

Economy Transdisciplinarity Cognition www.ugb.ro/etc	Vol. XIV, Issue 1/2011	494-499
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Historic and Administrative Aspects Regarding the Prison System in Romania and the Republic of Moldova

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Abstract

Taking into consideration the growing concerns over the last period, at a national, international and community level concerning the relationship between civil society and the prison system, as well as the central objective of our article, we will try to achieve below a historical review and to point out at the same time the administrative matters of the two prison systems in Romania and Moldova.

Keywords: prison system, government, historic issues, trends

INTRODUCTION

In some prison systems are used different terms to refer to places of detention in which detainees are held, people who are either remanded or serving a final sentence or are subject to maximum security detention systems. In the United States for example establishments where untried prisoners are kept is called prisons, where prisoners and those who were definitive sentenced are called correctional institutions.

In the Russian Federation are using only two terms – prison - designating the place where are incarcerated those who have committed serious crimes, who were sentenced or permanently closed and penal colonies where common law criminals are kept.

To achieve an overview of prison systems in Romania and the Republic of Moldova we will make a further historical and administrative review, help of archival documents currently available in those two countries.

1. PRISON SYSTEM IN ROMANIA

We thus begin with the prison system in Romania:

In 1380 the first mention of Ocna Trotus is made, which is near the settlement of Tg. Trotuș, a place which exists today near the city of Tg. Ocna, Bacau County, the mines being exploitations of underground salt mines, where the workforce is considered to be the “convicts” - usually those convicted of robbery, murders, etc. The technique of imprisonment was quite simple and archaic; the convict was lowered down into the prison and was not removed until he had finished his sentence, most often those who go down in the mine never come back.

For landowners and nobles the punishment was the confinement in a monastery. One of the oldest monasteries which served this purpose is the Snagov monastery, near Bucharest, founded by Vlad Tepes in the fourteenth century and used by the fierce ruler for his political opponents.

In Transylvania in the year 1788 under the Austro-Hungarian rule, the provisions of

paragraph 61 of criminal procedure promulgated by Emperor Joseph II stated that “every prison must be clean, must have dry air and light and must be built in such a way so that the health of the slave (prisoner) should not be put in danger”[1].

Under the Austro-Hungarian rule, the cities of Transylvania - unlike those of Moldova and Walachia - have benefited from special constructions that served as prisons. They were built largely during the reign of Maria Theresa (1740-1780) and of Joseph's II, her son, who since 1765 was associated to the throne.

In Walachia, Prince Nicholas Mavrogheni (1786-1790) commanded that women must not be closed together with men, stating that when this is can not be applied, because of the premises they should to be imprisoned with a married man.

In the early nineteenth century in 1802, the empowered of the time show a growing interest for the prison problem. New buildings are constructed and arranged and next to each prison one infirmary. Prince Michael Șuțu, who concomitantly ruled Walachia and Moldova in the period 1783-1802, required weekly reports concerning the convicts' situation, also showing the causes for which they were convicted. He also decided to use prisoners in the public works in order to increase the food quality.

With the advent in 1831 of the Organic Regulations in Walachia and Moldova, which contained similar provisions it created the premise of a step forward and towards the direction of the penalty execution regime mentioning that “the ruler will be watching so that prisons should be not only safe, but also clean, so that the health of those imprisoned should not be damaged and the food, clothing, lighting and fire wood to be bought from the amount determined for them”.

In 1851 the regulations of the Iasi's prisons are drawn up, containing the first provision of the Romanian law system which stops the insults and beating of the detainees.

Also, Anastasie Panu, at that time director of the Ministry of Justice drafted the rules of Tg.Ocna's prison. This opens the era of modern legislation in matters of enforcement of custodial sentences by the implementation of the “Auburian” detention regime and introducing the first regulations on the prisoner's moral education, which would be made by means of the religious education and by requiring the detainees to learn a job.

The emergence in 1874 of the Regulation on the prison regime, which ruled the penalty execution regime until 1930, imposed in prisons the solitary confinement during the night and joint work during the day, thus taking over some elements of the “Auburian” detention regime.

The general regulation for the central prisons on 24 May 1874 stipulates “as elements of the social action straightening, the use of work without exceptions in relation with the person's age, strength and sex, learning a trade, reading and learning religious books or ABC reading”.

The idea of the time, both in Europe and in our country, was that the punishment's harshness is likely to determine the one who was punished to not repeat the deed.

This regulation can be compared with the Belgian Law of 1870 and the French Law of 1875, and it even shows some advantages over them.

According to the provisions of the law of 1874, the prisons were split into different categories: prevention prisons and prisons of doom which, in turn, were separated into several categories namely: correctional prisons, forced labor, imprisonment and detention.

Although prisons should have been reorganized according to the provisions of the law, in fact they remained a primitive system of keeping people in the same place.

On January 1, 1930 the prison law and that of the prevention institutions adopted in 1929 enters into force. The law of 1929 preserves, in general, the provisions of the 1874 law, improving but also instituting the English progressive system by regulating the three fazes in the preparation of the convict's release, namely:

- *individual isolation* applied in relation to conviction, without exceeding three years for the recidivists;

- joint maintenance phase during the day and night isolation;

- labor colony, where inmates worked together and were accommodated overnight, into

common dormitories.

On April 21, 1938 appears the Regulation concerning the enforcement of sentences regime, one of the most advanced European Law at the time. The idea of social recovery of prisoners is strongly outlined and well regulated in a separate title – **“Measures of education”**[2]. Given that this regulation takes over and develops the provisions of the law on the organization of penitentiaries from 1929, it can be said that a quarter of a century before the appearance of the Standard Minimum Rules for the Treatment of Prisoners (UN, August 3, 1955), Romania had a legislation in the prison field, which contained provisions on the social recovery line at the level of future international recommendations.

In 1944 the allies’ victory led to Romania’s entry into the area of influence of Stalinist Russia, fact which was the starting point of a long-term rupture of modern concepts on the execution of sentences, aspect which we will analyze in detail when we refer to the penitentiary system of Moldova. At that time, this resulted in a change of management, the compromise of the specialist staff and a visible decline in the application of prison treatment.

The article “Re-education of prisoners, one of the main tasks of the Prison” published in August 1948, in the magazine “Prison Problems”, indicated that rehabilitation can not be achieved as long “as political prisoners, the most hateful enemies of the working class and of the Republic will be treated as they deserve and while the moral adaptation and preparation of convicts of common right, victims of the old bourgeois society based on exploitation, will be neglected [3].

Between 1952 and 1955 the Regulation for the application of prison regime is drawn up. In the same year the Regulation on receipt, possession, guard and the prison regime is approved by the order of the Minister of Interior, through which the prison is reserved, both conceptually and practically, only the task of coercion and even the physical removal of certain categories of people.

In 1962, during the preparation for the great amnesty of political prisoners in 1964, the Regulation regarding the application of the regime in places of detention is approved by the Ministry of Administration and Interior no. 4045/20.11.1962 provides that, under the scheme for enforcement of custodial sentences shall subscribe: use at work, respect for discipline, cultural and educational action, stimulating and rewarding. By organizing these activities the reintegration of those who were given amnesty in 1964 to the social pulse was ensured.

The year 1969 is a very important moment for the General Direction of Prisons, where the drafts of two normative acts are being developed that subsequently will become Law. 23/1969 and the regulation concerning its implementation, approved by Governmental Decision (HGM no. 2282/05.12.1969), for which were taken into account both the Romanian experience preceding the 2nd World War and the recommendations contained in the Standard Minimum Rules for the Treatment of Prisoners adopted by the UN in 1955, with one exception, religious and moral assistance.

The normative acts have developed a Romanian concept regarding the resocialization of convicts, based on the participation at productive activities, under similar conditions with those in the economy, completion of general studies and illiterate literacy, the qualification in a trade, the continuous diversification of the range of cultural and educational activities aimed at seamless access to information and facilitating social ties with family as well as the stimulation and rewarding of those who devoted themselves to their work and give solid evidence of rehabilitation. It was also founded and applied to the extent possible, the principle concerning the knowledge of the convict’s personality and the application of the prisoner treatment in accordance with his psychological profile and in all the activities a special attention was paid to the dignity of the prisoner. These normative acts were at their time modern regulations at an international level and provided an appropriate framework for conducting in the last 25 years, an activity of sentences execution comparable with those in other European systems. It should be emphasized that, until the revolution of 1989, the system faced serious conception limits imposed

even by the official socialist ideology, such as: the requirement that all prisoners be useful to the society when they get out of prison, the re-socialization programs are required to comprise a significant percentage of political issues, etc..

The year 1990 represents the detachment from the communist past and allows the tear from the communist model of education, with all its implications. To ensure the continuity of the process of socialization, but also its anchorage to the new socio-economic reality, they acted concomitantly to counter the trends so that the prisoners are ensured the status of political victims of the communist system, especially during 1990, the organization of Christian moral assistance in prisons by granting access in prisons not only to the major religions but also to the cults, de-politicization of all cultural and educational activities. Law no. 21/15.10.1990 brings a new test to the penitentiary system. Passing from the subordination of the Ministry of Interior to the Ministry of Justice, was a milestone for the further development of the prison system.

In 1994 - Romania ratifies by Law no. 30/18.05.1994, the Convention on Human Rights and Fundamental Freedoms, which has imposed increased demands caused by the need to improve conditions of detention for the persons deprived of their liberty in prisons, in line with the international rules.

Prison reform began immediately after the General Direction of Prisons passed under the subordination of the Ministry of Justice, and focused mainly on humanizing the detention regime in an effort to respect human dignity, absolute impartiality, free from any discrimination based on nationality, citizenship, political opinion and religious conviction; quantitative and qualitative improvement of the rules of feeding, supplementation of rights granted to inmates regarding packages, visits, cigarettes and shopping; free access to mass media and the transparency of the penitentiary system.

In 2003 the Emergency Ordinance no. 56 of 25.06.2003 was drafted and adopted by the Romanian Government concerning certain rights of persons in execution of custodial sentences, through which the Regulation of execution of punishments and preventive arrest measures from 1969 is repealed and aligned with the prison practices standard for Europe.

On 28 September 2004 Law no. 293/2004 entered into force, regarding the Status of civil servants in the National Penitentiary Administration, legislation under which the prison staff was demilitarized. At that time, approx. 12,000 military personnel have been put in reserve and have acquired the status of civil servants with special status [4].

In 2006 Law no. 275/2006 entered into force concerning the execution of punishments and measures ordered by the court during the trial which provides a modern development, in line with the European recommendations, of the enforcement activity of custodial sentences, thus aligning the Romanian prison practices with the European ones, and introducing new elements, namely the delegated judge institution for the execution of sentences and customization of custodial sentences.

2. PENITENTIARY SYSTEM IN MOLDOVA

As regards the Republic of Moldova, the history of the penitentiary system is in itself an area that basically has not been studied so far by the prison experts. Therefore we would like to highlight that because some few specialist have studied this issue the material of the article will focus exclusively on scientific data obtained from three archives: National Archives of the Republic of Moldova in Chisinau, the Russian State Historical Archive in St. Petersburg and National Archives of Romania in Bucharest.

The brief examination of the material accumulated allows us to conclude that the penitentiary system of Moldova, in the form of a prison complex in which different punishments are enforced and the offenders are re-educated, began to form only in the early nineteenth century, after Bessarabia became part of the Russian empire.

Until 1812, imprisonment was not differentiated primarily by the category of the offenses

committed: serious and less serious; secondly the inmates were not separated by sex and thirdly, re-education was not possible at that time, because there were no specially built detention centers [5]. The places used as detention places for persons who committed crimes during the sixteenth and nineteenth centuries, in Moldova were often used: houses' cellars, basements of castles, monasteries and hermitages. There are known cases, however, when monasteries were granted special lands for building prisons [6]. However, these places of detention could not be called prisons. They lacked arrangement and often prisoners fled from them [7]. So therefore we can not talk about any prison system that existed at that time in Moldova.

Since 1812, Moldova began to implement the Russian legislation, which established the organization and operation of the prison system. Gradually, for the maintenance of prisons, money from the state budget began to be allocated for the premises' reparation, feeding of the detainees and improving their conditions of detention.

The Bessarabian prisons in this period become not only places of punishment for crimes committed, but also places for the rehabilitation of offenders. By the mid-nineteenth century in prison the study of religion, as well as the academic study is initiated.

Regarding the development of the Moldovan prison system a special attention began to be given to building prisons. The National Archive documents show that the Republic of Moldova in 1828 approved by a special scheme to build prisons. Prisons are designed with a capacity of 400 people, but that could easily be reassembled for the detention of 350, 300, 250 and even 50 people. In the archives there were identified specific projects developed for cities like: Bender (project 1842), Balti (project 1835), Hotin, Ismail.

The successful project for a prison is that developed in the city of Chisinau, which was built between 1834 and 1864, and was designed by the architect from Odessa, of Italian origin, G.I.Toriceli [8]

Making an analysis we can see that Moldova's prison system has undergone a development path characteristic for many European countries.

The prison system is now an instrument of state force which is organized through the execution of criminal penalties of imprisonment and, in one way or another, the individual is educated in compliance with the spirit of social order and the rule of law. With the evolution of society, the prison system has also seen some development stages. Corrective and repressive measures of the prisoners began to take shape only in the early nineteenth century.

The modernization of the judiciary and prison system in the republic begun from the second half of the eighteenth century and continued in the first half of the nineteenth century. Life in Moldova, flowed under the influence of the events in Russia, where the modernization of the institutions begun a century ago.

In Moldova, for example, were introduced all the existing courts of law in Russia, which have evolved along with the general reforms of justice in this country. The Moldavian Soviet Socialist Republic, in order to carry out custodial sentences were built, not prisons, as in Western countries, but much larger institutions – “reeducation colonies through labor” [9]. These colonies had a well developed infrastructure for production, with everything necessary for long-term coexistence of a large number of people (dormitories, canteens, cultural houses, bath-laundry complexes, etc.) characteristic for the Soviet system. The rights and interests of prisoners or relatives in such circumstances are not taken into account, but partly respected. The order and conditions of execution of sentence are determined by placing an emphasis on causing deprivation and suffering to the convicts.

With the collapse of the Soviet system the ideological and economic conditions ceased to exist. These conditions supported such a criminal-executive system. For the society it has become clear that having the initial form of criminal-executive system has become impossible and requires a radical reform.

There is a positive trend in the world towards extending and respecting a wide range of rights and freedoms of inmates. But this involves reforming the prison system and adapting new

principles of treatment for prisoners. Specific to the reform of prison system everywhere is to focus on the quality of interpersonal relations and at this level tensions can appear, which cannot be solved only through structural change. The penitentiary system of Moldova accumulated numerous malfunctions: excessive hierarchy, a normative abundance that generated confusion and therefore a new application for legislation, a too much emphasis on military discipline at the expense of relationships based on expertise, rewards with predilection for obedience and not for creativity and work well done - feature which, unfortunately, still shows today, defining the prison's security only as a ratio of force and display of technical means and not as a negotiation process which generalizes relations in the conception of the role of senior officials, avoiding the clarification of organizational processes such as vulnerability, stress, crisis, control, management, etc. In the past, mainly formed as a compartment of the socio-household complex and developing in the conditions of management mechanism, the prison system could not fully ensure the effective exercise of its main tasks - rehabilitation of prisoners. The bodies of the system while aiming to establish political conjuncture and without taking into account international practice have formed the foundation of penal policy. The measures taken frequently had a character without continuity which does not make the foundation of this system.

Since the proclamation of sovereignty (1991) Moldova steps firmly on the path of expansion of democratic reformation of society and in order to be integrated into the community of the European nations it become an equal and active member of various international organizations and joined in many international activities concerning human rights.

The process of establishing a democratic state of law requires the radical reform of its policy in the enforcement of criminal sanctions, as well as settlement of several issues relating to combating criminal elements and overcoming difficulties in the social sphere, inevitable in the criminal executive system.

Prison reform began in 1996, immediately after the Direction of Penitentiary Institutions passed under the supervision of the Ministry of Justice, becoming the Department of Penitentiary Institutions of the Republic of Moldova, after which a plan of ideas and goals was implemented during the years 2004 - 2013 [10].

This action was focused mainly on the humanization of the detention regime and aimed at respecting human dignity, absolute impartiality, free from any discrimination based on nationality, citizenship, political and religious persuasion, quantitative and qualitative improvement of food, supplementation of rights granted to inmates, free access to mass media and the transparency of the penitentiary system.

Some of the main tasks of the prison system are: enforcing a custodial sentence, maintenance of people in isolation, ensuring the rule of law and legality in prisons, prisoners' security as well as that of the people in positions of responsibility and citizens found on the territories of these institutions.

The activity of the Department of Penitentiary Institutions is to achieve a set of socio-political, economic and ideological measures in order to influence the convicts and persons under preventive arrest, while reducing their freedom, their isolation from society, as well as the application of other restrictions on rights.

In the process of implementation of the prison system reform the institution nominated took over the following duties: guard and escort of the prisoners, health care, capital construction, material and technical assurance, the staff's training, etc., which previously were handled by other institutions. Thanks to the actions taken, the image of the prison system has increased enormously in the eyes of the public. In this context prisons have become more open and accessible to many national and international organizations. A significant contribution is that made by the Directorate of Penitentiary Institutions in developing programs of rehabilitation and re-socialization of prisoners through their involvement in work and by giving inmates the possibility to improve their general and professional education.

CONCLUSIONS

In this field, there is still intense work to be done. This will be achieved by working together with the international organizations interested in providing decent conditions of detention for inmates of the prisons mentioned.

In conclusion one can see some common points on the trajectory of evolution of the two prison systems, points which were influenced by the regional geo-political context, but the most important aspect at the moment is that both systems have understood and materialized the directions of modern development and are applying the new trends in the penitentiary administration. What was stated above can be illustrated by the collaboration between the Romanian penitentiary system and the prison system in Moldova, which has materialized so far in attending workshops and seminars, as well as making several visits for study. Under the cooperation protocol signed between the National Administration of Prisons in Romania and Moldova Penitentiary Department, the Romanian ensure the annual enrollment of young future professionals coming from Moldova in the National Training School for Prison Officers at Tg. Ocna, Bacau County.

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