REPORT
on the visit to Jilava Penitentiary

On 30 of November 2007, two members of the ACCEPT Association have visited the Jilava Penitentiary.

After discussing with the penitentiary personnel in charge, it resulted that a number of reconstruction and modernization actions are being taken for the spaces where prisoners spend their time. Not long ago, rehabilitation and modernization actions were performed in the part of the building where the prisoners enter the captivity. This means fine lodgings for the actually entrance of the new prisoners, and then taking them into account, o shower room with all the necessary and modern utilities, a barber shop room and all other facilities needed for this type of environment and building. There are also special premises where prisoners can meet with their lawyers, where the defense side can start their pretrial hearings. Not long after the Governmental Decision no 1897/2006 for approval of the Law no 275/2006 regarding the execution of penalties and the measures taken by the judicial organs throughout the penal process special premises for visits have been given into use, within the same building. Also, medical offices have been redecorated and modernized.

By the time of the visit an expertise evaluation of the buildings for the convicts was in process for the same purpose of redecoration and modernization.

The penitentiary ensures the proper conditions for the prisoners held in an opened regime or half opened regime. Every six months every sentence is analyzed in order to determine the possible alter of the penalty. There have been cases where the punishment has been changed by the penitentiary delegate judge to a more severe penalty. In some cases the prisoners have contested their penalties, but most of this complaints have been rejected.

Two times a week the prisoners in an opened and half opened regime are taken to the theatre (Nottara, Constantin Tanase), to the circus or to museums, but also mandatory visits to the church and to the monasteries.

Prisoners with a fine conduct, who have proven commitment to work in the cultural and educational activities, gain the permission to step out of the penitentiary for short periods of time. From hundreds of this type of permissions existed only one reported case of prisoner not returning back.

In the penitentiary there are arranged 13 spaces for walking outside the buildings, each convict having the minimum time to the daily walk, allowed by the law. The penitentiary has three sports bases (one sport hall and two sport filedes), each convict being able to participate at the sport activities ones a week, for a hour and a half.

Regarding the disciplinary procedures for the penal conduct of the convicts, the Law no 275/2006 comes into action: the procedure is initiated by the chief of the premise holding in custody the respective convict who reports to the commission of discipline (this is formed by the penitentiary director, the vice president who is responsible with the imprisonment regimes and a supervisor annually elected by all supervisors, acting as members). The penitentiary directory appoints a person from the penitentiary personnel, other than a supervisor who carries out the research on the case and present his preliminary report to the commission. After hearing the convict the commission determines a disciplinary penalty or closes the case. The prisoner can argue the decision in front of the delegated judge appointed for this penalty, deprivation of liberty. The judge determines the complaint finality by motive closure and the inmate has the possibility to argue it in front of the court (this decision is finale).
Regarding the sexual assaults, the „Parchet” is called. The director considers that the convict should address to the IML institution, even if a pre written complaint has been undergone. The penitentiary can call directly The Parchet or the convict addressed the assault case, and the a written complaint is made, so an internal investigation can start.

The visits to the prison have started with the Premise no 1, in an half opened regime. When the visit was taking place, the convicts were serving their meals. The doors of the detention cells were closed. First dish, tomatoes soup with noodles was looking pretty good but second dish, vegetables with pork meat, meat was more feat and inferior product of meat. The penitentiary didn’t externalized the serving services and besides, no separate serving portion practice in order to ensure that every convict gets his portion. In cell 117, 9 convict were staying, overtoped beds within a 16 m square space (that is less than 4 square meters per inmate, recommended by the Torture Prevention Committee). The inmates were young men working in the administrative section of the prison (one day of work was taking into account as two working days). Even the cell was in an half opened regime, the door could not be held open because by this the rule saying minor convicts must be separated from the major convicts- other cells were occupied exclusively with over 18 convicts. The convict being in the cell at that time said that the water quality was of a better quality then the last years. A sink and cabin with a Turkish toilet were in the cell. A powerful and unpleasant smell was sensed in the cell because the system was broken and the water was constantly pouring but also because of canal conversion next to the cell. Discussing with the present convict we found out that condoms were available in the medical office and they can get it by asking the supervisor who tells it to the doctor in charge. The convict also said that information and sexual educational programs exist. The same convict said about sexual assaults but not in his room: „We heard it that was happening in other cells. They didn’t complaint about it, the disgrace was too big.”

In premise no IV with a maximum security regime, in cell 422 with a 48 square meters surface 17 prisoners were being held in captivity (this to didn’t respect the 4 square meters per convict legislation). They declared they were never taken to work because of their maximum security imprisonment regime. The ACCEPT representatives brought to their knowledge that the law allows even the prisoners in a high security regime to perform work (article 20 from Law no 275/2006). The inmates are being taken to walks every day, 3 hours, two time a week to the club for social and educational purposes and one time a week for sport activities. They say the sport activities only include the sport room, where they feel uncomfortable because the aspect is pretty awful. In the cell only one TV is available and because of the disposal of the beds not all inmates can actually watch it. So they have to seat on the cold cement to watch the TV shows. Some time ago an inmate received from his family a TV device but he wasn’t allowed to bring it in the cell. They expressed their whishes to be allowed to receive radio devices and music players. And also the possibilities to receive visits while seating at the dining table and not only in the special aria of visits, where a separation disposal exist. Another wish was to be let outside with their playing ball. The sanitary system in the cell consist of one sink and two Turkish style toilets and four taps (the system was broken, the water was continually pouring and the walls were showing rough symptoms). The mattress were old and damaged. The convicts are taking their bath twice a week, in the common shower room, on Monday and Thursday. In cell 412, 7 convicts were being held in a 24 square meters cell with a high degree of dangerous behavior. Convict H.V. said he was kept here because of a „high voice” report from one of the superintendents. O. S. had a similar complaint saying he is considered one of the dangerous even if in the last 2 and a half years he got no incidents reports. He also said that mentions of escape attempts appear in his file even no official documentation was made or any type of write down statement. The every day walk takes about 3 hours and a half. Once a week the convicts are going to the sport hall, but they complained about the fact that the hall is too small, an is very uncomfortable to
move inside, and about the lack of balls. The convicts complain that, at 12 pm the TV program showing erotic content is turned off. The sanitary conditions are similar to those in cell 422. They can not touch their families, the visits are only through the window, therefore the convict-family relationship are being affected.

At the 3rd Section, in the medical office, the physician who was there has stated that the medical staff provides health assistance exclusively to the prisoners – and to the staff only in case of emergency. A physician sees around 30 prisoners daily, which has been estimated as a pretty good situation, especially compared to the previous years. There is a problem with the insufficient number of medical assistants, i.e. by night and on weekends, there is only one medical assistant for around 1600 prisoners. The total number of physicians and medical assistants was 4 (out of the total of 6, as stated in the organization status), respectively 15. The management of the hospital has stated that the current situation is a temporary one, as some of the medical assistants were at professional development workshops – starting with the 14th of December, they were coming back to the unit and there would be 2 assistants on the night and weekend shifts.

Ms. Ionescu - the M.D. - stated that they had no cases of sexual aggression. She can't ascertain the specific sexual injuries, she can only ascertain whether the life of the injured inmate is in danger. At the same time, she recalled that she has been confronted with sexual aggression cases, but the inmates didn't want to show the anal lesions they had suffered to the penitentiary personnel, only to "people from the outside".

The medical personnel believed that obtaining an ambulance for the medical service is absolutely necessary; the patients are transported to the hospitals with ordinary cars from other departments of the prison. The health service does HIV testing (the Eliza test), with the written agreement of the inmates and with their pre- and post-test counseling. As a result of 77 random tests, a HIV-positive inmate and many persons having hepatitis were found out. Hepatitis C is otherwise explosively spread in the prison, probably due to the use of syringes. Generally speaking, supplying the inmates with condoms poses no particular problems. At the date of the visit, however, due to the fact that a program financed until then by the Global Fund had come to an end, there were discontinuities, but the physician estimated that this would be temporary and the provisions, which will be made from now on through the program of the National Prisons Administration, will solve the problems accordingly. The ACCEPT representatives insisted on the need that inmates have a constant and anonymous access to the condoms – these should be placed at hand, in the medical office and/or in clubs, where they can get them in a discrete way, without being noticed by supervisors, roommates etc. The health services, together with the educators of the social-educational department, are constantly running sanitary education programs, aiming at HIV/AIDS and sexually transmitted diseases prevention etc. Concerning the eventual cases when the inmates would complain of being victims of sexual aggression, the ACCEPT representatives were left with the impression that there is no settled procedure to be followed in these cases. The medical personnel stated that in these cases, the inmate could be examined and probably the forensic expert would be summoned as well; as the medical office from this Section has never been confronted with a similar case, it wasn't very clear if the forensic expert would come, how long it would take him to come, what were the actual procedures etc.

The alimentary block of the unit was in a very bad state. The walls and the ceiling were full of mould and had heavy condensation. The representatives of the prison stated that the technical and financial procedures were running in order that the unit would have, by next year's spring, a modern alimentary block, with all the necessary technical endowments. For breakfast, the inmates had received tea, biscuits, margarine and frankfurters, for lunch - tomato soup with noodles and vegetable hotchpotch with pork and for dinner, rice pilaf was being prepared. 79 kgs of pork had been used for lunch. There wasn't any practice of
distributing the meat rations separately, so as to make sure that every inmate had a meat ration.

From the discussion with the delegate judge, it came as a result that he has the logistical and personnel conditions which allows him an optimal activity. The judge has an assistant from the prison personnel as a reviewer and procedure agent. The reviewer is steady in this function, which has allowed a good collaboration with the judge. In his activity, the judge feels the need for a regulation concerning the procedures to be followed (it would have been a positive fact if Law 257/2006 had settled the obligation of the Superior Magistrates Council to draw and adopt such a regulation). Neither from the discussion with the delegate judge has arisen that there was any clear procedure at the prison level to be followed in case of sexual aggressions against the inmates.

The case of the inmate T.-U.M.

According to his statements, on 11 September 2007, during the day, in the presence of his roommates, the inmate T.-U.M. (accommodated at that moment in Section IV, room 614) has been raped by inmate D.N. In order to coerce him to have sexual relations with him, the rapist hit him with a crowbar on the hands and had stung him in the leg with a knife. The same day, the inmate has complained of what happened to his supervisors ("ne'a Raducu" and "ne'a Doru") and asked them to be moved in another room. They denied his request (they hit him as well), and two or three days later, he was raped by other four roommates. In order to mock him and humiliate him, the four shaved his head (producing him some scratches on the head as well) and inserted a stick into his anus. He was moved in another room from Section IV only after these latter aggressions. T.-U.M. has repeatedly tried to inform the commander of what happened (he recalled 15 and 16 September with certitude), but the supervisors stopped him each time, by keeping him in the same room with the aggressors. He succeeded only on 7 October, on returning from the trial instance (he also complained of the aggressions in court). Following the penal complaint he succeeded in filing on 7 October, he was examined by a forensic expert around 19-20 October, who ascertained the anal lesions and the scratches on the head. Although the forensic expert had stated that the medical forensic certificate would be issued to him, that had not happened even by the date of the visit of the ACCEPT representatives. By the same date, a month and three weeks after he had filed the penal complaint, he had not received any answer from the law-court either and he had no knowledge of any investigation of the facts he had complained of. T.-U.M. also recalled another case, that of another inmate that had been subjected to a group rape in the same room in which he had been raped before (this case had happened two weeks after his; later, the inmate, whose name T.-U.M. could not remember, had been moved to the Timisoara Prison). T.-U.M. confirmed the fact that the inmates victims of such aggressions usually do not file complaints about what happens to them, for fear of the aggressor roommates, given that the personnel takes no action to provide them real protection against the aggressors.

Conclusions
a) The management of the prison has succeeded in a number of improvements, regarding the repair and the modernization of some of the educational spaces, the sports hall, the space for intimate visits; it's a good thing that the drinkable water supply system has been improved (the water distribution network was to be rehabilitated next); the unit has improved as well (the entrances of the new inmates; the health offices; the clubs for socio-educational activities);

b) it's also a good thing that the technical and financial premises have been created in order that the repair and modernization of the accommodation spaces and of the alimentary block begin the next spring (before the beginning of these actions, however, it's necessary to perform some current repair actions for the sanitary installations and for the toilets from the inmates' rooms);

c) amongst the inmates, there is a certain discontent regarding some aspects that could be improved without any financial costs or costs of any other nature, only through a greater availability of the management in analyzing and taking decisions concerning some of the requests of the inmates, such as:

- Inmates who do not go out to work should be allowed to watch the TV program they like, even after 24:00 hours.
- inmates from the maximum security regime should not be totally and de plano forbidden to receive visits while sitting at the dinner table; the director of the prison should allow inmates in this category to receive visits while sitting at the dinner table, according to the stipulations of art. 2 align 2 of Governmental Decision no. 1897/2006 ("According to the behavior of the inmate and if it can help to his social reintegration, the director of the prison can approve that the prisoner should be visited without a separation device.").
- the possibility that inmates from the maximum security regime be involved in sports activities on the sports ground as well, not only in the sports hall, should be analyzed; they should be allowed to go out to walk with balls in the courtyard.
- the inmates should be allowed to bring from home TVs, radio devices and MP3-players.

d) until some likely externalization of the feeding service, it is recommended that the meat rations be separately distributed, as to ensure that every inmate receives one;

e) the inmates' access to condoms should be constantly secured and providing for anonymity;

f) it is necessary that the management of the prison be always concerned that only prisoners with a "high degree of injuriousness" be included in that category; otherwise, a frustration and discontent state of the inmates is reached, state which is counterproductive for the inmates, as well as for the relationships between them and personally (we estimate that the reevaluation of cases such as those of the inmates O.N. and H.U. is necessary);

g) concerning the serious sexual aggressions the inmate T.-U.M. was subjected to, ACCEPT considers that all the lawful measures need to be taken, in order to investigate what had happened and sanction the culpable; the fact that until this date the penal complaint and the medical examination by the forensic expert have remained without any consequence is regrettable; we consider that it is necessary that the direction of the unit come back to the court of law requesting the complaint to be settled; it is also necessary to check the statements of the victim, according to which the supervisors did not do what was necessary to when he complained of the first aggression and if these statements are confirmed, the guilty personnel should be sanctioned;

h) in order to avoid future situations similar to that in which the inmate T.U.-M. was the victim of serious sexual aggressions, ACCEPT reckons that it is necessary that:
- the management of the prison, the health service and the social - educational department take institutional and educational measures meant to maximally reduce the vulnerability of the inmates who can become victims of such serious abuse; the personnel of
the unit handle attentively situations in which clues that an inmate could become victim of sexual aggressions of his roommates show up (especially when it is the potential victims that point out these clues);

- the management of the prison have settled a minimal corpus of rules and procedures to be followed in case such aggressions are produced, such as: the inmate complaining of a sexual aggression should be immediately examined by the medical personnel; the management of the unit should request as quick as possible that a forensic expert examine the victim, on a 24 hours notice, and should inform the qualified court of law (in case the inmate does not have the money to pay the forensic examination, we suggest the current good practice from the Jilava prison be continued – the equivalent be paid by the unit); the inmate should be moved from the room in which he has been abused, he should be hospitalized in the sick room of the unit, medical care should be provided to him and the necessary psychological counseling should be secured (if this service does not currently exist at Jilava prison, it should be contracted; psychological counseling in cases of sexual aggression has to be part of the basic obligatory services, together with medical assistance); the inmate should not be moved back in the same room with his aggressors; measures should be taken that possible witnesses who confirm the aggression are not menaced / intimidated by the aggressors or punished by them after testifying in court.
Report
on the visit to Oradea Penitentiary

On the 14th of December 2007, two representatives of ACCEPT Association visited the Oradea Penitentiary. Another visit had been made soon after the first one, in order to continue the interview with one of the inmates.

At the time of the visit, there were being held 639 people. There were 547 adult men (9 under quarantine observation, 41 under preventive arrest, 25 under maximum security, 142 under held system, 269 under semi-open system and 61 under open system). There were 7 under-aged men (4 under preventive arrest and 3 under semi-open system) and 46 young men (quarantine observation-3, preventive arrest-9, closed system-10, semi-open system-23 and open system-1). There were 39 women, from which: 1 under quarantine observation, 1 under preventive arrest, 6 under held system and 29 under semi-open system (there were 1 young woman under preventive arrest and 1 under-aged woman under closed system).

Because 4 of the holding stations were under major repairs, the overpopulation is a problem the penitentiary encounters (we have in mind the recommendation of the Torture Prevention Committee to provide each convict at least 4 square meters accommodation surface). At the time of the visit, all of the stations were having the same problem—especially station 5 (204 square meters for 128 people, instead of 512 square meters), station 6 (266 sm for 137 people, instead of 546sm), station 7 (247 sm for 147 people, instead of 588 sm), the women station (40 sm for 39 people, instead of 156 sm).

On the operative sector, the medium number of convicts that are assigned to a worker was, in the past year, was 3.7—a good indicator according the TPC, 1 worker for 5 convicts.

A good situation was also the one of the working convicts-336 from the total of 639. Most of them, 201 were working for external beneficiaries, having a monthly payment of 550 RON. The other 135 were working for the detention place.

During 2007, 134 convicts were rewarded with the permission to leave the penitentiary (they obtained 192 of these rewards) - there have not been any important problems regarding the absence of the convicts who obtained the permission.

From the discussions with the representatives of the penitentiary, it resulted that in the last few years the unit managed to conduct a series of investigations regarding the convicts’ accommodation space. In the year 2000, it was finalized the construction of the pavilion which contains station 8 and 9, and recently there have been finalized the major repairs at the 5, 6 and 7 stations (at the time of the visit, the stations 1-4 were under repairs, the reception to be made the following week.). The penitentiary still wasn’t able to arrange a place for the intimate visits of the convicts, which is a violation of the convicts right provided in Governmental Decision no. 1897/2006, after a year from the endorsement of the normative act. The manager of the penitentiary declared that a temporary solution for this will be provided until the half of the 2008, and a final solution until 2009.

A problem consisted in the fact that there was only one of the 3 medical job positions occupied. Apparently, the difficulty in finding doctors for the other medical positions is the low salary and the fact that the requirements for the job are much higher than the actual conditions that doctors fulfill as part of the job.

According with the rules of the National Administration of the Penitentiaries, the women and the minors participate monthly at community activities. They go to visit the sights, factories, shelters for the elders, editorial offices, museums and theaters. At the social-educational compartment, there were 4 psychologists which had a limited experience but were though useful to the convicts. For the 1st-8th grade, there are organized classes.

In cases of sexual aggressions among convicts, the victims are taken to the medical office, where they are being examined. If the doctor confirms it, of if the victim requires, it’s called, in maximum 24 hours, a forensic expert. When the convicts can’t support the payment of the forensic expert, the penitentiary does it.
There has been discussed the case of the ex-convict L.A., transgender. The representatives of the penitentiary affirmed they have been “reported all over” by the ex convict, admitting that L.A. was prohibited to dress like a woman, though the transgender characteristics of the convict were well-known. The pretext was that the exposure of L.A would have been great, creating difficulties for his own protection.

The visit of the convicts stations began with the Station 8 - closed system and maximum security. At the time of the visit, the convicts were having lunch. First course, bean soup, second course: cabbage with scraps (there were few scraps). Inside the penitentiary, there is a good practice in taking the convicts out for work, even if only inside the detention place. In room 126 (closed system), the convict N.A signaled that he’s been sanctioned by suspending the visit and shopping rights, because he cut himself with a razor blade, being upset on a family matter. L.O complained of a similar situation. 2 months ago, he injured himself, because his father was ill, and he was sanctioned for this. At the visit time, the convict’s family was burying his father, who has died meanwhile, without his participation, because of the sanction he had. Even though the convict announced the station’s chief of his willing to go on an audience at the penitentiary manager, the officer didn’t fulfilled his request. The daily walk lasts about an hour and a half, and, once a week, the convicts go to a club and at the gym. In the room, there were 7 convicts (and 8 beds) on a surface of 18 square meters (according the TPC, the surface should have been at least 28 square meters). The sanitary facilities included a toilet, a sink and a shower-the convicts take baths twice a week. Inside the room there was a TV, where the convicts could watch shows until 2 in the morning. The convicts can phone; there is a problem with the telephones being mounted on the walls, without phone booth, the personnel of the penitentiary being able to hear to what the convicts are saying. A general dissatisfaction is that, after the new rules in penitentiaries, applied since 2006, the convicts can’t receive packages with goods from their families through mail.

In room 136, there were 8 beds, which held 6 minors (the surface of the room was about 18 sm). At the time of the visit, the minors were not in the room, the personnel explication being that they’re “serving food”. As soon as the representatives of ACCEPT said they wanted to talk to the minors, they were brought in the room. They looked very surprised that the superintendent told us they were out eating- which it wasn’t true- and they were convinced that it was intended for them not to see the ACCEPT representatives. The minors said that the room had been prepared especially for that visit. The dirty and ragged bed-sheets and mattresses until then were rapidly changed. They complained that even though the penitentiary’s sheets are old and ragged, they’re forbidden to receive new ones from home (for reasons they did not understand they would have been allowed to bring only white sheets). They also said that they are frequently cursed and offended by the station’s staff. The daily walk lasts 30-40 minutes at the most (on the terms that the Law no. 275/2006 states that people who don’t work and don’t participate in other activities have the right for a daily walk of minimum 3 hours; with the exception of two colleagues who go to school, all the other minors were staying in the room the entire day. They are also prohibited- unjustified- to receive radio sets or balls. The disciplinary sanctions are applied for minor misbehaviors. T.D. was sanctioned for being seen sitting by the window and G.T. for knocking on the door at 2 in the morning asking for a pill for his headache. There are some cases in which the under-age are allowed to receive visits only with separation devices, although their behavior is good and they’re not sanctioned. The supervisors impose that the window will be permanently kept open, no matter how cold there is (this happened at the time of the visit, too). The under-age are taken with great difficulty at the medical office. F.R. was refused to be taken to the doctor’s office, although he was having 2 boils on the right leg and one on the left leg.

At the medical office, the ACCEPT representatives talked to the head doctor of the penitentiary. Beginning with 1st January 2007, the medical services are provided only for
convicts only, and for the staff of the penitentiary only in cases of emergency. The consultation schedule is established through rotation, on the detention stations. The number of convicts consulted by the doctor is 100 a day (this pretty big number is also a consequence of the fact that, since August 2006, 2 of the 3 medical jobs are unoccupied). Monthly, there are 7 cases of self aggression registered, the head doctor affirming that this is not a special problem for the medical services. When the convicts report they have been sexually molested, the doctor consults them immediately and files a report of the medical results and the convicts statements. If the convict requires, the penitentiary requests an exam from a forensic expert (if the convict can't afford the payment of the service, the penitentiary will support the expenses). At the doctor's office, there was a box of condoms from which the convicts could take free condoms. The doctor took a note of ACCEPT representatives suggestion for a similar box to be put at the club, and the convicts to procure free condoms under confidentiality conditions. In the penitentiary there has been a program of volunteer testing for C hepatitis, all the tests results being negative. The tests have been made with the written approval of the convicts, with pre-testing consultation and strictly confidential. The head doctor stated that, to ensure the best results, he preferred to do the pre-testing consultation himself. In the penitentiary, there are no cases of HIV+ convicts.

The discussion with the convicts H.U. and J. N.
The convict JN has to deal with a 5 years conviction for theft. According to his statements, beginning with December 2005, he was submitted to a long line of abuses and persecutions from the staff of the detention station: he's been beaten, tortured, several times by the station's workers; he was also beaten by his roommates, instigated by the workers; there were always used hand cuffs and chains against him. Exasperated by the situation he found himself in, on 4th of October 2006, he managed to run in the penitentiary courtyard, to climb in a dump track and on the roof on one of the penitentiary's buildings. By doing this, he was hoping to draw attention over the abuses he had to put up with (many journalists have found about his protest and came at the penitentiary—including from Antena 1, Pro Tv, Public Television, Realitatea Tv, Prima Tv, B1 Tv—which related about what happened). After the incident, for over an year, JN is kept alone in the room and the abuses against him continued. The supervisors know he's gay and permanently offended him, often searching him in an obvious way meant to humiliate him. He is frequently kept with hand cuffs and when going to Court, he is also put in chains (his hands are immobilized with hand cuffs at the back and the hand cuffs are attached by the chain with a padlock). There have been situations in which, in his room, he has been held with chains at his legs, had cuffs and tied to the bed (other time he was tied by the railing at the window), his mouth was stuffed with dish clothes and he was beaten with fists, feet and truncheons. This happened on 20th of May 2007 and 15th of November 2007. On 20th of May he's been beaten by the supervisors Marchis, Octavian Condoros and by the intervention team and in November, by Marchis, Mihai Saitos, Condoros and Anca Lin. The violence to which the convict was exposed, the numerous body wounds caused by the abuses are recorded including in medical certificates: the medical certificate 1542/Ia/592, from 22nd of May 2007, and 3995, from 16th of November 2007, released by the Municipal Service of Legal Medicine in Bihor. JN complained at the prosecutor's office in Oradea. At the time of the visit, the window from the convict's room was wide open, though inside the room was pretty cold - JN affirmed that the staff does that constantly, to keep him in cold (because of the railing, he can not access the window). After the incident in October 2006, the convict managed to have an audience with the Minister of Justice, he was brought to Bucharest but, finally, the audience didn't take place, JN thinking that this happened because of the intervention of some representatives of the penitentiary system. It is mandatory to add that at that time, the ACCEPT Association representatives tried to make contact with the convict at the Rahova Bucharest Penitentiary, but the penitentiary's representatives did not allow it.
The convict HU was very unhappy with the fact that he was abused by the station’s staff. There are many situations when he wasn’t allowed to go to the medical office or to make a phone call. Because of that, he’s forced to hurt himself, lately this being the only way to make the personnel solve his problems.

**The cases of ex-convict G.R and convict H. T.**

During the visit, ACCEPT representatives were told about the case of ex-convict G.R. From the stories of some convicts, in the year 2005 or 2006, G.R, gay, was killed by his roommates. Because he refused to have sexual intercourse with them, his roommates took him to the bathroom and beat him to death. ACCEPT representatives were described the scene of the rape and murder of the ex-convict in terms of maximum cruelty. Although the station’s personnel was alerted of what was happening to G. R, the intervention team only arrived after an hour and a half. There are some information according to which the medical assistant that came to see what has happened, “although he’s seen with his own eyes how G. R. was slaughtered”, he was acting “mocking the situation, as if G. R. pretended he was raped and beaten like that.” There has also been related that G.R, noticing that something bad is about to happen to him, asked the supervisors to move him in another room, but they refused it.

ACCEPT representatives were also signaled the case of the under-age convict, H. T. He stated that he was raped by his roommates. He was taken to the medical office and, after the medical examination, the conclusion of the doctor was that there were clues that the under-age was raped. After that, the penitentiary requested a legal medical examination, which, although it was done in less than 24 hours, concluded that there was no confirmation of the convict’s complaint. At the time of the visit, the under-age was transferred at the Reeducation center in Buzias.

**Conclusions:**

a) in the penitentiary, it has been succeeded a number of investments in the benefit of convicts accommodation space; in the year 2000, the construction of the pavilion in which stations 8 and 9 are currently located, was finalized and, recently, the major repairs at stations 5, 6 and 7 were finalized (at the time of the visit, the stations 1-4 were in major repairs, the reception to be made very soon); unfortunately, the fitting out of a space for the convicts intimate visits was still not done, which means the convicts were not granted this right, provided by Governmental Decision no 1897/2006, not even a year after the endorsement of the legal act;

b) it is also a positive fact that the under age and the women participate monthly at community activities-visits at different sights, factories, elder’s shelters, editorial staff of some newspapers, museums and theaters; positive is also the fact that more of half of the convicts have the possibility to work;

c) generally, the accommodation conditions are good (excepting the overpopulation at the level of some of the stations, this situation being due to the fact that stations 1-4 were still, for a little while, under repairs);

d) there are measures to be taken for occupying the 2 free jobs of general doctors (as much as it’s considered necessary, it should be made an intervention at NPA for reconsidering the conditions of professional qualification imposed to the doctors that would want to present themselves at the contest regarding the occupation of the job);

e) as regards the accommodation conditions for which there were efforts in the penitentiary that need to be emphasized, it was generally a state of content, a relatively large number of complaints were about things that related more to the personnel’s attitude towards convicts, like:

- the aggressive and outrageous behavior of some supervisors
- the sanction for minor acts of the convicts, including self-aggression (under this last matter, the case of convict L. O., who wasn’t allowed to participate at his father’s funeral
because he had been sanctioned for self-aggression two months before is a very conclusive one);

f) the Oradea Penitentiary is one of the few in which we encountered such an emphasized general dissatisfaction among the under-age convicts;

g) a very serious situation is the one regarding the attitude towards gay convicts; there are serious reasons to believe that the very severe abuses, the torture and the inhumanly and degrading treatments that the convict JN had suffered repeatedly from the workers are a consequence of the hostile attitude of the personnel toward the sexual orientation of this convict (ACCEPT Association solicits to the management of the penitentiary to take the measures that has to be taken in order for the abuses reclaimed by the convict JN to stop and the supervisors responsible of what had happened to be put under the law); the same relevance is presented under this aspect the case of the rape and savagely murder of ex-convict G. R. by his roommates (there are reasons to believe that this tragically result was possible because of the legally impleaded attitude of the personnel that had precise job responsibilities regarding the protection of this convict’s life and body integrity); ACCEPT representatives obtained information, including from ex-convicts of the Oradea Penitentiary, themselves victims of these attitudes (from this penitentiary or others) that confirm homophobic attitudes similarly to the ones described earlier;

h) for future avoidance of sexual aggression toward convicts, ACCEPT thinks that is imperative to:

- the penitentiary’s management, the medical staff and the social-educational department to take measures at an institutional and educational level that will reduce all the vulnerability of the convicts that could become a victim of such serious abuse; the unit’s personnel should treat the situations in which clues that a convict could become a victim of sexual abuse of others convict with increased attention (especially when the potential victims signal these clues);

- the unit’s management should set a minimum of rules and procedures that will be followed given the fact that such aggression happens, like: the convict that reclaims a sexual abuse should be examined immediately by the medical staff of the unit and the results of the examine along with the victim’s statements should be recorded immediately; the management of the unit should solicit as soon as possible that a forensic expert examine the victim in a term of 24 hours top, and inform the competent prosecutor (if the convict can’t pay the services of the doctor, we suggest that the good practice at the Oradea Penitentiary to be continued and the penitentiary support all the costs); the convict should be moved from the room in which he has been aggressed, to be hospitalized at the unit’s infirmary, to be provided with medical and psychological services; the convict should not be moved in the same room he was aggressed in, neither alone nor with his aggressors; measures should be taken that the potential witnesses who confirm the aggression of the victim would not be threaten/intimidated by the aggressors or, after giving a statement, being punished by them; if the victim wishes to hire a lawyer and make the aggressor/s take responsibility for their actions, the penitentiary should provide him access to a list of lawyers from the local association.

i) it’s necessary for the convicts to be provided with the Law no 275/2006 fully, and not just with fragments of it.

Report written by Florin Buhuceanu and Valerian Stan
Report on a visit to the Poarta Alba Penitentiary

On March 20 2008 two representatives of ACCEPT made an unannounced visit to the Poarta Alba Penitentiary, to assess how MSM\(^1\) inmates are treated there.

At the time of the visit the total number of inmates was 1,226, of whom 349 were held in the external section of the prison, located at Valul lui Traian. Of these, eight were underage, 69 were young adults aged 18 to 21, 30 were female, and 40 were considered high-risk inmates. The penitentiary ensures the legal conditions for prisoners held in open and semi-open detention regimes, and provides regime change options to all the detainees, in accordance with Law no. 275/2006.

At the time of the visit, neither conjugal rooms nor the sports ground were properly organized. The inmates were involved in cultural and educational activities and were given information on STI.\(^2\)

From the discussion with the Head of the Regime Application Service, none of the Poarta Alba inmates declared themselves LGBT\(^3\) and none requested special treatment and protection. However, there have been cases of abuse in the penitentiary, two of which were forwarded to the Prosecutor’s Office in 2007. Such cases are investigated even when no complaints have been made, provided that enough information is available to start the investigation. Since the penitentiary does not cover the costs of medical examinations at the LMI,\(^4\) abused inmates are taken to the prison doctor. Although the prison regulations do not specifically require it, the practice is that abused inmates are not returned to the same cell.

Paradoxically, the financial benefits received by the staff exposed to contagious diseases such as TBC, hepatitis and HIV/AIDS result in disproportionate fear to relate to patients suffering from these diseases. These patients are transferred to the Hospital of Infectious Diseases in Constanta or elsewhere, the practice being that HIV+ detainees are then relocated to the Jilava jail hospital.

The visit of the detention sections began at section no. 7 for underage inmates. These were in the inner yard at the time of the visit. They complained about not being able to receive parcels from home by mail and about poor food, especially at breakfast (“it’s worse than it used to”). There was no cold running water, and hot water for showers was provided only once a week; the allotted individual showering time was insufficient. The free

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\(^{1}\) men who have sex with men  
\(^{2}\) sexually transmitted infections  
\(^{3}\) lesbian, gay, bisexual, transgender  
\(^{4}\) Legal Medical Institute
program is not observed and accessing medical services is critical. Two of the inmates had specific scabies signs and had repeatedly asked to be medically examined in the previous couple of weeks. The underage inmates did not know what procedure they should follow in case of sexual abuse and were not aware that they should request examination at the LMI and legal-medical certificates.

When transferred or relocated, the inmates could not call to inform their families, but had to ask a guard to make the call. It is not clear whether the guards do inform families or if they do it in due time. There was one case when an inmate’s family was not notified about the transfer and they came to visit at the old location.

In section 6, with the highest security regime, we visited room no. 9. Just as in the underage section, breakfast is considered unsatisfactory and there’s little possibility for detainees to buy food from the penitentiary shop (i.e. according to the inmates, a box of instant coffee is 70,000 ROL, a kilo of sausages is around 200,000 ROL and a 160-gram pack of Delaco cheddar is 60,000 ROL**). Inmates are only allowed to receive money, not food, from home, but they cannot afford to buy the overpriced food sold in the penitentiary. In-house cooked food is the same for everyone, irrespective of special diet needs for diabetes patients. Inmates have difficulty accessing the medical services available, and condoms can be picked up only at the medical office. D.E.,†† one of the inmates, complained that the doctor sees them only once a week: “if you’re feeling sick, I’m going to send you to the hospital.” In winter, the inmates have to walk in the cold to get to the shower area.

The visit at the medical office confirmed that a sexual abuse procedure was in place, implying a first examination by the doctor and a subsequent referral to the LMI. In case of such abuse, the prison management is notified and the psychological assistance service cooperates. Dermatological cases are referred to the specialized section of the Constanța hospital. Transporting the inmates who need specialized medical assistance is somewhat problematic because the penitentiary is understaffed.

The patients can only ask for condoms at the medical office, which reduces condom accessibility on a regular basis. The prison doctor thinks that the sexual orientation and gender identity information sessions for the penitentiary staff are useful.

From the discussion with the delegated judge, more staff is needed: a court clerk for the delegated judge and also a person to communicate with the inmates. The great number of petitions and complaints, most of which are

** The prices quoted here are in old local currency. Their approximate USD equivalents are, in order, $2.95, $8.45 and $2.50, respectively.
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related to the sanction reports, cannot be processed within the legally allotted time. As for the observance of the actual human rights standards for prisoners, the judge can make some recommendations, but cannot issue orders to the penitentiary management.

Conclusions:

a) the management should initiate the improvement (i.e. renovation and refurbishing) of some of the prison areas (the sport ground, the inmate reception area, the showers), and should organize a space for the inmates’ private conjugal visits.

b) the inmates’ general complaints refer to access to medical services, the quality of breakfast, the food prices at the penitentiary shop, and also the reduced availability of hot water and showers, as well as leisure activities. Inmates should be allowed to watch their favourite shows on TV even after 12 a.m.

c) the inmates’ access to condoms should not be limited to the medical office, but should be provided under protection of anonymity and on a regular basis.

d) even if the inmate catering service is not outsourced, the practice of distributing portions should be adjusted to the medical diet requirements of some of the inmates.

e) the penitentiary management should include in the interior regulation book a minimal set of rules and procedures to prevent and fight sexual abuse. In case those subjected to sexual aggression do not have the necessary financial means, we suggest that the penitentiary pay for their legal medical examination, so that they can be examined by a forensic expert within 24 hours.

f) the penitentiary management should initiate courses on sexual orientation and gender identity issues for the staff, to enable them to contribute more efficiently to reducing mistreatment of MSM.

Report written by Florin Buhuceanu
March 25, 2008
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At the time of the visit the total number of inmates was 1,226, of whom 349 were held in the external section of the prison, located at Valul lui Traian. Of these, eight were underage, 69 were young adults aged 18 to 21, 30 were female, and 40 were considered high-risk inmates. The penitentiary ensures the legal conditions for prisoners held in open and semi-open detention regimes, and provides regime change options to all the detainees, in accordance with Law no. 275/2006.

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