

Realities and Perspectives of the Romanian System of Penitentiaries

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Abstract: The National Administration of the Penitentiaries is part of Romania's system of public order and national safety. Regarding the penitentiary system applied to the caged persons, Romania is in the swim of alignment to the European standards. At present, The National Administration of the Penitentiaries has in custody 28455 prisoners. They are distributed in penitentiaries and 3 reformatory centers. Bearing in mind our integration in EU, The National Administration of the Penitentiaries unreels a series of collaborations for the development of the penitentiary units and for the improvement of the activity of the penitentiary system, having some well-established projects with Germany, Holland, Hungary and the Republic of Moldavia.

Due to the attention given more and more often both nationally and locally to the relationship between the civil society and the system of prisons, in the lines that follow we shall make a historical retrospect of the jailing system in our country. Thus:

In 1380 the first mentions about Ocna Trotusului are made, "ocna" being a salt mine where the labour force was usually constituted by the "gaol-birds" - usually the ones convicted for robberies, crimes, etc. The technique was simple: the convicted was sent in the "ocna" and left there until he finished his penalty.

For the boyars and noblemen, the punishment meant seclusion in the monastery. One of the oldest monasteries serving for this purpose is Snagov Monastery, built by Vlad Tepes somewhere near Bucharest, in the XIVth century, and was used for his political opponents.

1788- in Transilvania, a territory under Hungarian dominations, the stipulations of the 61st paragraph of the punitive procedure promulgated by the emperor Joseph the 2nd were applied, since they stipulated that " every cell should be clean, dry, have light from the sky and be built in such a way that it should not endanger the health of the prisoner".

Being under Hungarian rule, the cities from Transilvania – unlike the ones from Moldavia and Wallachia – could benefit of special buildings which served as prisons, and had been mostly built during the rule of Mary Theresa (1740-1780) and of Joseph the 2nd, her son, whom joined her in the rule in 1765.

1790 - in the Romanian Countries, Nicolae Mavrogheni, the one who ruled between 1786 and 1790, ordered that women no longer be jailed together with men, specifying that when, due to the building, this would not be possible, they should be imprisoned at a decent, married man.

1802 - At the beginning of the XIXth century there is an increase in the interest shown by the rulers of that time to the problem of prisons. New buildings are being built and sick rooms are arranged next to all of them. Ruler Mihail Sutu, who ruled simultaneously in Wallachia and in Moldavia, during 1783-1802, demanded a weekly report of the prisoners, with a detailed presentation of the causes for which they had been convicted. Besides, he decided to use the prisoners for the public works, in order to increase the quality of food.

1831 – The appearance of the Organic Regulations in Wallachia and Moldavia meant a step forward towards the regime of executing the penalty, mentioning the fact that “the authorities will see to it that prisons be not only safe, but also clean, so that the convicts’ health wouldn’t be harmed in any way, while their food, clothes, lighting and fire wood would be bought with the sum decided for that purpose.”

1851 – The regulation for the Iasi prison is drawn up, stipulating the first provision in the Romanian legal system which puts a stop to the insults and beating of the arrested.

Also, Anastasie Panu, who was during that time the director of the Ministry of Justice, writes down the prison regulation of Targu Ocna. This one opens up the age of modern legislation in the question of executing the freedom deprivation penalties by putting into practice the “Auburian” detention regime and by introducing the first settlements regarding the moral education of convicts, which was to be made through religious education and by the obligation imposed on the arrested to learn a craft.

1874 – The Regulation for the prisons regime appeared, a regulation which governed the penalty execution regime until 1930, and instituted in penitentiaries the cell isolation regime for the night and team work during the day, thus taking over elements from the “Auburian” detention regime.

The general regulation for the central penitentiaries, of 24 May 1874 stipulates: “as elements of the social redemption action, the participation in labour without exception, proportionally to everyone’s age, strength and gender, the learning of a craft, the reading of religious books and the learning, reading of the primer”.

The idea of time, both at the European level as well as at our own, was that the harshness of the penalty was supposed to determine the punished one not to repeat the deed.

This regulation may be compared to the Belgian Law from 1870 and to the French Law from 1875, even with some advantages compared to those mentioned.

According to the 1874 law stipulations, prisons were divided into prevention prisons and punishment prisons, which, in their turn, were several categories, i.e. correctional, hard labour, seclusion and detention prisons.

Although penitentiaries should have been reorganized according to the legal stipulations, they actually stuck to the primitive regime of common imprisonment.

1930- on January the 1st, the penitentiaries and prevention institutions law adopted in 1929 becomes valid. Basically, the 1929 law maintains the stipulations of the 1874 law, improving them and instituting the English progressive system, by settling three phases in the convict’s preparation to be given back to free life, i.e.:

- *solitary isolation*, applied according to the conviction, without exceeding 3 years for the recidivists;

- *common imprisonment* during the day, and isolation during the night;

- the *working colony*, where the convicts used to work together and were housed during the night in common bedrooms.

1938 – on the 21st of April, the Regulation on the penalty execution regime was issued, being one of the most evolved European settlements on the subject, in that period. The idea of the social recovery of the convicts strongly took shape and was well stipulated under a separate title – “**Education measures**”. Having in mind the fact that this regulation took over and dwelt on the stipulations of the Law regarding the organization of the penitentiaries from 1929, we could say that, 25 years before the Minimal regulations for prisoners’ treatment was issued (ONU, August the 3rd, 1955), Romania had legislation regarding the penitentiary domain, containing stipulations for the social recovery at the level of these last international recommendations.

1944 – the victory of the allies determined Romania’s entering the war in stalinist Russia’s zone of influence, fact that constituted the departing point of a long term rip from the modern conceptions regarding the execution of the penalties. In that period, this thing materialized in changing the managing staff, corrupting the specialists as well as in an obvious regress in the applying of the penitentiary treatment.

1948 – the article “*The reeducation of the prisoners, one of the basic tasks of the penitentiaries*”, published in August 1948 in “**Penitentiary problems**” magazine mentioned the fact that reeducation cannot be done as long as “the political prisoners, the most fearful enemies of the working class and of the Republic shall not be treated with that fair class hatred and as long as the moral adaptation and the preparing of the common convicts – victims of the ex-bourgeois society based on exploitation – shall be neglected.

1952 – 1955 –The Regulation for the applying of the penitentiary regime and the Regulation regarding the receiving, jailing, guarding and regime of the convicts are issued, approved by the order of the ministry of interns, regulations by which the penitentiary was reserved, both conceptual as well as practical, the mission of constraint and even of physically removal of some categories of persons.

1962 – Preparing the great amnesty of the political convicts from 1964, The Regulations regarding the applying of the regime in the detention places, approved through the Order of the Ministry of Internal Affairs, no.4045/20.11.1962 states that, the freedom depriving punishments execution regime comprised: using them at work, respecting the discipline, cultural-educational actions, stimulations and rewarding. By organizing these activities the reaccommodation with the social pulse of the convicts benefiting from the amnesty in 1964 was achieved.

1969 – the projects of two governmental decrees are elaborated at the General Direction of the Penitentiaries, projects which will afterwards become the Law no.23-1969 and its Regulation of enforcement, approved by the Governments Decision (HCM no.2282/05.12.1969), which considered both the Romanian experience before World War II as well as the recommendations from the Minimal Regulations for Treating the Convicts enacted at ONU 1955, with only one exception, the moral and religious assistance. The governmental decrees developed a Romanian conception regarding the resocialization of the convicts, based on the participation at productive activities, in conditions similar to the ones from the economy, on completing the studies and alphabetizing the illiterates, on obtaining qualifications for a job, the continuous diversification of the cultural-educational activities regarding the direct access to social information and facilitating the family relations, as well as stimulating and rewarding the ones who are hard-working and show serious improvements. Moreover, the principle of knowing the personality of the convict and of applying the penitentiary treatment according to his psychological profile was applied, and in performing all the activities, a special attention was given to the respecting of the convicts’ dignity.

1990 – the breakage from the communist past allowed the breakage from the communist model of education, with all its implications. In order to ensure the continuity of the socialization process, but also its anchoring in the new socio-economic reality,

simultaneous actions meant to avoid the tendencies of the convicts to assume their quality as political victims of the communist system were taken, especially around 1990, this meaning also organizing moral-christian assistance in the penitentiaries not only to the majoritary religions, but also to other religious cults, and the depolitization of all the cultural-educational activities.

2003- the Romanian Government wrote down and adopted the Emergency Ruling no.56 from 25.06.2003 concerning some rights of the people carrying out their freedom deprivation penalties, by which the Regulation for the carrying out of some penalties and for the preventive arrest measure from 1969 was annulled, and the penitentiary practice was updated within European standards.

2004 – on September 28, Law no.293/204 concerning the status of the magistrates from the National Penitentiary Administration became valid, this being a normative document which led to the demilitarization of the penitentiary staff. On that date, about 12.000 militarys were made reservists and acquired the quality of magistrates with special status.

2006 – Law no. 275/2006 concerning the carrying out of penalties and of measures ordered by the judicial authorities during the penal trial was adopted, a law which provides a modern development, being concordant with the European recommendations, of the activity of putting into practice the freedom deprivation penalties, thus updating Romanian penitentiary practice as the European one, and introducing new elements, such as the institution of the judge responsible for the carrying out of the penalties and for the personalization of the freedom deprivation penalties.

The normative framework

The normative framework that settles the activity of the National Administration of the Penitentiaries is the Government Decree no 1849 from October 28th, 2004, regarding the organization, functioning and attributions of the National Administration of the Penitentiaries.

The demilitarization of the Romanian Penitentiary system happened due to the publication, on June 28th, 2004, of Law no.293 concerning the status of the magistrates of the National Administration of the Penitentiaries.

The penitentiary administration system stays a component of the Romanian civil order and national security system. Thus, the 2nd, article of Law no.293/2007 concerning the status of the magistrates from the National Administration of the Penitentiaries stipulates that “National Administration of the Penitentiaries and subordinate units are part of the civil defense, civil order and national security institutions of the state.”

Regarding the “magistrate with a special status” quality, we mention that, according to article 3 (2)nd paragraph of the above mentioned law, this is given by the nature of the job attributions which implies duties and high risks. While performing attributions of guarding, escorting and surveillance, as well as in other clearly justified situations, the magistrate of the penitentiary administration system uses, under the law requirements, the technique, the means and the equipment he has been provided with”.

The activity of the penitentiary administration system regarding the penitentiary regime applied to freedom deprived individuals, is rounded up with other normative documents, laws, Government decrees, etc.

Legislation concerning the penitentiary regime applied to freedom deprived individuals will be modified once the new Penal Code becomes valid, but also the new law for carrying out penalties, which will replace the current law regarding carrying out penalties, dated 1969.

2	ARAD - Centre	945	0	1578	59,89	1578	1492	86	0	0	
	- R - 104	157	0	299	52,51	299	284	15	0	0	
3	BACĂU	957	11	892	78,57	1218	1102	30	86	0	
4	BAIA MARE	532	4	503	83,91	634	622	12	0	0	
5	BISTRIȚA	417	1	618	67,48	618	590	28	0	0	
6	BOTOȘANI	992	7	1178	81,11	1223	1211	12	0	0	
7	BRĂILA	520	0	573	89,19	583	571	12	0	0	
	- G.A.Z.	45	0	60	102,27	44	44	0	0	0	
8	BUCHAREST	1613	0	1426	87,47	1844	1822	22	0	0	
	- tranzist	6									
9	CODLEA	671	3	606	89,59	749	717	14	18	0	
10	COLIBAȘI	788	1	1097	71,83	1097	1060	14	23	0	
11	CRAIOVA	1064	0	1388	79,94	1331	1291	12	0	28	
	- S 10	110	0	135	87,30	126	0	0	0	126	
12	DEVA	737	8	985	74,82	985	919	66	0	0	
13	FOCȘANI	624	2	641	77,32	807	728	11	68	0	
14	GALAȚI	799	0	756	86,01	929	899	30	0	0	
	- transit	0									
15	GHERLA	898	0	1225	73,31	1225	1225	0	0	0	
	External section Cluj	163	9	256	63,67	256	256	0	0	0	
16	GIURGIU	1242	7	1722	72,13	1722	1694	28	0	0	
17	IAȘI	1449	5	1416	94,09	1540	1540	0	0	0	
18	MĂRGINENI	1100	5	1185	70,60	1558	1543	15	0	0	
19	MIERCUREA CIUC	420	0	447	77,78	540	515	15	10	0	
20	ORADEA	621	4	732	84,84	732	717	15	0	0	
21	PELENDAVA	92	0	124	74,19	124	124	0	0	0	
22	PLOIEȘTI	417	5	537	73,67	566	534	26	6	0	
	- Berceni	48	0	61	51,61	93	93	0	0	0	
	- Movila Vulpii	36	0	43	65,45	55	55	0	0	0	
23	POARTA ALBĂ Centre	818	9	1570	71,01	1152	1152	0	0	0	
	- Valu lui Traian	371	0	720	65,09	570	570	0	0	0	
24	RAHOVA	1421	20	1721	82,95	1713	1643	30	40	0	
	- transit	0									
25	Ș.F.P.P.A. TG.OCNA	170	0	268	64,15	265	254	3	8	0	
26	SATU MARE	515	3	490	84,29	611	581	30	0	0	
27	SLOBOZIA	594	4	674	74,53	797	738	0	20	39	Deposit + Alexeni
28	TIMIȘOARA	1093	12	1112	78,41	1394	1368	8	12	6	Buziaș shooting range
29	TÂRGȘOR	560	3	694	84,21	665	665	0	0	0	
30	TG.JIU	655	6	610	89,36	733	650	16	67	0	
	Pojogeni section	0	0	112	0,00	0	0	0	0	0	
31	TG.MUREȘ	511	0	559	76,96	664	660	4	0	0	
32	TULCEA – Centre	863	3	1056	70,45	1225	1171	30	20	4	Sheepfold
	- Chilia Veche	100	0	201	49,75	201	201	0	0	0	Sheepfold
33	TURNU SEVERIN	288	0	309	93,20	309	270	15	24	0	
	- Secția Vânjuleț	102	0	334	30,54	334	334	0	0	0	
34	VASLUI	494	3	550	77,43	638	626	12	0	0	
TOTAL PENITENTIARIES		26894	142	32540	77,31	34787	33561	621	402	203	
	- transit	22									

No.	Unit	Existent numbers	Legal capacity	Occupation index %	Numbers of installed beds on 13 may 2008						
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		Total	Under aged	for 6 c.m.	from the no. of installed beds	Total	Detention place	Sick rooms	G.A.Z.	Other spaces	where
35	P.M.T.CRAIOVA	267	58	400	79,46	336	336	0	0	0	
36	P.M.T.TICHILEȘTI	218	83	434	88,98	245	211	0	30	4	Sheepfold
TOTAL P.M.T.		485	141	834	83,48	581	547	0	30	4	
37	SP. COLIBAȘI	165	0	300	55,00	300	300	0	0	0	
38	SP. DEJ	109	0	246	58,92	185	27	158	0	0	
39	SP. JILAVA	286	1	440	65,00	440	440	0	0	0	Attendance
	- transit	0									
40	SP. P. ALBĂ	149	1	287	52,65	283	283	0	0	0	
41	SP. RAHOVA	47	2	108	43,52	108	108	0	0	0	
42	SP. TG.OCNA	129	2	405	45,42	284	284	0	0	0	
TOTAL OF HOSPITALS		885	6	1786	55,31	1600	1442	158	0	0	
- transit		0									
43	C.R.BUZIAȘ	63	63	117	55,26	114	109	5	0	0	
44	C.R.TG.OCNA	73	73	203	63,48	115	108	7	0	0	
45	C.R.GĂEȘTI	55	55	153	35,95	153	138	15	0	0	
TOTAL C.R.		191	191	473	50,00	382	355	27	0	0	
- TRANZST		22									
Grand total		28455	480	35633	76,18	37350	35905	806	432	207	

NOTE

1. The following number of persons are found in the re-education centre, with the educational order of confidence

1	C.R.Buziaș	=	63	(boys)
2	C.R.Găești	=	55	(44 boys and 11 girls)
3	C.R.Târgu Ocna	=	73	(all boys)

2. The persons in transit are part of the total number.

Considering our country's integration in the European Union, the National Administration of the Penitentiaries develops collaboration projects regarding the development of the penitentiary units and the improvement of the activity of the penitentiary system. Thus, we have some long-term collaborations:

Collaboration with Germany

The cooperation protocol between Aichach (Germany – Bavaria) and Codlea, signed on the 20 September 2005, stipulating reciprocal exchange of relevant information, common organization of reunions and symposiums, consultancy and even material help.

Collaboration with Holland

The collateral agreement of collaboration between the Ministry of Justice, the Romanian National Administration of the Penitentiaries and the Ministry of External Affairs from Holland, signed on the 30 of August 2005, through which the National Administration of the Penitentiaries benefits of a 2.000.000 € grant from the Ministry of External affairs from Holland, in the project „The Allignment of the Romanian Penitentiary System to the European Standards”.

Collaboration with Hungary

The cooperation agreement between the Hungarian National Penitentiary Administration and the General Direction of the Penitentiaries, signed in May 1998. Until now, the cooperation has been realized not only at the level of the administrations but

also between the penitentiary units from Hungary and Romania and meant reciprocal visits in order to consolidate the relations, exchange of professional information , consultancy but also material help.

Nowadays, there are “twinned” penitentiary programmes between:

- Tg Mureş Penitentiary and the Kecskemet, Veszprem and Debrecen Penitentiaries;
- Gherla Penitentiary and Veszprem Penitentiary;
- Aiud Penitentiary and Szekszard Penitentiary;
- Miercurea Ciuc Penitentiary and Naghyfa Penitentiary.

Collaboration with The Republic of Moldavia

The protocol of cooperation with the Republic of Moldavia Penitentiaries Institutions Department, signed on the 15.02.2000 by the managers of two institutions.

According to this protocol, the cooperation is in the legislative domain, the penitentiary management domain, through experience changes and documentation visits. Also, according, to the protocol's stipulations as well as to those of Training and Perfectioning Programme for the Penitentiary System staff from the Republic of Moldavia, signed along with the Protocol, each year there are schooled, at the expense of the Romanian state, 10 non-commissioned officers of penitentiaries from the Republic of Moldavia in the „Tg. Ocna” Agents Forming and Professional Training School.

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Law no. 293 from 2004 regarding the position of the clerks from the National Administration of the Penitentiaries

Government's Decision no 1849 from 2004 regarding the organizing, the functioning and the responsibilities of the National Administration of the Penitentiaries

Ordinance no.64 from the 30th of August 2006 regarding the salaries and other rights of the clerks with a special status, from the system of the administration of the penitentiaries

Government's Decision no.1996 from 2004 regarding the conditions imposed for providing free medical and psychological care, medicines and prosthesis for the special status clerks from the system of the administration of the penitentiaries

The Order of the Ministry of Justice no.2854/C from 2004 for the approving of the Regulations regarding the participating, organizing and unfolding of the contests for occupying the openings and promotions, as well as the conditions to modify and stop the work reports of the clerks from the administration the penitentiaries

The Order of the Ministry of Justice no.2790/C from 2004 regarding the approving of the Competences to Administrate the human resources of the Ministry of Justice, the general manager of the National Administration of Penitentiaries and the managers of subordinate units

The Order of the Ministry of Justice no. 2856/C from 2004 for approving the Regulations regarding the participating, organizing and unfolding the activities of the discipline boards from the National Administration of the Penitentiaries and from the subordinate units

The Order of the Ministry of Justice no.2794/C for approving the Ethics Code of the staff from the system of the administration of the penitentiaries

Webography:

www.just.ro

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