor's roommates told APADOR-CH that the boy was extremely depressed (he had been brought in a week before, from the police custody in Suceava) and believed that his parents would be so angry at him that they would never come to visit. Another minor said that C.A.H. had been beaten by roommates but had not dared complain for fear of retaliation. The representatives of the Association also found out that a few days before C.A.H.'s suicide, two minors in the same room had poisoned themselves with diazepam pills. The management claimed that the boys had tried to "get high". But one of the two, who was still on detention when APADOR-CH visited the facility (in February 2004) declared that he took the drugs as a form of protest against the abusive behaviour of a guard, Claudiu Corman, who had allegedly insulted and hit him with his club. Minors in another room complained that non-commissioned officers Cătălin and Cheptănaru were currently swearing and hitting them, while Chief Sergeant Pintilie used to handcuff them to their beds as a punishment for petty offences (playing in the room, for instance). The Association asked the DGP to investigate the guards whose alleged acts, if proven to be true, are tantamount to **inhuman and degrading treatment**.

All the juveniles at the Botoșani Penitentiary (13) complained about the very bad food (on the day of the visit, the second course consisted of foul smelling cabbage and a few pieces of fat), about being taken out for exercise for 10 to 30 minutes a day, that the educators and psychologist never did any activity with them. The only available activities were the literacy course, and the history and good manners classes, **provided by a teacher from outside the penitentiary system**.

In 2004, the Giurgiu Penitentiary accommodated 12 juveniles. Two of them, serving definitive sentences, slept in a room with a TV set. Their only activity, besides the 45 minutes of outdoor exercise, was watching TV. They were not taken to the club, they did not take part in any educational activities or even literacy courses (one of them was illiterate) and they had no scheduled sports activities. In the neighbouring room, with no TV set, two other minors, also serving definitive sentences, were taken to the club between 14.000 and 17.00 hours, where all they did was watch TV. They were not involved in any activity either. The minors said they **were obliged to wear the prison uniform** during the visits and were **handcuffed** to each other when taken to court.

The Giurgiu Penitentiary was relatively new, but construction works had not been finished by the end of 2004. Accommodation would have been acceptable, but the prison was already overcrowded (1368 detainees in March 2004, occupied 175%, according to the CPT criteria of 4m²/person) and severely understaffed. The cultural and educational department had **only two educators and a psychologist**, who could have barely been made responsible for the lack of activities for juveniles. In the Association's opinion, minors should not have been sent to a penitentiary where they had no chance of learning anything that would help them with their social and family reinsertion after release.

The lack of personnel, especially in the cultural and educational department, is equally severe in other prisons as well. However, some facilities (for instance Codlea, Vaslui, or Bacău), provide more care and attention to the few minors they accommodate, including specially prepared programs.

Recommendations for adult prisons including juvenile sections:

- 1. Promptly investigating the minors' complaints concerning the behaviour of the staff and drastically sanctioning of those found guilty;**
- 2. Instituting the permanent control of the ANP over cultural and educational activities for minors detained in adult facilities and sanctioning lack of concern from the part of the specialized staff and the psychologist (in the Association's opinion, the depression that killed the minor in Botoşani might have been alleviated, had the psychologist paid any attention to it);**
- 3. Sending minors to serve their sentences only to those penitentiaries where special education activities can be organized.**

APADOR-CH states once again that **minors who committed serious crimes, which cannot be sanctioned by any of the alternatives to detention, should be confined exclusively to reeducation centres. Detention condition in juvenile sections or even in PMT's are inappropriate and the time served in such places can only have a negative impact on the minors.**

V. WOMEN IN DETENTION

Women serving time in prison represent about 6-7% of the total number of detainees. According to DGP statistics, the record for 1999-2003 was of 2122 female detainees in 2001, half of whom (1060) had been arrested or convicted for theft (760) and robbery (300).

Although Târgşor is the only prison in the country accommodating exclusively women, the numbers have constantly dropped, as compared to the total number of

women detainees. According to the same statistics, if in 1999 half of the detained women served their terms at Târgșor, only a third did so in 2003. By 2004, when APADOR-CH visited the facility (on July 14), the effectives were of 585 of the 1800 women detained throughout the penitentiary system.

As in the case of minors, there is a women's section in almost every penitentiary. Theoretically, women are kept in those sections pending trial and, once they have a definitive sentence, they are transferred to Târgșor. In fact, many female detainees serve their whole sentence there, most of the times in order to be closer to their families. Minors, excepting those at CRM Găești, are mainly at Târgșor, but also in women's sections from the various penitentiaries. For instance, the DGP Statistic Yearbook for 2002 shows that of the 54 minor female detainees, 9 were at CRM Găești, 4 at Târgșor, 9 at Rahova Penitentiary, 6 at Botoșani, and the remaining 26 in prisons all over the country (one, two or at most three detainees in each place)

1. Detention conditions at Târgșor Penitentiary

APADOR-CH visited the prison in 1998 and 2004. Târgșor is about 20 km away from the city of Ploiești, but access is difficult: one train per day and rare buses. The distance from Ploiești to Târgșor may easily be covered in a car or cab, but many detainees come from poor families and cannot afford either. The prison is a former monastery turned into political prison in 1948 and into a women-only facility in 1952. From then to 1998, the detention units remained the same, with minor maintenance work. After 1998, the new textile plant opened on the premises of the penitentiary. It was only in June 2004 that the facility started reconstruction and modernization works.

The year 1998

In 1998, there were 1013 detainees in 1150 beds, but the regular capacity was of 790 beds. Even the library had been turned into a detention room. As the sole women-only penitentiary, the facility held detainees convicted for the whole range of crimes, from theft to murder. (Before the year 2000, all prisons, including Târgșor, also accommodated persons who served time for petty offences like failing to pay a fine. They served up to 180 days in prison, depending on the quantum of the fine. After APADOR-CH fought for over five years against this totally unproductive procedure, the Government passed in 2000 an Ordinance replacing prison time with community work, as a sanction against late payers. The problem was solved once and for all only in 2003, when the last petty offenders left the prisons following a pardon law).

As concerned medical care, the representatives of the Association noted three aspects: 1. the medical staff consisted of one GP, one dentist and two nurses. **Six hours of the**

59 hour weekly program were devoted to penitentiary staff and their families. It resulted that GP's had 53 hours per week to examine 1013 detainees! Even if the average number of consultations was 60 per day, as the doctor said, it meant 8 minutes for each patient. *And that only if the doctor and nurse worked uninterruptedly, without a minute of break, which is, of course, impossible.* Therefore, a realistic estimate suggested that consultations lasted for 4-5 minutes, **not enough for careful examination; 2. **there was no gynaecologist, a key medical speciality in a prison with over 1000 women**; 3. According to the medical staff, **all detainees brought to Târgșor took HIV tests.** Despite assurances that the women were told exactly what the test meant and they gave their consent for it, APADOR-CH remained unconvinced.**

Conditions to keep clean were poor. About 70% of the detainees worked, either farming the land or at the textile factory. There was a single shower room with 31 showerheads for **all** detainees. Then, there were the minimal sanitary facilities in each room (one or two toilet cabins and water basins with two-to-four taps, some of them out of order).

The area for "normal" visits (that is not open visits, with family and detainee sitting around a table) was inappropriate for the purpose. The plank separating the visitors from detainees was over 2 m wide and placed so high that they could only stand. Moreover, in the "parcel area", the window where the visitor left the parcel made a right angle with the window where the receiver waited to see what the parcel contained. Therefore, detainees were unable to watch the procedure of parcel opening and control.

Cultural and educational activities were few, the library was poor (about 400 titles, mostly unattractive authors) and the club ran one film per month. With only 15 TV sets throughout the prison, detainees **had nothing to fill their time with.** The situation was even worse for the about 3000 detainees who did not go to work, either because they couldn't or wouldn't. For this category of women, the sole activity was the daily outdoor exercise, which usually lasted for 30 minutes, rarely an hour. The main yard also included an improvised volleyball field. Detainees, however, did not seem to play much. The representatives of APADOR-CH were under the impression that the volleyball field, as well as other details (like not having any detainee on confinement), were in fact a last minute "make-up" for the fact that, by an unhappy coincidence, a TV crew was also present on the day of the visit.

Sanctions for the breach of Interior Regulations followed exactly the same lines as in other prisons (see the cases of Mariana Cetiner and Despina Iliescu in subchapter II.3 "Disciplinary sanctions").

One of the chief difficulties for detainees at Târgșor was to **keep in touch with their families**. The long way to the facility and the inappropriate conditions in the visitation area were such as to discourage contacts with relatives, and especially children. The prison management claimed that, when children came, visits took place in a room with tables and chairs.

Finally, we must mention the case of detainee Elisabeta Căldăraru, who had total paralysis on her left side. Before imprisonment, she had had permanent assistance for 8 years. Even though women in her room helped her with her minimal necessities, it was clear that E.C. should have had a suspended sentence or be granted an assistant during detention. Besides, one detainee at the infirmary ward who had severe sight impairment had a permanent assistant (another detainee).

The year 2004

In June, 2004, on the second visit made here by APADOR-CH, many things had changed for the better.

As mentioned, works had started for the demolition of the old pavilion (two wings had been already closed at the moment of the visit), the building of new detention units and the overhauling of the former textile factory into detention areas (a new factory had been built on the premises of the penitentiary) – and expected to last for two years. Connection to the gas pipeline was also planned for 2004. But until then, the penitentiary used light fuel oil for heating and hot water; light fuel was more expensive than methane, which had led to substantial debts and had limited the hot water program to once a week.

About 200 detainees worked in *lohn* system at the textile factory situated on the penitentiary premises, part of the “Multiproduct” Administration (subordinated to the DGP). They were selected following a number of criteria, one of which was, in the opinion of the Association, disproportionate: they had to have graduated at least six grades of school. Of course, the Administration organized six-month mandatory courses for professional tailors. But any detainee who could read and write was theoretically able to go through the courses, where skills were learned by practice. APADOR-CH noticed the obvious difference between the detainees who worked at the factory and those who worked in the field: the former were clean and well-dressed, the latter filthy, wearing “protection gear” (most probably reconditioned military uniforms), their skin dark from the sun but also from being part of a certain minority (Roma)

The Târgșor prison management had opened a release centre (actually, a distinct section of the penitentiary) by taking into administration and renovating a former military unit at Movila Vulpii. About 160 detainees and 40 staff had been moved to

Movila Vulpii, on a semi-open detention regime (free circulation of detainees inside the unit, low security, special social reinsertion programs, etc). It needs to be mentioned that detainees at Movila Vulpii had **at most six months until release** and had been included in special release programs one year before transfer. The centre was the result of cooperation between the penitentiary management and the Social Reinsertion and Observation (Probation) Service in Prahova. The initiative was excellent, but the role played by each part – the cultural educational department of the penitentiary (counting seven people, the technical non-commissioned officer included) on the one hand, and the probation service counting **two counsellors for the entire county**, on the other hand - remained unclear. **APADOR-CH considers that the Ministry of Justice should increase the staff numbers at Probation Services all over the country and especially in Prahova County. Without this essential step, fears may be confirmed that the whole system created for the social reinsertion of persons who have served custodial sentences works only on paper.**

Of the total number of female detainees (585), 185 were serving long term sentences for homicide (30 of them had aggravating circumstances) and two were serving life, 132 had been sentenced for drug related offences (42 on pre-trial detention, 30 with first instance sentences and 60 with definitive sentences). It was commendable that long-term detainees and lifers did not have a different regime than the others. In fact, there were three main groups of detainees: those who worked in the factory (including one of the “lifers”), those who worked in agriculture, animal farming and services (about 210 detainees, 140 of whom at a farm unit in Fundulea) and those unable to work (over 100, among whom 32 women over 55). About 20 women of the latter category (including the second “lifer”) took part in a program entitled “Hobby”. This was a workshop organized by a NGO to manufacture various textile items from scrap materials (from quilts to clothes). The objects were not sold, but given back to the NGO who made donations (for instance, the Juvenile Reeducation Centre in Găești got duvets made at Târgșor). The NGO allowed detainees to take part of the clothes, but since the “output” was low, there were not enough clothes for all of them. This generated frustration, especially among mentally unstable detainees who believed there was a “clothes warehouse” somewhere to which they were denied access.

There were 220 members of the staff (including the 40 at Movila Vulpii) to attend to the 585 women and 36 men detainees (the latter category, half of what it counted in 1998, had been transferred from the Ploiești penitentiary to help with construction and maintenance works and was completely separated from the women). It must not be forgotten that in 2004, due to construction works, only long-term detainees were sent to Târgșor. The numbers are sure to increase sharply after the works are completed.

Open visits took place in a room accommodating 36 people. Another room was used for “regular” visits, during which four detainees talked to their visitors across a one meter wide stone slab, while the “dangerous” received closed visits, in a glass cabin. There was also a “mother and child” room, where detainees were allowed to spend up to two hours with their children under 10 years old. This (or the room for open visits) was also the place where detainees met their attorneys. It was not clear what the procedure was if several mothers received the visit of their children at the same time. Except for this, the area was obviously improved as compared to 1998. Moreover, two minibuses, received as a donation, were used for the transportation of children who came to see their mothers, but only when they left the prison.

On the contrary, conditions for receiving and delivery of parcels remained very much the same as in 1998, since **the window where detainees waited made a right angle with the window where parcels were received and opened, so that visibility was reduced**. In order to avoid any suspicion, the two windows should have faced each other.

Six members of the staff worked in the surveillance area, where parcels arrived and mail was sorted. **The two pay phones (compared to one in 1998) used by detainees were in the same room. Of course, under such circumstances it was impossible to observe the confidentiality of conversations. Phone calls were always overheard.** APADOR-CH reminds that the protection of confidentiality should be applied to both mail and phone calls. Solutions do exist: a) placing phone booths in exercise yards or on the corridors; b) if that solution is technically unsuitable, placing them in a separate room in the visiting area; c) at worst, keeping the supervisor at a distance **that would make overhearing impossible**.

At the Târgșor Penitentiary **there were no chains (“means of safe restraint”) and handcuffs were never used. Not even detainees categorized as “dangerous” were handcuffed during transfers to any destination. APADOR-CH points out to the attitude of the prison management, which should be an example for all other penitentiaries in Romania. The Association underlines the fact that *one third of the detainees in Târgșor have been convicted for homicide, of which 30 had aggravating circumstances and two served life sentences. Therefore, the nature of the crimes and the degree of risk are the same as in other penitentiaries.***

Confinement was never used as a sanction in Târgșor (there were no confinement rooms and the new buildings were provided with **confinement spaces only for medical reasons, not as a punishment**). If incidents reports proved to be exact, sanctions went from warning to reprimand or to the suspension of the right to receive parcels/visits for a limited amount of time (usually, for a month). All sanctions, no matter how slight, were only imposed after all legal steps had been taken, including the hearing of the detainee and witnesses. On the day of the visit, there were four detainees categorized as “dangerous” (there had been 13 at the beginning of 2004, but

nine of them had been reassessed by the Discipline Board who reviewed these cases on a monthly basis). Only one of the two “lifers” was among the four “dangerous” detainees who, anyway, were only treated differently during visits (and, of course, were kept a keener eye on).

Medical care was provided by three GP’s (as opposed to one in 1998), one dentist and 10 nurses (eight for general practice, one dental nurse and one pharmacist), plus a gynaecologist coming in once a week. One of the GP’s and the dentist also attended to members of the staff. The prison management maintained that this happened only in case of emergency, because, otherwise, the staff had their own family doctors, **outside** the penitentiary system. Doctors, however – surprisingly, they were all present at the moment of the visit and, even more surprisingly, there were no patients waiting to be seen – said that they allocated one hour per day (12.00- 13.00) for members of the staff **and other emergencies**. The dentist allocated **3 hours per day** for the staff.

Besides activities – still unclear – organized at Movila Vulpii, the cultural and educational department ran programs recommended by the DGP (STRADAV or VAD), focusing on individual counselling, as well as six-month reading/writing courses for 14 detainees. Other independent activities were also organized (an exhibition of items manufactured by detainees organized in Ploiești in December 2003, visits to museums, shows staged by children for detainees, etc). The department cooperated constantly with several NGO’s, and ran, together with the centre for agricultural counselling in Prahova, a six-month course in vegetable growing (the first series had included 27 detainees and the second, close to completion, 26). There was also the prison library containing about 6000 volumes and the club. Detainees were allowed to watch TV according to an acceptable schedule (16.00 – 22.30, and longer during weekends).

If the activity of the department as a whole could be considered satisfactory, APADOR-CH considers that the prison management should pay more attention to a group of detainees who were largely ignored: those unable to work due to either mental problems or age. It was true that they were allowed to sit most of the day outside, but this was exactly what they did. They **sat** and listened to music. The department claimed that several programs had been attempted (drawing for instance) but failed. Efforts must continue, though. Contests and sports games may be organized and plays or short theatre acts may be staged. A poll among detainees could determine exactly what kind of activities would interest them. Those detainees got used to doing nothing and the department did not take steps against this habit, which did not benefit either the group or the general atmosphere in the penitentiary.

A delicate problem for all detainees was that of interpersonal (including sexual relations). At the end of 2003, a central newspaper published the unsigned statement

of a detainee in Târgșor who spoke of cases of sexual harassment and even rape. The prison management also had some indications in that respect, but no complaint had been filed. Moreover, any attempt to discuss the matter with detainees was totally rejected. The representatives of APADOR-CH have no objections to sexual relations between inmates – if they are consensual. But there would be a problem if a detainee was coerced by force or threats to such relations. The Association suggests that the matter should be discussed during individual counselling sessions, attempting an open approach of the problem which may otherwise have dire consequences on the mental state of detainees, even after release.

Also to be noted was the opinion of certain members of the cultural and educational department, according to whom categorizing a detainee as “dangerous” had no negative consequence for her. Experience showed APADOR-CH that such a label accompanied the detainee to all detention places and weighed a lot before the parole board and before the court analyzing the request for parole.

2. Women sections in other penitentiaries

With a few exceptions (Jilava, Bistrița, Ploiești, external units in penitentiaries like Poarta Albă or Tulcea), most prisons in the country have women’s sections. Detainees held in such sections represented about half of the total female prison population (arrested/convicted) in 1999, and increased over the years to two thirds in 2003 and over two thirds in 2004.

In its over 10 years of activity visiting prisons, APADOR-CH found the highest number of women detainees at Craiova in 1997 (79, including a minor) and the lowest in Tulcea, in 1998 (13, of whom 8 serving definitive sentences).

Comparing women's sections with prisons for adult or young detainees, or even juvenile centres, it turned out that, even in the worst penitentiaries, female detainees enjoyed better conditions. There were only rare cases when their number was higher than the number of beds. But as in the case of male detainees, prisoners were not granted even the 6 cubic meters of air, let alone the 4 sq. m recommended by the CPT. In some penitentiaries, women's sections provided hot water on a daily basis or at least twice a week, while others used improvised system to ensure some hot water for personal hygiene. There were cases (at Galati, for instance) when women had to store water in plastic containers just to keep it at room temperature. At Giurgiu, in 2004, detainees were allowed to use electric boilers because the hot water program was insufficient (35-40 minutes, once a week).

Detention rooms are generally clean and mattresses and linen are in a more acceptable condition than in men's sections. Detainees who keep in touch with their family usually use their own bed linen. All penitentiaries have washing machines, but in most cases they are old and inefficient. There's also a risk that objects sent for cleaning get "lost". That is why detainees (men and women alike) take advantage of visits by their family to send their laundry home and to get clean garments.

Women detainees get the same food as men. But they can spend more time outside and, space allowing, they may plant and tend to small flower or vegetable gardens.

Detention conditions are therefore somewhat better than in the case of male detainees. But in terms of cultural and educational activities, things are worse. Women are not allowed to work outside the prison and because their number is small, there are hardly any activities for them, excepting some festivities like religious holidays, March 8th, June 1st. The few programs for women are organized by non-governmental associations and foundations. As for separate programs for juveniles, these are out of the question. This is another big problem: as women's sections are so small, usually **juveniles, young detainees and adults share the same rooms**. The explanation is that most detainees are waiting for definitive court decisions, following which they would be transferred to CRM Găești or Târgșor. Just that court trials may last for months or even years (for instance, in 1997, the representatives of the Association found Didina Turcitu at the Craiova Penitentiary, where she served one year in prison for stealing a few dollars worth of electricity. The woman was at her first offence, was married and had a minor child).

An exaggerated decision of the ANP prohibits the use of knitting tools, **even when they are made of plastic**. In 2004, at Giurgiu, knitting tools were kept in a locker and used only under supervision. The same penitentiary imposed other criticisable rules: detainees had to wear uniforms, even in front of their children, visits were too short (20-25 minutes) and families were not allowed to sit around the table. **APADOR-CH considers such restrictions as excessive, unjustified and in contradiction with the *claimed* efforts to encourage contacts between prisoners and their families, especially those with children**. Besides, women were handcuffed when taken to court, which is, in the Association's opinion, ***unacceptable***.

The Association points out to another questionable situation, encountered throughout the years in every prison with a women's section: using women as workers at the mess hall. Sometimes, as was the case in Craiova, in 1997 – detainees also provided other services (washing, ironing, sewing the staff's uniforms)

Detainees selected for the mess hall (according to unknown criteria) enjoyed better accommodation (the best lit room, never overcrowded, with lots of personal stuff)

and, most probably, better food, since they spent all day in a canteen. Of course, they were perceived by the other detainees as a privileged caste, causing envy and resent.

Recommendations:

- 1. Giving up the use of handcuffs, irrespective of circumstances, even when detainees are taken out of the prison. If this was possible at Târgșor Penitentiary in the case of lifers and detainees serving long sentences, there is no justification for using handcuffs in women' sections;**
- 2. Giving up confinement as a sanction against women; again Târgșor is an example in this respect;**
- 3. Allowing detainees to wear their own clothes on all occasions, but especially when they receive visitors;**
- 4. Allowing detainees to keep knitting tools (a prohibition may be imposed on metallic needles, which could be replaced by plastic ones);**
- 5. Designing cultural and educational programs/activities for women detainees, *no matter the duration of their stay in the penitentiary*;**
- 6. Ceasing to use detainees as workers at the mess hall or for other services benefiting the staff;**
- 7. At the Târgșor Penitentiary: abandoning the condition that textile workers should have graduated six grades of school.**

VI. OTHER CATEGORIES OF VULNERABLE DETAINEES

1. HIV/AIDS Infected Detainees

The HIV/AIDS problem is still confusing for most detainees, but also for some of the penitentiary staff. For years after the 1989 revolution, there was little if any talk about the disease. It is only during the last few years that doctors and educators have started talking openly with detainees (**about how one may contract the disease, what are the symptoms, how to prevent contamination, etc**). Sterile syringes have appeared in prisons and penitentiary hospitals as late as 1995-1996. But even in 2003, the Association has encountered cases when the prison distributed *one razor* to be used by several detainees for one month. By the end of 2004, the ANP, as well as many of the staff, still resisted the idea of distributing condoms, the best protection against HIV and other sexually transmitted disease.

It is still unclear what to do with HIV positive detainees, or with those who have full-blown AIDS (APADOR-CH representatives have seen two such detainees, in a terminal phase, at the Jilava Penitentiary Hospital, in 2000, respectively 2004; no one knew whether there was any legal provision or procedure to release them from prison).

ANP statistics only mention AIDS cases, and only after 2001, when 12 detainees had got the full-blown disease. In 2002, their number had increased by 8, in 2003 by another 17 and in 2004 by 14. The number of HIV positive detainees is unknown.

The representatives of APADOR-CH had the opportunity to talk to HIV positive or AIDS detainees mainly at the Jilava and Colibași hospitals. This is what they noted:

The medical staff unanimously held that **the disease was contracted before imprisonment**. Otherwise, they would have admitted to either sexual relations among detainees or some medical fault. The mentality of prison staff, especially of the medical staff, changed over the years, including in what concerns homosexual relations. Over the last 2-3 years, (especially after the infamous Article 200 was dropped from the criminal code) the penitentiary system has admitted that such relations did occur among detainees, but has rejected the idea of distributing condoms, the simplest and cheapest means of protection. The staff wanted to appear modern-minded and said they had nothing against it – but “there’s no money” (some 7-8 years ago an NGO had offered to provide condoms for detainees, initially free of cost and later at a very low price, but the attempt was unsuccessful). Other members of the staff declared themselves openly against the distribution of condoms, which they saw as “an encouragement of such behaviour”. Since 2004, the prison administration decided to distribute condoms, **but only to detainees about to be released**;

- HIV/AIDS infected detainees complained that specific medication was interrupted (over longer or shorter periods, this happened throughout the system for lack of funds), which is tantamount to inhuman behaviour. Some of the HIV positive detainees have opened procedures at the ECHR for that reason;

- Around 1995, the DGP had the initiative of giving HIV tests to several thousand detainees in 9 or 10 penitentiaries. For instance, in 1995-96, between 700 and 800 detainees at Colibași had been HIV tested, while in 1997, at Mândrești Penitentiary, 90 de detainees had taken the test. Surprisingly, **none of the tested detainees ever received the result**. But the most questionable aspect is **the way detainees were informed and required to give their consent**. For APADOR-CH, it was clear that the prisoners knew too little about HIV/AIDS (nor were they better informed in 2004, either) and that they had consented to take the test – most of them verbally or by signing a list – while unaware of what it meant;

- Confidentiality about HIV/AIDS detainees remains wishful thinking. Excepting the few cases when prisoners themselves informed the other about their condition, the most plausible explanation is that the identity of AIDS patients was disclosed by the **medical staff in the penitentiary – a serious breach of professional ethics and a source for potential discrimination**.

In 2004, the representatives of APADOR-CH discussed with HIV/AIDS detainees at the Jilava penitentiary hospital. The 7 inmates were accommodated in a room with 19 beds. The representatives of the Association could not understand why so many empty beds were kept in a cramped space, uselessly occupying the room. Since the unit was soon to go into general repairs, it was clear that the room was not prepared to expect new arrivals – more detainees, with various other ailments. Detainees would have had more room to move around, had the empty beds been removed. Some detainees (those from Aiud Penitentiary, for instance) complained that in 2003 their specific Antiretroviral medication was cut for lack of supplies. They also complained that officials were the ones to breach confidentiality about their disease. Detainee M.C. declared that a local newspaper in Bacău published an explicit article on his case, and the source was a policeman. The article caused him serious family problems. Among other things, his sister, a public figure, was forced to leave the city. Detainee M. R. complained that the Botoșani Penitentiary isolated him and another inmate, also with AIDS, for two months in a room. The Association was able to see on other occasions that everybody knew HIV/AIDS detainees in prisons. The question is *who* tells. APADOR-CH insisted that the right to confidentiality of these patients be observed and that public officers who disclose such secrets without the prisoner's consent be sanctioned.

Recommendations:

- 1. Distributing condoms in prisons, *without keeping records and without any supervision*** (this may be accomplished by either distributing the condoms to every detention room or by placing boxes of condoms in section medical wards);
- 2. Discussing openly with all detainees – including minors – all aspects related to HIV/AIDS;**
- 3. Completely abandoning the practice of segregating HIV infected detainees, or those who have developed AIDS;**
- 4. Providing every detainee with at least one razor per month for strictly personal use (preferably disposable razors);**
- 5. Clarifying the situation of imprisoned AIDS patients in terminal stage.**

2. Mental patients

ANP statistics for the last 5 years show that an important number of detainees suffer from mental conditions (5763 in 1999, 6064 in 2000, 9949 in 2001, 9213 in 2002, 9537 in 2003, 8108 in 2004). The numbers indicate the new cases, **meaning that the current number of mental patients every year was significantly higher.** Such detainees pose many and often extremely difficult problems. The following have been identified by APADOR-CH:

a) *Self-harm*

Ignoring the criminal legislation and not trusting the legal system and their lawyers, especially those appointed ex officio, detainees whose trials last too long or consider themselves victims of injustice often use incredible methods of self-mutilation as a protest. The most frequent of them was, until recently, **sticking a nail into their foreheads**. There are detainees who have resorted to this form of **mutilation to draw attention to their legal situation, or to other aspects of their lives**. Other types of self-harm are swallowing objects (most often, spoon handles), razor cuts all over the body, voluntary infection of wounds and even sewing lips together with wire.

It is difficult even for specialists (and most prison doctors are GPs) to decide whether self-mutilating detainees are mentally ill. Some know exactly what to do so as not to endanger their life. Others just follow the “legend” (“detainee X has solved his problem after hammering a nail into his head”) and really believe it will work.

APADOR-CH is concerned about two aspects: a) the sanctions against self-mutilating detainees, **most of the time by confinement** and b) their **handcuffing for long periods of time** (two such cases were discovered in 2004 only: Ștefănescu at Giurgiu and Garcea at the Jilava Penitentiary Hospital). If punishing them by confinement is **excessive** (the prisoners have already “punished themselves” by self-inflicted suffering), **their handcuffing for long periods of time is unacceptable**. **Using handcuffs as a means of restraint may be *only* used to calm down a violent detainee. Once the crisis has ceased, handcuffs have to be taken off, according to international standards.**

b) *The treatment of mentally ill detainees*

Each doctor in each prison has at least 20-30 detainees with serious mental conditions (in 1997, at Gherla, there were 112 such detainees). Others are kept at Jilava or Poarta Albă penitentiary hospitals, which only admit mentally ill patients for short periods of time – even though it is clear they cannot receive the appropriate treatment in a regular prison. Straight-jackets and elastic bandages are not available **in any of these places** and the sole method of restraining disturbed prisoners is by **handcuffing** them. **The treatment only consists of *sedatives***. There is no **recovery program, no occupational therapy and, in general, no activity whatsoever**. It is hard to believe that mental patients had any chance of improvement in such circumstances.

c) *Substance addicted detainees*

Information regarding substance abuse in prisons are few and confuse. Except for the 2001 instance at Jilava, when drugs were found and dealers were identified, there was only one similar case notified by the DGPA (former SIPA) at Arad Penitentiary in

2004, but categorically denied by the ANP. Of course, current medication may sometimes act as a drug, when taken in certain amounts. But this is a strictly controlled area in the whole penitentiary system (all drugs are stored at the infirmary and detainees only get the prescribed doses).

Detainees who have been arrested/convicted for drug abuse or declare themselves as substance users end in psychiatric sections at penitentiary hospitals, where they are kept together with mentally ill prisoners and **“treated” the same, only with sedatives. They are not given methadone – a drug substitute internationally used for treating narcotic addiction.** Hospitals do not even have this drug in store, as the detainees are considered to have gone past the withdrawal phase, which generally occurs shortly after arrest, while in police custody.

Recommendations:

- 1. Abandoning the practice of punishing self-mutilating detainees;**
- 2. Completely abandoning the use of handcuffs *for long periods of time*; Agitated prisoners may also be restrained by other means (elastic bandages, for instance). In extreme cases, handcuffs may be used **only during a crisis**;**
- 3. Designing special activities for the recovery of mentally ill detainees;**
- 4. Ceasing to place narcotic addicts in the category of mentally ill detainees and creating special programs for their recovery.**

GENERAL CONCLUSIONS

1. Detention conditions in the Romanian penitentiary system still fall far from the European standards. Some progress has been made in the years between 1995 and 2004, but it was slow and with little visible impact on detainees. The main causes for this were:

a) The penitentiary system is run according to a 1969 law, whose provisions are contrary to both the Constitution and the UN and European standards. The new law on the execution of custodial sentences was only passed in June 2004, to become effective after June 2005;

b) Some members of the penitentiary staff persist in obsolete mentalities in their relation with detainees. Contempt, indifference and indolence are the most frequent manifestations of this mentality. The **demilitarization** of penitentiary staff after September 2004 could be a good starting point for a profound change;

c) The annual budget of the DGP was constantly under the required level. Detention conditions improved from very poor to poor, with a few exceptions where they became acceptable (juvenile reeducation centres).

2. **Overcrowding, food and hygiene** are still causes for concern. Even though the number of detainees has constantly dwindled down while the accommodation

capacity has been on the rise, the classical norm of 6 cubic meters of air per detainee still cannot be observed, not to mention the 4 sq. m norm recommended by the CPT. Besides inherent tensions, overcrowding is also a source of infection (respiratory diseases, TBC).

In many prisons, even minimal rules of hygiene are hard to observe (hot water once a week, for a limited time, filthy mattresses and blankets, toilets and lavatories out of order), which explain the high frequency of skin diseases.

Bad food is an almost permanent source of complaints for detainees, but also a source of digestion problems. With rare exceptions, a detainee gets the required daily caloric input from the bits of lard and meat by-products, which are omnipresent in the prison diet. The prison menu includes only a few dishes, mostly a thin broth with a few vegetables and the ever-present piece of fat.

3. **Medical assistance** (except for some of the penitentiary hospitals) is at a very low level. The vast majority of prison doctors are GP's. Unlike their colleagues who work with free patients and who, at the slightest doubt, send their patient to a specialist, prison doctors hardly ever make such a recommendation, contenting themselves with summary examinations and prescribing palliatives. Moreover, prison doctors **also serve as family doctors for the staff and their families**, to whom they allocate a quota of their **35 hours a week schedule**, at the detainees' cost.

4. **Cultural and educational activities** are mostly formal and inefficient. There are not enough specialized personnel and the programs are rigid and usually totally uninteresting for detainees. Besides, they only involve a small number of inmates, generally selected for "good behaviour during detention". Repeated offenders, long-term prisoners and especially detainees who pose problems to the staff are usually left out. The consequences are obvious: their chances of rehabilitation after release are substantially reduced; tension and even conflict arise between them and members of the staff, due in great part to the lack of activity.

5. **Professional training** for detainees is unsatisfactory. The available trades are few and have no connection with the reality of the labour market. Under such circumstances, it is almost impossible for a detainee to find a job after release, especially since employers show reservation when it comes to a former convict. The situation is the same in juvenile reeducation centres.

6. **Disciplinary sanctions** used against detainees who have broken the Interior regulations are too numerous. Solitary confinement – the most severe punishment, after the restrictive regime – is often used, including in the case of minors, for various and at least questionable reasons. Before June 2003, detainees who considered themselves unjustly sanctioned could only file complaints within the penitentiary

system. Government Ordinance no. 56/2003, made it possible for detainees to go before the court to contest their disciplinary sanctions or other management decisions that affect them directly. Until the end of 2004, there were very few court complaints of the kind. Substantial improvements are expected with the coming into effect of the new law on the execution of custodial sentences. The law provides that a specially appointed judge shall oversee the legality of steps taken by prison managements.

7. **The reintroduction of chains** (renamed *means of safe restraint*) to restrain recalcitrant detainees or to secure those classified as “dangerous” during transportation is a measure in contradiction with the UN and Council of Europe standards. Also, the excessive use of handcuffs (including for minor detainees), in totally arbitrary situations and duration, left at the decision of the staff, goes way beyond the limits accepted by traditional democracies, leaving the door open for abuse by members of the staff. Last, but not least, the permanent presence of “masked squads” and their numerous interventions are far from ensuring a favourable climate for reeducation.

8. There are **substantial differences** between the conditions in juvenile reeducation centres and those in the sections for juveniles in regular prisons (from school and other educational activities to accommodation and food). Juvenile and youth penitentiaries are somewhere in between the two, but closer to the latter. It is absolutely necessary that the National Penitentiary Administration (ANP) together with every prison that has juvenile sections take steps for:

- a) Hiring more specialized staff;
- b) Placing all minors in a regular school system (of course, taking into account their previous level), *irrespective of the prison term they are serving*;
- c) Reviewing the list of trades available for professional training, modernizing the workshops and equipment, hiring technical trainers up to date with the latest trends in the trade they teach;
- d) Diversifying cultural and educational activities, including some of the minors’ choice;
- e) Closing collaboration protocols with the SRSS, clearly setting the attributions and responsibilities of prison staff and SRSS counsellor in what concerns the reeducation and social reinsertion of imprisoned minors (and adults).

9. **Discrepancies** also exist between the detention regime **in the women penitentiary and that in women’s sections in regular prisons**. The latter provide no cultural and educational activity (watching TV cannot be considered as an activity). As in the case of minors, more specialized personnel is required, as well as regular programs, which should be designed after consulting the detainees themselves.