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This thesis is dedicated to all the people who are fighting for the end of human rights violations and for better conditions in Romanian prisons.

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Chapter 1 – Introduction

The first chapter of the thesis, the introduction, is meant to present the rationale of the topic, along with the research questions, the hypotheses, and the layout.

1.1. Rationale

In the past year Romania has faced many changes. The Government resigned at the beginning of November, and was replaced by a technocratic one, meaning that the country is led by a group of experts in their field, who do not have a political affiliation. The population received very well the Governmental change, as it made it feel more empowered.

In the past years, a great number of complaints were filed at the European Court of Human Rights (ECtHR), especially regarding violations of Article 3 of the European Convention on Human Rights. Most complaints regard the poor conditions of detention and the high occupancy levels.¹ This situation needs to be addressed; as well as immediate measures need to be taken.

The issue of the human rights in prisons has been highly mediatized as a great number of political people have been imprisoned over the past years, and had to face the poor detention conditions.² Unfortunately, even if it was mediatized and the subject received plenty attention, but not much change has been made in this direction. The Romanian Ombudsman, Victor Ciorbea, submitted in October a report to the Parliament regarding the prison conditions, but due to the political crisis in Romania, the

¹ Elena Dumitrache, “CEDO ne-a pedepsit pe merit – Romania a fost condamnată într-o singură cauză la plata a 164.150 euro daune morale pentru încălcarea articolului 3 din Convenție, privind interzicerea torturii”, Lujă, 19 June 2015, available from <http://www.luju.ro/international/cedo/cedo-ne-a-pedepsit-pe-merit-romania-a-fost-condamnata-intr-o-singura-cauza-la-plata-a-164-150-euro-daune-morale-pentru-incalcarea-articolului-3-din-conventie-privind-interzicerea-torturii-intr-o-singura-zi-cedo-a-statuat-ca-18-penitenciare-si-3-centre-de-?print=1>, (accessed 31 July 2016)

² Ionela Marcu, “Elena Udrea: Condițiile din pușcării, mijloace de TORTURĂ. Până n-o MURI cineva, nu se va schimba nimic”, Romania TV, 22 September 2015, available from http://www.romaniatv.net/elena-udrea-conditiile-din-puscarii-mijloace-de-tortura-pana-n-o-muri-cineva-nu-se-va-schimba-ni_245994.html, (accessed 31 July 2016)

Parliament did not focus on it. The new Government was under a lot of pressure when it entered into office. First of all, because the previous one resigned after a club burned down and 64 people died and 100 were injured.³ Thus, the new leaders focused on banning smoking in public places, making sure that all restaurants, pubs and clubs had the adequate authorizations and norms of functioning. The rights of the prisoners have in some ways been left aside, as the priorities have been others, consequently, it has to adopt some measures and focus on this issue.

The thesis will look into human rights violations and improvements regarding the detention conditions made in the past ten years (2006-2016), and will resemble the reports made by the international monitoring bodies, as it lays out the national, European and international legislation, it exposes the issue and proposes possible solutions to meet certain gaps.

The present Master thesis is a study of the conditions in Romanian prisons in relation with the national and international law.

The Penitentiary Administration System is a very important public service having a great social impact determined by its functions as a guarantor of social equilibrium and in granting the detainees with the right attitude towards social values, rule of law, and general social life.

The National Penitentiary System works under the jurisdiction of the Ministry of Justice, and has in its subordination 35 prisons, 6 hospital prisons, 3 juvenile detention centers, 2 educational centers, a school for preparing the prison personnel, 2 educational facilities for the personnel, 4 centers for professional formation, one supply basis. Also, in 23 prisons there are preventive detention centers.⁴

In order to ensure the best and most efficient development of activities, the penitentiary units are spread into 8 regional areas, each area having a coordination unit.

The mission of the National Penitentiary Administration (NPA) is to apply the detention regimen and to ensure that the inmates have the chances for a full reintegration, with a

³ “Șase luni de la catastrofa din clubul „Colectiv”: 64 de morți și tot mai multe întrebări”, EuropaFM, 30 April 2016, available from <http://www.europafm.ro/sase-luni-de-la-catastrofa-din-clubul-colectiv-64-de-morti-si-tot-mai-multe-intrebari/>, (accessed 31 July 2016)

⁴ “Unitati Penitenciare”, available from <http://www.anp.gov.ro/web/anp/cautare-unitati>, (accessed 31 July 2016)

full respect to their human dignity. The NPA's main vision statement is to provide the inmates with the necessary skills in order to be capable of socially reintegrating the after detention.⁵

1.2. Research question and hypothesis

The *research issue* consists in the fact that the inmates are facing human rights violations, and although considerable advancements have been made, the Romanian prison conditions are not up to the international norms and standards.

The *research question* searches to answer, which human rights are violated, and to what extent are the prisons up to international norms and standards.

Hypothesis 1 – After evaluating the reports made by the Committee for the Prevention of Torture, the UN Committee Against Torture, reports submitted by the UN Special Rapporteur on Torture, reports of the Universal Periodic Review, and reports made by Romanian NGOs, Romania has made considerable progress in respecting the basic human rights of the inmates, as well as regarding the conditions in the prisons.

Hypothesis 2 – Respecting the basic human rights of the inmates has a direct impact on their social reintegration.

1.3. Thesis layout

The thesis will start with the presentation of the legal framework, by choosing the most important articles which safeguard the rights of the inmates. The situation in prisons is presented in the following chapter. In that part international reports as well as reports by Romanian NGOs are analyzed. The reports consulted are from the 2006-2016 timeframe and they are the most clear and relevant sources to provide the information regarding the material conditions of detention, which in some cases violate human rights.

This year, protests occurred in almost half of the prisons due to the poor living and sanitary conditions the inmates have to face on a daily basis. This issue is presented

⁵ "Brosura De Prezentare", available from <http://www.anp.gov.ro/documents/10180/7773233/Brosura+de+prezentare+a+sistemului+penitenciar-ilovepdf-compressed.pdf/41825f37-d2ca-4004-9ef9-6f0feda6512a>, (accessed 25 July 2016)

and analyzed in the following chapter, along with the steps taken by the Government in order to remedy the problem.

As there have been a high number of cases against Romania at the European Court of Human Rights, a few of them are presented and summarized at the end of the chapter.

The researcher looked also into the social reintegration post detention and assessed the importance of respecting the human dignity and human rights during prison.

The thesis ends with a chapter of conclusions and recommendations made by the researcher based on all the studies made relating to this subject.

1.4. Strengths and weaknesses

The thesis is factually written, based on a series of documents reporting the human rights conditions in the prisons. It also has a consistent legal perspective as various Romanian Laws, international Conventions, Protocols and Standards have been cited. In the thesis the researcher not only looks at the reports and laws, but also at Court cases, plans of action, interviews, statements and others.

The thesis could first of all serve as a summary of the evolution of the detention conditions, and part of the conclusions and recommendations could guide the law and decision makers in adopting new plans of action.

The purpose of the thesis is to present a situation and propose certain measures that can be taken both at a legislative level and at an administrative one. It is important of course to have a big picture view, but at the same time, one has to look also at smaller reforms, which could have a great impact.

The main limitation of the research is the fact that the reports offer information only on certain prisons, which have been deliberately chosen in order to attract attention towards human rights violations (some prisons being visited two or three times), and as well to show good practices in the case of others.

Another limitation was constituted by the fact that for example the High Court of Cassation and Justice did not have a database in order to see which cases were declared

inadmissible before the process of submitting an application to the Court, or to see which cases have been solved at the national level.

Chapter 2 – Methodology

The methodology chapter is intended to show and describe the research methods used in order to write the thesis. The chapter will be structured in research methods, sources, research design and sources and data collection.

2.1 Research Methods

The thesis starts by presenting the legal framework, which is intended to show what rights the inmates have. Afterwards, the situation in Romanian prisons is shown through the international reports and studies. The reality in the Romanian prisons will also be presented through the recent protests that occurred based on appearances in the media. In order to underline the issue, a few cases brought against Romania at the ECtHR will be summarized. Afterwards a chapter on social integration will be presented. The research is a qualitative one, as the reports provide an analytical perspective rather than a statistical one. The quantitative part is showed through tables and statistical information provided in the National Penitentiary Administration website and from the ECtHR annual reports.

2.2. Research Design

Chapter 3, the Theoretical Framework is meant to better explain and give an understanding of whether human rights are respected in Romanian prisons or not, one has to look first at the legal framework in order to see which rights are guaranteed under the national legal framework such as the Constitution and the laws regarding the execution of punishments, the European and international legislation and regulations, as well as through the non-binding guiding principles and standards of detention. In order to look at the human rights situation in Romanian prisons, the researcher analyzed reports from the 2006-2016 time frame. The reports consisted in: UPR

Reports, Reports of the UN Special Rapporteur on Torture, CPT reports, and the reports of the Romanian NGO APADOR-CH. The reports were split into UNSRT and UPR as they provide legislative recommendations and the CPT and APADOR-CH reports where the situation in certain prisons is presented. The researcher looked at the material conditions of detention (actual space in the cells, hygienic conditions, food, medical assistance), the possibilities of working in prisons and educational and extra curricular activities. An evaluation of the law and of the practice based on the reports is offered at the end of the chapter in order to underline where the violations occur.

Chapter 5 is split into two parts. The first one shows the current situation in the Romanian prisons in the light of the protests, which took place in July 2016. The most important and relevant media sources were analyzed. It was also important to look at the statements made by the Minister of Justice, the Vice Prime-Minister, lawyers and NGO representatives in order to see what measures will be taken and what are the future steps in solving the recurrent issues regarding the Romanian prison system.

The second part of Chapter 5 starts by presenting a table based on the ECtHR annual reports, with the total number of judgments brought to the Court, how many had at least one violation of the European Convention of Human Rights, and how many had violations of Article 3 of the ECHR. Afterwards some cases against Romania are presented along with the sums of money that the Government had to pay in compensation to the victims.

Chapter 6 focuses on the issue of social reintegration post detention, explains the public opinion regarding ex-inmates, and presents the National Strategy for the Social Reintegration for Persons Deprived of their Liberty.

Chapter 7 presents the conclusions and findings of the work and is intended to have some possible recommendations on behalf of the researcher in order to address the issue regarding human rights violations in prisons.

2.3. Sources and data collection

In order to conduct this research various sources were used. The primary sources for the theoretical framework are the national laws, the European, international

legislation and the non-binding standards. In order to present the conditions in prisons, and the human rights violations, the researcher used reports of European and international monitoring bodies, as they constitute the main source of information regarding the conditions in the Romanian prisons.

The reports of the UN Special Rapporteur on Torture and the reports made by the Committee for the Prevention of Torture have been the most elaborate, accurate and most relevant for the study. However, the reports made by the Romanian NGO APADOR-CH are more informed and more detailed as they are made on each prison in a more structured manner.

In Chapter 5, the analysis consisted in news articles, reportages, interviews and statements. In this case, only the most important and credible news outlets are consulted and quoted.

The preamble of the Mandela Rules constituted the starting point of chapter 6 on social reintegration, being followed by information provided in the National Strategy for the Social Reintegration for Persons Deprived of their Liberty.

Chapter 3 - Legal Framework

The purpose of this Chapter is to present the legal framework on which the thesis is based. First of all, the national framework was analyzed, afterwards the European legal framework consisting in the European Charter on Human Rights, and the International framework consisting in the UN Covenant on Civil and Political Rights, the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the UN Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of the Child.

Also there is a sub-chapter on the non-binding framework, consisting in the UN Standard Minimum Rules for the Treatment of Prisoners, the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Defenders and the UN Rules for the Protection of Juveniles deprived of their Liberty.

3.1. National Legal Framework

The researcher considered that the most important laws guarding the human rights of inmates are provided through the Romanian Constitution, the New Penal Code, Order 433/2010 (regarding the minimum mandatory norms regarding the accommodation conditions of the people deprived by their liberty), Law 254/2013 (regarding the Execution of Punishments and Custodial Measures by Judicial Bodies during the Criminal Trial) and the Governmental Decision HG 157/2016 (regarding the approval of the Law 254/2013, Regarding the Execution of Sentences and Custodial Measures by Judicial Bodies during the Criminal Trial).

The articles cited from the Constitution and the Penal Code refers to general rights and the prohibition of torture, and the following ones to the inmate's rights and minimum detention conditions in prisons.

3.1.1. The Romanian Constitution

The universality and the equal application of human rights are stated in Articles 15 and 16 of the Romanian Constitution.⁶ The universality of the rights also involves the universality of the obligations; not only do the citizens have rights, but also obligations.

Article 15

(1) *“All citizens enjoy the rights and freedoms granted to them by the Constitution and other laws, and have the duties laid down thereby”*⁷

(2) *“The law shall only act for the future, except for the more favorable criminal or administrative law”*⁸

⁶ The Romanian Constitution, published on 29 October 2003; Monitorul Oficial, art. 15

⁷ Ibid, art. 15.1

⁸ Ibid, art. 15.2

Article 16

(1) *“Citizens are equal before the law and public authorities, without any privilege or discrimination”*⁹

(2) *“No one is above the law”*¹⁰

The 20th Article of the Constitution establishes the fact that the interpretation and the application of the liberties and the rights of the citizens should be made in accordance to the international treaties that Romania ratified. The international treaties have priority over the national law only in the case of human rights.

Article 20

(1) *“Constitutional provisions concerning the citizens' rights and liberties shall be interpreted and enforced in conformity with the Universal Declaration of Human Rights, with the covenants and other treaties Romania is a party to”*¹¹

(2) *“Where any inconsistencies exist between the covenants and treaties on the fundamental human rights Romania is a party to, and the national laws, the international regulations shall take precedence, unless the Constitution or national laws comprise more favorable provisions”*¹²

Through Article 21, one can understand that each citizen has the right to justice, as well as the right to justice in the case of any human rights violation. There is no law, which can deny a citizen this right to justice. The Article also mentions the fact that all citizens are eligible to a fair trial.

Article 21

(1) *“Every person is entitled to bring cases before the courts for the defense of his legitimate rights, liberties and interests”*¹³

(2) *“The exercise of this right shall not be restricted by any law”*¹⁴

⁹ The Romanian Constitution, Op. Cit., art. 16.1

¹⁰ Ibid, art. 16.2

¹¹ Ibid, art. 20.1

¹² Ibid, art. 20.2

¹³ Ibid, art. 21.1

Torture is mentioned in Article 22 of the Romanian Constitution. Law under the Constitution punishes torture, as it is a violation of human integrity.

Article 22

(2) *“No one may be subjected to torture or to any kind of inhuman or degrading punishment or treatment”*¹⁵

3.1.2. The New Penal Code – the Law 286/2009

Torture is punishable under the Romanian Penal Code. Torture is explained in Article 282 as the *“act of a civil servant performing a function involving the exercise of state authority or of a person acting as instigator or with their consent or tacit expression to inflict upon a person physical or psychological pain or suffering, with the aim of obtaining information or declarations, as an act of punishment for an act they have or might have committed, in order to intimidate or make pressure upon them”*.¹⁶ Thus, according to the Penal Code, torture is a criminal offence, punishable with prison.

Article 282

*“Any form of discrimination, imprisonment from 2 to 7 years”*¹⁷

*“If there were physical injuries, imprisonment from 3 to 10 years”*¹⁸

*“If torture lead to the death of the victim, imprisonment from 15 to 25 years”*¹⁹

In the same Article, it is stated in the Penal Code that *“no exceptional circumstance, whatever it may be, be it the state of war or threat of war, internal political instability*

¹⁴ Ibid, art. 21.2

¹⁵ Ibid, art. 22

¹⁶ “The Romanian Penal Code”, 8 December 2008, Monitorul Oficial, available from <http://anp.gov.ro/documents/10180/57727/Codul+Penal+al+României.pdf/7fd6b4fc-a94e-4bab-bf79-14215deecf08>, (accessed 16 July 2016), art. 282

¹⁷ Ibid, art. 282

¹⁸ Ibid, art. 282

¹⁹ Ibid, art. 282

or any other state of exception can not be invoked to justify torture. Also, the order of a superior or public authority can not be invoked.²⁰

3.1.3. The Order 433/2010 regarding the minimum mandatory norms regarding the accommodation conditions of the people deprived by their liberty (hereby Order 433/2010)

The minimum mandatory norms regarding the accommodation conditions in the Romanian penitentiaries are defined in the Order 433/2010.

According to Articles 1 and 4, the spaces destined for the accommodation of inmates must respect the human dignity and meet the minimal sanitary and hygiene standards. The rooms must have at least 4sqm, and at least 6cbm of air. Also, the rooms must be properly furnished with beds and cupboards for personal goods storage, as well as a table or a desk in order to eat or to develop educational activities.²¹

The sanitary conditions are laid out in Article 5, which states that all detention rooms must ensure permanent access to drinking water and to allow each inmate to satisfy their physiological needs as many times as needed. For a maximum number of 10 people, at least one WC, one sink and a shower should be provided.²²

Articles 6 and 3 lay out the natural and artificial lightning conditions. All windows should be big enough in order to allow the inmates to read in normal conditions with natural light, and to allow the entrance of fresh air. Artificial lightning should be provided, and the inmates should be the ones able to turn the lights on or off based on their individual needs. The administration has access to the electricity and to the lightning system. Only the prison staff has access to the surveillance illumination used during the night.²³

²⁰ Ibid, art. 282

²¹ Order 433/2010 Approving the Minimum Mandatory Norms regarding the Accommodation Conditions of Persons Deprived of Their Liberty, published on 15 February 2015, Monitorul Oficial, art. 1-4

²² Ibid, art. 5

²³ Ibid, art. 3, art. 6

Regarding the heating system, according to Article 8, the heating installations should ensure that during the winter the prisoners have at least 19C in their private rooms and in the common space.²⁴

3.1.4. The Law Regarding the Execution of Punishments and Custodial Measures by Judicial Bodies during the Criminal Trial – Law 254/2013 (hereby Law 254/2013) and the Governmental Decision regarding the approval of the Law 254/2013, Regarding the Execution of Sentences and Custodial Measures by Judicial Bodies during the Criminal Trial (hereby HG 157/2016)

The rule of law regarding Criminal Execution has its own principles that ensure cohesion and stability. The principles talk about the whole period of the execution of the punishment; they establish the rules of conduct as well as the rights and the obligations of the convicts.²⁵ The Law regarding the execution of sentences and custodial measures encompasses general dispositions (the execution of sentences, the respect of human dignity, prohibition of torture, discrimination and the exercise of the rights), the execution of the sentences, and the safety of the prisons and the categories of prisons.

Through the Governmental Decision regarding the approval of the Law 254/2013 Regarding the Execution of Sentences and Custodial Measures by Judicial Bodies during the Criminal Trial, the articles in Law 254/2013 are better explained and exemplified.

Articles 34, 36, 37 and 38 of the Law 254/2013 categorize the types of prisons and the conditions under which the inmates are placed.

The maximum-security regimen imprisons people who have a conviction longer than 13 years, life imprisonment, or the ones who represent a threat to the prison. They are subjected to high security measures, strict security and escorting measures. The inmates are usually independently accommodated, they are allowed to take part in

²⁴ Ibid, art. 8

²⁵ Vasile Ceban, "Note De Curs, Drept Executional Penal", 1 July 2013, available from http://www.usem.md/uploads/files/Note_de_curs_drept_ciclul_1/060_-_Drept_executional_penal.pdf, (accessed 16 July 2016), p. 3

educational and cultural activities, but they are conducted in small groups and always under very close supervision.²⁶

The closed regimen applies to people sentenced in between 3-13 years. They accommodated in a common space, are allowed to take part of educational and cultural activities, as well as to work within the prison under supervision, but they are also allowed to work outside the prison under supervision and with the approval of the head of the prison.²⁷

The convicts sentenced to a time longer than 1 year but less than 3 years, are imprisoned in the semi-open regimen. They are accommodated in a common space with other inmates, are allowed to walk within the premises by themselves without supervision. They can participate in educational and cultural activities on the premises under supervision, and are also allowed to participate in such activities outside the premises under personal or electronic supervision.²⁸

The open regimen imprisonment applies to convicts who have a sentence of less than a year. The inmates are accommodated in a common space, and are allowed to participate in educational and cultural activities on the premises or outside without being supervised.²⁹

Article 47 of the Law 254/2013 states that women have to be separately imprisoned by the males, and the supervision is done strictly by female guards. Minors are placed in juvenile detention centers.³⁰

Human Rights during imprisonment

During the imprisonment, the inmates have rights and obligations under the Law 254/2013. They have the right to human dignity, as stated in Article 4 “*Punishments and custodial measures are done in conditions which ensure the respect of the human*

²⁶ Law 254/2013 Regarding the Execution of Punishments and Custodial Measures by Judicial Bodies during the Criminal Trial, 14 Aug. 2013, Monitorul Oficial, available from http://www.dreptonline.ro/legislatie/legea_254_2013_executarea_pedepselor_masurilor_privative_de_libertate_organele_judiciare_cursul_procesului_penal.php, (accessed 16 July 2016), art. 34-38

²⁷ Ibid, art. 34-38

²⁸ Law 254/2013, Op. Cit., art. 34-38

²⁹ Ibid, art. 34-38

³⁰ Ibid, art. 47

dignity”³¹, the “*Prohibition and subjection to torture, inhuman or degrading treatment*”³² as stated in Article 5. In the same article it is mentioned that any violation of the before mentioned is punishable under the Romanian Penal Code. Article 6 states the prohibition of discrimination “*on the basis of race, nationality, gender, ethnicity, language, sexual orientation, opinion or political membership*”.³³ Also, any violation to the above mentioned is punishable under the Romanian Penal Code.

Rights during imprisonment

Liberty of conscience, opinion and religious beliefs

Article 58 states the liberty of conscience, opinion and religious beliefs. It mentions that the inmates cannot be deprived of the before mentioned. They also have the liberty of religious beliefs as long as they do not harm the other inmates’ religious beliefs. The inmates can participate at religious services and can be visited by priests or other representatives of the church or the cult with the approval of the head of the prison.³⁴

The Right to Information

All convicts have the right to information as stated in Article 59. The National Penitentiary Administration must ensure that the inmates have access to the public information through publications, radio or TV.³⁵ According to HG 156/2016, the electronic devices can be owned by the prison or by the inmate. The electronics cannot be borrowed to other inmates or used for profit.³⁶

³¹ Ibid, art. 4

³² Ibid, art. 5

³³ Ibid, art. 6

³⁴ Ibid, art. 58

³⁵ Ibid, art. 59

³⁶ HG 156/2016 Governmental Decision regarding the Approval of the Law 254/2013, Regarding the Execution of Sentences and Custodial Measures by Judicial Bodies during the Criminal Trial, 10 March 2016, Monitorul Oficial, available from <http://lege5.ro/Gratuit/geydinjsgiyq/regulamentul-de-aplicare-a-legii-nr-254-2013-privind-executarea-pedepselor-si-a-masurilor-privative-de-libertate-dispuse-de-organele-judiciare-in-cursul-procesului-penal-din-10032016?pid=&d=2016-07-09>, (accessed 16 July 2016), art. 151

Convicts have the right to petitions and to correspondence, as stated in Article 63.³⁷ In order to prevent the placing of illicit drugs, toxic substances and explosives, the envelopes are opened in front of the inmate, without reading its content. If the inmate is suspected to have committed one of the offenses above, they are announced in written form and their correspondence is read.

The Right to Phone Calls

Article 65 ensures the right to phone calls. Inmates are allowed to make personal confidential phone calls, only under visual supervision. The head of the prison must take the necessary measures to ensure that public phones are installed on the premises. The inmates have to pay for their conversations, and depending on the type of prison they are allowed to daily 30 to 60 minutes phone calls, to 5 phone calls per week.³⁸

Walks and other recreational activities

Under Article 67 the inmates are allowed to a daily outdoor walk according to a schedule approved by the head of the prison.³⁹

Under Article 202 of HG 156/2016, the inmates have the right to sport and recreational activities. If the administration has the possibility, special places should be ensured, in order for the inmates to keep their physical and psychological state in a good condition. The sports can be practiced individually or as a team. The necessary equipment is procured by the administration, and in cases where the administration does not have the necessary funds, with the approval of the head of the penitentiary, the family or other organizations can provide them.⁴⁰

The article 201 of HG 156/2016 states that the administration of the penitentiary does the necessary measures in order to ensure inter-penitentiary activities, the organization of shows, exhibitions and other cultural or artistic manifestations.⁴¹

³⁷ Law 254/2013, Op. Cit., art. 63

³⁸ Ibid, art. 65

³⁹ Ibid, art. 67

⁴⁰ HG 156/2016, Op. Cit., art. 202

⁴¹ Ibid, art. 201

Visits

The inmates are allowed to receive visits under Article 68.⁴² The visitors are subjected to specific checks, and take place in places especially designed and under visual or electronic supervision. The prison administration must provide a daily 12 hours interval for the exercise of this right. The length of a visit varies from 30 minutes to 2 hours, depending on the demand. Depending on the category of prison and on the sentencing, inmates can receive from 3 to 8 visits per month. The head of the prison can decline visits through a motivated decision based on the following reasons: discovery of arms or ammunition, drugs or other illicit substances, the negative effect of visitors on certain inmates, or in the case that some visitors are intoxicated.

Buying and receiving goods

Convicts have the right under Article 70, to own, buy or receive certain goods. Inmates are allowed to receive packages 3 times per year with the occasion of their birthday or other celebrations. The package can contain 10kg of food, 6kg of fruits and vegetables, and maximum 20l of water or refreshments. The inmates are not allowed to receive food that requires cooking, pre-heating or other thermic treatments.⁴³

Medical assistance and Pregnancy

The inmates have the right to medical assistance, treatment and care under Article 71. This right is guaranteed, without any discrimination. Medical assistance and treatment includes medical intervention, primary medical assistance, emergency medical assistance and special medical assistance. According to the law, medical assistance is given free and whenever needed. In special cases, the inmates can require examination from an external doctor. The exam is done on the premises, the inmate pays the costs, and the observations are mentioned in the inmate's medical file.⁴⁴

The special medical assistance is described in Article 73, and it regards women who are pregnant. Pregnant inmates benefit from special nutrition plans, prenatal and

⁴² Law 254/2013, Op. Cit., art. 68

⁴³ Ibid, art. 70

⁴⁴ Ibid, art. 71

postnatal medical assistance, and measures that the birth takes place in a specialized medical institution are taken. When the baby turns one year of age, or even before, with the agreement of the mother, the baby can be given in the custody of the family or to another person. Special conditions must be provided for the women who have a child, in order for her to be able to raise it up to the age of one.⁴⁵

Working conditions

Working conditions in prison are stated in Articles 171-188 from HG 156/2016. The prison administration does the necessary measures in order to select the greatest possible number of working inmates. They can work both on the premises and outside, at economical operators, public institutions, as well as for individuals or legal entities. The security and health measures at the workplace must be met at all times. The purpose of work during imprisonment is to increase the inmates' chances to get a job after prison.⁴⁶

The inmates are remunerated for their services, unless they do housework in the prison such as: preparing and distributing the food, maintenance of the building, installations, the hygiene conditions, as well as the maintenance of the cultural and sporting areas.⁴⁷

The inmates can work 8-hour days, and no more than 40 hours per week. Based on their own agreement, they can work 10-hour days, but no more than 50 hours per week. Working during the night (between 22-06), is possible only with the agreement of the inmate, and it can not be more than 7 hours per night, and 35 hours per week.⁴⁸

Pregnant women and the ones who have given birth and are taking care of their baby, can not overpass 6 hours per day, and 30 hours per week.

The maximum working ages are 60 years old for men and 55 years old for women. Working above this age is possible only with the inmate's agreement.⁴⁹

The income from the work can be measured in the currency or its value can be estimated and used as products, services, materials, and equipment. The objects made in

⁴⁵ Ibid, art. 73

⁴⁶ HG 156/2016, Op. Cit., art. 171-188

⁴⁷ Idem

⁴⁸ Idem

⁴⁹ Idem

the workshops can be sold outside the prison at the market price. The income cannot be less than the minimum wage. 90% of the income is given to the inmate, and the other 10% is given at the State Treasury, for the inmate to use upon exit⁵⁰.

Education

Education is of a high importance for inmates, especially for the ones who have not had yet the chance to finish their education. For some of them, it also gives them a higher chance to get hired in the future.

The educational conditions in prisons are found in Articles 193-197 from HG 156/2016. Detainees can participate at courses through the “Second Chance Program”⁵¹. With the support of the school inspectorates at the municipal levels, detainees can attend classes in the affiliate schools. With the approval of the head of the prison, detainees can follow university courses in the distance or with a low participation regimen⁵².

Training courses can be organized on the prison premises, in order to perfect or to specialize the prisoners for certain jobs. The head of the prison can allow the open regimen prisoners to attend training courses outside the prison premises.

3.2. European Legal Framework

3.2.1. Charter of Fundamental Rights of the European Union

The Charter⁵³ encompasses the Fundamental Rights, which are protected in the European Union. The Charter entered into force in December 2009 in Lisbon and is legally binding to all EU states. It is structured in 6 chapters, which are Dignity, Freedoms, Equality, Solidarity, Citizens' Rights, and Justice. Articles 1, 3 and 4 from the first chapter, Dignity, are the most relevant ones in the context of the thesis.

⁵⁰ Idem

⁵¹ HG 156/2016, Op. Cit., art. 193-197

⁵² Ibid, art. 193-197

⁵³ Official Journal of the European Union, Charter of Fundamental Rights of the European Union, 26 October 2012, available from <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT&from=EN>, (accessed 16 June 2016)

Article 1 – Human Dignity

*“Human dignity is inviolable. It must be respected and protected”*⁵⁴

Article 3 – Right to integrity of the person

*“Everyone has the right to respect for his or her physical and mental integrity”*⁵⁵

Article 4 – Prohibition of torture and inhuman or degrading treatment or punishment

*“No one shall be subjected to torture or to inhuman or degrading treatment or punishment”*⁵⁶

3.2.2. European Convention on Human Rights (hereby ECHR)

The European Convention on Human Rights⁵⁷ was adopted and signed in Rome, on November 4th, 1950, and was ratified by Romania on June 20th, 1994. With time, the Convention has become one of the most efficient human rights instruments in the world. What has made the Convention so efficient are the facts that a high number of states has ratified it (47), and that it has its own supranational jurisdiction mechanism, which has power over the member states, and ensures that states parties respect their citizen’s human rights.

Under Article 1 of the Convention, all states parties undertake the obligation to respect and secure the rights of all the people in their jurisdiction.

One of the most important and relevant articles in the context of the thesis is Article 3 of the Convention, the prohibition of torture. As it states: *“No one shall be subjected to torture or to inhuman or degrading treatment or punishment”*.⁵⁸

⁵⁴ Ibid, art. 1

⁵⁵ Ibid, art. 3

⁵⁶ Ibid, art. 4

⁵⁷ Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), as amended by Protocols Nos. 11 and 14, 4 November 1950, available from http://www.echr.coe.int/Documents/Convention_ENG.pdf, (accessed 16 July 2016)

⁵⁸ Ibid, art. 3

3.2.3. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

Article 1⁵⁹ of the Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment establishes a Committee that visits and examines the treatment of the people who are deprived of their liberty, and the conditions of their detention. Also, the Committee should ensure in the necessary cases the protection of the people who are or have been subjected to torture and ill treatment. States parties must cooperate with the Committee and ensure under Article 8 that the Committee has access to its territory and the right to travel, has full information regarding the places of detention and their location, has unlimited access to the persons who are deprived of their liberty, the possibility to talk freely and to interview the detainees, as well as to communicate the observations to the parties involved.

Under Article 10 the Committee should write a report in order to present the findings, and in some circumstances its recommendations to the Parties concerned. The Committee may make a public statement on the matter in the case in which the Party does not implement the recommendations. The Committee does not act as a judicial function, and its recommendations are not legally binding.⁶⁰

3.3 International Framework

When looking at the broad legal perspective, the UN Covenants, Conventions and Protocols are also of a high importance considering the fact that Romania has signed and ratified them. For the purpose of this study, the most relevant are the ICCPR, CAT, OPCAT, and the CRC.

⁵⁹ Council of Europe, European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 26 November 1987, available from <http://www.cpt.coe.int/en/documents/eng-convention.pdf>, (accessed 16 July 2016), art. 1

⁶⁰ Ibid, art. 10

3.3.1. UN Covenant on Civil and Political Rights (ICCPR)

The Covenant was opened for signature in 1966 and entered into force in 1974. Romania signed it in 1966, and ratified it in 1974. It states that all States Parties must ensure that all the individuals within its jurisdiction must have the rights stated recognized without any distinction. Also, all States Parties must ensure that if any of the recognized rights of the Covenant are violated, there is an effective remedy, access to competent judicial or administrative authorities in order to accomplish it, and enforcement of the mentioned remedies in case they are granted.

Article 7 of the Covenant prohibits torture, and it has added, in comparison to the European Legal Framework, the prohibition of being subjected to medical experiments without consent.

Article 7

*“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation”*⁶¹

The Covenant does not offer a clear definition of the terms torture, inhuman or degrading treatment, or for what enters under the scope of medical or scientific experimentation.

Also, Article 10 needs to be taken into account as it talks about the importance of treating inmates with respect for their human rights and dignity.

Article 10

(1) *“All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person”*⁶²

⁶¹ UN General Assembly, International Covenant on Civil and Political Rights (ICCPR), 16 December 1966, available from <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>, (accessed 16 July 2016), art.7

⁶² ICCPR, Op. Cit., art. 10 (1)

(2) (B) *“Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication”*⁶³

(3) *“The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status”*⁶⁴

3.3.2. UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereby CAT)

CAT was opened for signature in 1984 and it entered into force in 1987; Romania ratified it in 1990. Although the Universal Declaration of Human Rights and the Covenant on Civil and Political Rights both mention that no one shall be subjected to torture, there was a great need to elaborate on the matter in the struggle posed by these issues.

Comparing to all other European and International documents, CAT is the only one that has a clear definition of what torture is.

Article 1

“(…) Torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does

⁶³ ICCPR, Op. Cit., art. 10 (2) (B)

⁶⁴ ICCPR, Op. Cit., art. 10 (3)

*not include pain or suffering arising only from, inherent in or incidental to lawful sanctions”*⁶⁵

It is stated that all States Parties shall take all the appropriate measures in order to avert any case of torture under its jurisdiction. Under no circumstances may there be a justification of torture or of degrading or inhuman treatment. Article 4 states that “*each State Party shall ensure that all acts of torture are offenses under its criminal law*”.⁶⁶ If supposedly there is a person who has committed an offence, under Article 6 “*the State Party (...), shall take him into custody, or take other legal measures to ensure his presence*”.⁶⁷

In the case of the law enforcement personnel, or in this case prison administration, prison guards and prison personnel, Article 10 is of great importance as it states that the State should offer education and information regarding the prohibition against torture.⁶⁸

Each State Party to CAT should under Article 11 have a close review of all interrogations as well as accommodation of people in custody or under detention in order to prevent any possibility of torture.⁶⁹

The Convention also ensures that all victims have the right to complain and to have their case examined in an impartial way by the competent authorities, as well as in the cases where they are proven to be victims, to obtain redress and fair and equitable compensation.

The second part of the CAT mentions the establishment of a Committee against Torture, which is made up of 10 high moral and recognized in competence experts. States Parties should submit reports to the Committee regarding the steps that have been taken to prevent torture and ill-treatment. In the case in which the Committee receives

⁶⁵ UN General Assembly, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 10 December 1984, available from <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>, (accessed 16 July 2016), art. 1

⁶⁶ Ibid, art. 4

⁶⁷ Ibid, art. 6

⁶⁸ Ibid, art. 10

⁶⁹ Ibid, art. 11

information that there have been violations of the CAT, it shall cooperate with the State Party in order to examine the situation.⁷⁰

According to the former UN Special Rapporteur on Torture, Manfred Nowak, in the Study on the phenomena of torture, cruel, inhuman or degrading treatment or punishment in the world, including an assessment of conditions of detention, torture is one of the most serious human rights violations, and alongside the prohibition of slavery, it constitutes an absolute and non-derogable human right. Due to this, the Convention is part of customary law.⁷¹

3.3.3 UN Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (hereby OPCAT)

OPCAT⁷² was adopted in 2002 and was available for signature, accession and ratification as of 2003; Romania signed it in 2003 and ratified it in 2009.

In the Preamble it is affirmed that there was a need for an additional Protocol in order to ensure the maximum achievement of the CAT, and in order to strengthen the protection of persons deprived of their liberty against torture.

As stated in Article 1⁷³, the main purpose of OPCAT is to create a system allowing independent national and international bodies to make visits in the places of detention. Such a body is established through Article 2⁷⁴ the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT). The States Parties shall closely cooperate with the Subcommittee and allow visits to the places where people are deprived of their liberty. As the Committee, the Subcommittee must be composed of people of high moral character, and with experience in the administration of justice.

⁷⁰ Ibid, art. 17

⁷¹ UN Special Rapporteur on Torture, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak – Addendum, UN Docs. A/HRC/13/39/Add.5, 5 February 2010, p. 11

⁷² UN General Assembly, Optional Protocol to the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT), 9 January 2003, A/RES/57/199, available from <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx>, (accessed 16 July 2016)

⁷³ Ibid, art. 1

⁷⁴ Ibid, art. 2

The scope of the SPT is underlined in the third part of the OPCAT. The Subcommittee must visit the places of detention, assist and advice State Parties where found necessary, advice and assist in order to strengthen the protection of people who are imprisoned (where needed), make recommendations and observations, and cooperate for the general prevention of torture.⁷⁵

The Subcommittee has to make the recommendations to the State Party in a confidential manner, and if relevant, also to the national preventive mechanism. The Subcommittee will proceed to publish the report along with the comments made by the State Party whenever requested to do so, without including any personal information in it.⁷⁶

Part four of the OPCAT states the fact that each State Party must ensure a domestic preventive mechanism in order to prevent torture, called the National Preventive Mechanism (NPM). The States must make sure that the experts who are part of the NPM have the necessary knowledge and capabilities. The mandate of the NPM is to make visits to the places of detentions and made recommendations if necessary.⁷⁷

Although there has been a 3 years delay in choosing an NPM, in 2014 the Romanian Government designated the Romanian Ombudsman.

3.3.4. UN Convention on the Rights of the Child (hereby CRC)

The CRC was adopted in 1989, and entered into force in 1990. Romania signed and ratified the Convention in 1990. The Preamble recalls the importance of the rights of children, and that children should receive special care and attention. The Convention is split into two parts, the first one consisting in the rights, and the second one with the establishment of the Committee on the Rights of the Child.

The most relevant article in the Convention for the thesis is Article 37 as it talks about the prohibition of torture and inhuman and degrading treatment.

⁷⁵ Ibid, art. 11-16

⁷⁶ Ibid, art. 11-16

⁷⁷ Ibid, art. 17-23

Article 37

*“No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age”*⁷⁸

*“(…) The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time”*⁷⁹

*“Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances”*⁸⁰

3.4. Non-binding rules and guidelines

A set of non-binding rules and guidelines has been drawn by the United Nations in order to explain what should be a good treatment of prisoners. The documents which will be analyzed are the *UN Standard Minimum Rules for the Treatment of Prisoners*, the *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* and *UN Rules for the Protection of Juveniles Deprived of their Liberty*. It is of a high importance to have a set of such principles in order to ensure good prison practice, even if the legal systems are different as well as the national laws regarding the execution of the punishments. The guidelines are made up of what should be “common-sense” in inmate treatment.

⁷⁸ UN General Assembly, Convention on the Rights of the Child (CRC), 20 November 1989, available from <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>, (accessed 16 July 2016), art. 37

⁷⁹ *Ibid*, art. 37

⁸⁰ *Ibid*, art. 37

3.4.1. UN Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules)

The UN Standard Minimum Rules for the Treatment of Prisoners have been set up at the First National Congress on the Prevention of Crime and the Treatment of Offenders, held in 1955, and was approved by ECOSOC in 1957 and 1977 through its resolutions. The UN Commission on Crime Prevention and Criminal Justice revised the Mandela Rules in 2015.

It is made up of two parts; the first one sets out the general rules, the second talks about the rules applicable to the special categories (prisoners under sentence, prisoners with mental disabilities or health conditions, prisoners under arrest or awaiting trial, civil prisoners and persons arrested or detained without charge).

The first part of the rules explains the separation of categories, men, women and juveniles to be separately imprisoned, people still waiting to be convicted separate from the convicted ones, the ones facing criminal charges to be separated from the ones facing non-criminal charges.

From the beginning, Rule 1 states *“All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification”*.⁸¹

The clear segregation between the different categories of inmates is made through article 11, where it says that upon the possibilities, women shall be separated from men, juveniles from adults, untried from the convicted, and persons convicted from civil offences separated by the ones convicted for criminal offenses.⁸²

Rules 12⁸³ talks about prison accommodation, in an ideal situation all inmates would have their own cells designated to them. In the case of overcrowding, according

⁸¹UN General Assembly, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), 29 September 2015, A/C.3/70/L.3, available from <http://www.penalreform.org/wp-content/uploads/2015/05/MANDELA-RULES.pdf>, (accessed 16 July 2016), rule 1

⁸² Ibid, art. 11

⁸³ Ibid, art. 12

to Rule 13, “*all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation*”⁸⁴, and Rule 15, “*the sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner*”⁸⁵, and regarding the situation of the beds, Rule 21, “*Every prisoner shall, in accordance with local or national standards, be provided with a separate bed and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness*”⁸⁶.

Regarding food there is Rule 22(1) “*every prisoner shall be provided by the prison administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served*”⁸⁷ and regarding drinking water, there is Rule 22(2), “*shall be available to every prisoner whenever he or she needs it*”.⁸⁸

Rule 24 lays out the procedure regarding the medical assistance and services “*Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status*”⁸⁹. Rule 25 states that prisons should be equipped with suitable health-care services, in order to serve best all inmates suffering from drug abuse or mental health problems. Also, it states that an adequate team of psychologists and psychiatrists should be available.⁹⁰

Rule 43 reiterates the prohibition of torture, inhuman or degrading treatment or punishment, and suggests the prohibition of the indefinite or prolonged solitary confinement, constantly lit or dark cell, physical punishment or collective punishment. Also, it mentions that no instruments of restraint shall be applied.⁹¹

⁸⁴ Ibid, art. 13

⁸⁵ Ibid, art. 15

⁸⁶ Ibid, art. 21

⁸⁷ Ibid, art. 22(1)

⁸⁸ Ibid, art. 22(2)

⁸⁹ Ibid, art. 24

⁹⁰ Ibid, art. 25

⁹¹ Ibid, art. 43

Each inmate has the right to a complaint mechanism, as prescribed through Rule 56, “*Every prisoner shall have the opportunity each day to make requests or complaints to the prison director or the prison staff member authorized to represent him or her*”⁹², and “*Every prisoner shall be allowed to make a request or complaint regarding his or her treatment, without censorship as to substance, to the central prison administration and to the judicial or other competent authorities, including those vested with reviewing or remedial power*”⁹³. Rule 57 provides the fact that the inmates’ complaints should be answered and resolved, and that they feel safe and have no fear of retribution⁹⁴.

It is of a great importance to understand, as a society, with the help of the Mandela Rules, that the inmates should be helped with their emergence into the society following the completion of their sentence, as stated in Rule 88, “*The treatment of prisoners should emphasize not their exclusion from the community, but their continuing part in it*”⁹⁵. The social reintegration is a highly important topic both for the inmates who restart their lives outside the prison, and for the society who should be open minded enough to accept them without much or any prejudices.

3.4.2. UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)

The national legislation does not offer much regarding the imprisonment of women, except the minimum measures that should be applied in the case of pregnant women. At the international level there have been various cases brought to the attention, which have led to the need of an international instrument to help provide the distinct considerations, which apply only to women inmates.

Although in Romania there is only one women prison, the Bangkok Rules should be taken into account in order to add some provisions regarding the treatment of women in prisons, in the Law regarding the execution of sentences and custodial

⁹² Ibid, art. 56.1

⁹³ Ibid, art. 56.2

⁹⁴ Ibid, art. 57

⁹⁵ Ibid, art. 88

measures ordered by the court during the criminal trial. The vulnerability of women convicts is recognized, thus the personnel should be more empathic.

Women prisoners must undergo a full medical screening upon the entrance into prison. The medical screening shall consist in a health check, sexually transmitted diseases, any signs of post-traumatic stress disorder, or any possibility that the might commit suicide. If the woman is accompanied by a child, the child also has to undergo the same medical checks. In the case the woman wants, she may require the assistance of a woman nurse or doctor. The prison administration shall provide this within the possibilities. Programs designated to women who have a problem with substance abuse shall be provided by the prison health services.⁹⁶

Regarding the staff in women's prisons, as stated above, they should receive appropriate training, and in addition they should receive adequate gender sensitive training, as well as prohibition on discrimination and sexual harassment.⁹⁷

3.4.3. UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules)

The UN Rules for the Protection of Juveniles Deprived of their Liberty were adopted by the United Nations General Assembly in 1990, and as the other two previously mentioned instruments, they are a set of guiding principles in the case of juvenile inmates. The Havana Rules have been set up in order to ensure that they receive fair treatment and the right consideration for their age.

The deprivation of liberty in the cases of juveniles should be considered as the last resort and for the minimum necessary period of time. It is stated that States should incorporate these rules into their legislation or to amend and provide the necessary effective remedies in case of their breach.⁹⁸

⁹⁶ UN General Assembly, United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules), 6 October 2010, A/C.3/65/L.5, available from http://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf, (accessed 16 July 2016), art. 6

⁹⁷ Ibid, art. 9

⁹⁸ UN General Assembly, United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (Havana Rules), 2 April 1991, A/RES/45/113, available from

Juveniles should be subjected to an interview and to a psychological examination in order to determine where they should be conducting their punishment.⁹⁹ In Romania, the possibilities are reprimand (the explanation by the judges of the act that was committed, its severity and the explanation of the methods of how he or she should behave in the future), supervised liberty (a one year sentence during which the juvenile is under special supervision by the justice, such as not being able to go to certain places or come in contact with certain people), admission in an educational center (the juvenile can be detained for a maximum 2 years period in this facility) and the admission in a medical-educational center (which is the same with the educational center but in addition the juveniles detained require special medical attention). The rules state that the conditions of detention must be catered taking into account the special status of juveniles, their needs, age and personality. The centers must have the necessary means in order to provide the necessary educational means as well as respect for their human rights.¹⁰⁰

Juvenile detention centers should provide the children with educational, sporting and cultural means in order to be able to understand the act they committed and to make sure that it is a one-time offence. It is important to bring juveniles on the right path in order to avoid them making the same mistake at a later age. Juveniles must also be allowed to keep close contact with their families and with their friends who are considered as good influence as part of the social reintegration process.

Chapter 4 – Overview of the prison situation

Although the study of the thesis is meant to examine the human rights situation in the Romanian prisons in the 2006-2016 timeframe, the researcher considered that a small overview of the past situation should be presented, in order to offer a better understanding of changes and improvements, both in detention conditions and in legislature.

<http://www.un.org/documents/ga/res/45/a45r113.htm>, (accessed 16 July 2016)

⁹⁹ The Romanian Penal Code, Op. Cit., art. 124

¹⁰⁰ Ibid, art. 24

The researcher chose to first make a brief history of the Romanian prisons in order to give a perspective of the legislature changes as well as the time frame in which they were adopted. A key period is also the Communist time (1945-1989), when the penitentiary system and the detentions conditions were very harsh and in worse conditions than other European countries (forced labor camps, torture, deprivation of food etc.). Thanks to the International Institute for the Investigation of Communism Crimes (IIICC) one has a clear image over the prisons in Communist Romania. In order to introduce create an accurate timeline, a report made by APADOR-CH (1995-2004) was also consulted.

4.1. Brief history of the Romanian Prisons

A brief history of the Romanian Penitentiary System is important in order to understand the whole transition and the improvements that have been made, especially from the legislative perspective; how the Penal Codes evolved, as well as the laws regarding prisons.

Ever since the old times, offenders used to be punished based on the “Royal Advice”, usually the ruler having the last say in the punishment. Around the 14th century, the punishments that offenders were given varied from the death sentence, to taking out their eyes, cutting their hands, burning alive, decapitation, working in mines, shaming, seizure of the fortune etc.¹⁰¹

The first official document regarding the execution of the punishment was found around the 17th century, entitled “The Small Codex” and “The Romanian Teaching Codex of the Royal Rites”. They are the first writings, which talk about the regimen of the prisoners, which was not much different from the one of slaves.¹⁰²

The first Romanian Penal Code was written in 1851, which encompassed the different types of punishments from death penalty, to working in a salt mine for life or

¹⁰¹ Chiș, Ioan. Drept Execuțional Penal: Istoria închisorilor Românești, Legislația închisorilor Din Feudalism Până în Anul 1989, Executarea Pedepselor Private De Libertate. București: Universul Juridic, 2013, p. 17

¹⁰² Ibid, p. 17

for a period of time (no less than 5 years and no more than 15 years), imprisonment, beatings, or the interdiction of some civil or family rights.¹⁰³

In 1784, the first Law regarding prisons was written, and it encompassed the general prison regimen, the expenses as well the administrative issues and personnel. In this law, it is first found the distinction between regular prisons and women prisons. The next law regarding prisons was written in 1929. The death penalty is still found as punishment, but one can also find as punishments military and community work, as well as fines and other monetary punishments.¹⁰⁴

Since the Communist era ended, the Penal Codes and the Laws regarding prisons have been rewritten, adapted and properly explained, outlining the different types of punishments for imprisonment, the different types of facilities, the interdictions and obligations of the inmates, as well as, most importantly, their human rights during imprisonment.

4.2. Prisons during Communism 1945-1989

The International Institute for the Investigation of Communism Crimes (IIICC), functions as a Governmental structure with the main aim to identify abuse and human rights violations during the communist regime. Also it aims to scientifically analyze the communist regime and its consequences.

During the Communist Era there were 44 prisons and 72-forced labor camps. The prison categories were: Re-educational prisons, Prisons for the extermination of the intellectual and political elite, labor camps, transit and triage prisons, women prisons, juvenile detention centers, and hospital prisons. During that time, there was a vaster classification of the prisons than now, but at the same time the Penal Code and the legislation were different.¹⁰⁵

Some of the most mentioned human rights violations during that time were torture, the most used punishments being hitting in sensitive areas of the body,

¹⁰³ Ibid, p. 18

¹⁰⁴ Ibid, p. 18

¹⁰⁵ Institutul De Investigare a Crimelor Comunismului in Romania. "Sistemul Penitenciar Din România: 1945 - 1989", ICCR, available from http://www.iiccr.ro/pdf/ro/investigatii_speciale/sistemul_penitenciar_1945_1989.pdf, (accessed 23 June 2016)

crucifixion, burning of the feet, hair pulling. Not much psychological torture was inflicted upon the inmates; the heads of the prison and the guards inflicted only physical torture.¹⁰⁶

The working conditions in the forced labor camps were found to be amongst the worst; working hours were increased from one day to the other, the food given to the inmates varied both in quantities and in quality.¹⁰⁷

The Communist Penal Code allowed incarceration in isolation. Some prisoners were held for the entire duration of their sentence (maximum two years) in isolation, and poor health and accommodation conditions. The isolation regimen meant that the inmates were not allowed to have contact with anyone for the entire duration of the punishment.¹⁰⁸

Political detainees had smaller access to food and to medical assistance, their punishments being harsher than the ones of the other detainees. It is sufficient to say that if the political detainees had a worst time in prison it did not mean the other detainees has better access to food, medical assistance, or basic hygiene conditions.¹⁰⁹

4.3. The Romanian Penitentiary System 1995-2004

APADOR-CH (The Association for the Defense of Human Rights in Romania) was instituted in 1990, with the aim to protect and to promote human rights. With the passage of time, the association has set up its priorities and decided to focus on the detention conditions in the Romanian prison system. The association has carried out a 10 years research during which they have visited the detention centers various times and drew up recommendations and laid out the human rights violations they have found.

This study will focus on the 2006-2016 time frames, but a short summary of the situation in the previous 10 years will be given in order to be able to follow the progresses made in certain areas:

¹⁰⁶ Idem

¹⁰⁷ Idem

¹⁰⁸ Idem

¹⁰⁹ Idem

A) Overcrowding

At the end of 2004, the Romanian detention system had 33 prisons, 2 juvenile detention centers, 3 juvenile educational facilities and 6 penitentiary hospitals. Overcrowding constituted an issue at the time as well, taking into account that in 2003, at the last count made by ADADOR-CH, the situation was as follows:

- number of spaces in the prisons 37.363
- number of beds 46.451
- number of detainees 42.851

The space that each detainees had available was 2.5sqm, equivalent of 2 detainees per space. The Prison in Bacău was at the time holding the record for the worst overcrowding conditions having in 2003 1.031 beds and a number of 1.604 detainees.¹¹⁰

B) Medical Assistance and Hygienic Conditions

During its visits, the Association noted that the doctors in prisons were mainly general doctors, and due to the fact that their number is small numbers, patients were usually seen by nurses and prescribed pain medicine indifferent of the detainees' complaints. The law allows the detainees and their families to consult an external specialized doctor, but most of the times they do not dispose of the necessary financial means to do so. There have been noted cases of penitentiaries having only one doctor (specialized dentist) for a number of 1.500 inmates.¹¹¹

The hygiene conditions in prisons are also a real issue. A great number of detainees have been diagnosed with respiratory diseases, skin diseases and digestive diseases. The respiratory diseases are a cause of overcrowding, the poor air quality, during the winter due to the low temperatures in the cells and the bathrooms. Skin diseases are the result of the poor hygiene conditions both in prisons and at the level of the inmates' personal hygiene. The inmates are forced to wear the uniforms distributed by the prisons, which in most cases are not even disinfected. The poor water and food

¹¹⁰ Sistemul Penitenciar în România: 1995-2004 = The Penitentiary System in Romania: 1995-2004, APADOR-CH, 2005, p. 29

¹¹¹ Ibid, p. 32

quality are the reasons of the digestive diseases, as in most cases the nutritional values do not correspond to the normal ones.¹¹²

C) Cultural and Educational Activities

From the Association's report, the cultural and educational activities existed only in theory, even if they constitute a measure of education and preparedness of the detainees for life outside prison. One of the most frequent activities is individual therapy, and the sporadic activities lead by NGO's such as group therapy, drama classes and aggression control. The personnel dedicated for the extracurricular activities were found to be too small, as well as the number of detainees who take place in the activities.¹¹³

D) Conflicts between detainees

In the Romanian prison system it is very difficult to file a rape complaint, if not impossible, as stated by the Association in the report.¹¹⁴ Besides the procedural difficulties, very often the detainees decide not to file complaints against their aggressors.

There was information that the homosexual detainees were bullied and humiliated, even if this is against the national and international laws. The detainees who are homosexual, were bullied into cleaning the toilets and picking up trash, and at times the more influenced detainees use them as servants, thus humiliating them. The protection of such victims consists in moving them from one room to another, or in some cases to other prisons.¹¹⁵

Juvenile Detention Centers

Improvements in the accommodation sector have been seen at the Găești facility, where in 2003 both pavillions were renovated and each room has its own bathroom. The educational and cultural activities have also seen great improvements,

¹¹² Ibid, p.32

¹¹³ Ibid, p. 43

¹¹⁴ Ibid, p. 48

¹¹⁵ Ibid, p. 50

consisting in camps, field trips, visits to the city and parental visits. The daily schedule has also seen great improvements.¹¹⁶

An area which has not seen much improvement was the behavior of certain teachers and supervisors towards the children. There have been cases in which they used to be hit.

Usually by following the report made by APADOR-CH, who looked at each institution separately, most of the recommendations have been followed even if there were still some areas that could have benefitted from improvements.¹¹⁷

Female detention centers

Convicted women are subjects to the same prison treatment as men. They must obey to the same obligations and interdictions, and have the same rights. Even so, there are some differentiations, the first one being the fact that women are imprisoned separately from men. In Romania there is only one Women Prison at Târgșor.¹¹⁸ In Romania, the separation of women from men dates as far as the 17th century, at the end of the feudal era and the beginning of capitalism. The separation occurred as a means of protection, as some were exploited and treated poorly, others were sexually assaulted and in some cases would remain pregnant.

Over the past years, the number of female inmates has decreased drastically. If the record number in 2001 was 2.122.¹¹⁹ The Târgșor prison used to be a monastery, which until 2004 has not seen much modernization. According to the report, there was no gynecologist on the premises, and the hygiene conditions were considered to be precarious.¹²⁰

¹¹⁶ Ibid, p. 53

¹¹⁷ Ibid, p. 53

¹¹⁸ Ibid, p. 72

¹¹⁹ Ibid, p. 72

¹²⁰ Ibid, p. 73

4.4. Analysis of situation in Romanian prisons between 2006 and 2016

Starting with this chapter, the 2006-2016 timeframe will be analyzed. The researcher will look into the reports of the UN Special Rapporteur on Torture, reports of the Universal Periodic Review, of the Committee on the Prevention of Torture and the reports made by the Romanian NGO, APADOR-CH.

4.4.1 UN Special Rapporteur on Torture (UNSRT)

The UNSRT works under the Human Rights Council Special Procedures. The Special Procedures consists in independent experts who monitor and make recommendations on certain human rights violations within the country they visit.

The first report of the UNSRT¹²¹ consulted in the thesis, serves as a follow-up to the UNSRT report on the country visit, which was made in 1999. In the above-mentioned report¹²², there were made various recommendations on the basis of the fact-finding visit of the UN Special Rapporteur on Torture in 1999. The first recommendation stated to decrease the number of people in remand, the Government taking the necessary measures, thus, a number of 3000 non-recidivist people were released. Also, this reduction happened due to changes in the Penal Procedure Code regarding persons in custody.¹²³

Prosecutors, the General Police Inspectorate, NGOs, and other parts of the civil society should be able to carry out inspections and unannounced visits to the detention centers; it is recommended that a protocol of guidelines be established as well as the submission of reports at the end of the visit.¹²⁴ Regarding this recommendation, on one hand, the NGOs stated that there is no independent monitoring system for the Romanian prisons, and in the cases where the NGOs perform the visits, the detainees have certain reservations in speaking to them due to fear of retribution. On the other hand, the Romanian Government stated that the prosecutors carry out the monitoring visits, looking at the receipt and registration of the detainees, accommodation, personal

¹²¹ UN Special Rapporteur on Torture, Report of the Special Rapporteur, Manfred Nowak – Addendum, UN Docs. E/CN.4/2006/6/Add.2, 21 March 2006

¹²² *Idem*

¹²³ *Ibid*, p. 44

¹²⁴ *Ibid*, p. 45

hygiene, clothing, bedding, food, medical assistance, discipline, contact with the outside and moral and religious assistance.¹²⁵

Regarding the cases of torture and ill-treatment, it mentions the fact that the claims should be transferred from military to civilian prosecutors (in order to facilitate the complaints procedure and also from the perspective that the civil prosecutor would not be too high in ranking). Thus, based on the recommendation, the law has changed, but the system is still problematic as the people were still not aware as to how to file complaints, as well as the fact that in many cases they do not file complaints due to fear of retribution¹²⁶.

Cases regarding torture or ill-treatment should be sped-up, and the punishment should be commensurable with the gravity of the act¹²⁷. In this sense, the New Criminal Code and the New Criminal Procedure Code will include the measures from the recommendation, but according to following reports there was still a lack in the system.¹²⁸

Public or official people indicted for abuse or torture should be suspended from their duty pending the trial. According to information from the NGOs, it is still not the case, as high-ranking or official people are never suspended from their functions.¹²⁹

The next report which was consulted, was the 2010 report made by the UNSRT¹³⁰, which starts by stating that no response was received to the previous recommendations, but it encourages Romania's efforts in combatting torture and ill-treatment, as well as in improving the conditions of the people deprived of liberty. The report reiterates the need for making the necessary institutional changes in order to prevent any cases of torture and ill treatment.¹³¹

Changes based on the recommendations have been made; the number of remand prisoners has significantly decreased, the temporary police detention centers that did not

¹²⁵ Ibid, p. 45

¹²⁶ Ibid. p. 45

¹²⁷ Ibid, p. 47

¹²⁸ Ibid, p. 47

¹²⁹ Ibid, p. 49

¹³⁰ UN Special Rapporteur on Torture, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak – Addendum, UN Docs. A/HRC/13/39/Add. 6, 26 February 2016

¹³¹ Ibid, p. 165

meet the minimum conditions have been closed, as well as in order to combat overcrowding in temporary police detention centers, the minor or first time non-violent offenders were able to leave on bails, and the convicted persons were transferred to jails. The Romanian Government has also made several changes in the legislative system, thus instituted a new set of regulations on detention and preventive detention based on the European Commission, CPT and international recommendations. The “Guide of best Practices in Police Work” developed by the Committee for Human Rights and Humanitarian Law of the General Inspectorate of Police has been distributed, and trainings were offered to the personnel aimed at training police officers in human rights and conflict resolution in multicultural communities, conflict management and preventing discrimination.¹³²

4.4.2 Universal Periodic Review (UPR)

The UPR was instituted through the General Assembly in 2006, and it is a one of a kind procedure, which includes an audit of the human rights records of all UN Member States. The UPR is a State-driven procedure, which gives the chance to every State to proclaim what moves they have made in order to enhance the human rights circumstances in their nations and to satisfy their human rights commitments.

According to the UPR national report of 2008¹³³, 570 complaints have been filed between 2003-2007 on the basis of torture and ill-treatment by police officers. The cases have been filed at the General Inspectorate of the Police. 41 cases have been dismissed, in 7 cases disciplinary measures were imposed, and criminal charges were brought to 4 people, out of whom only one was convicted, and the other 3 have been discharged and acquitted. The rest of the complaints have not been solved. The UPR national report also mentions the fact that overpopulation has been a serious issue in Romanian prisons the number of detainees has decreased in the past years¹³⁴.

The report also mentions the legislative measures taken in order to address the issue of the Romanian penitentiary system, where the conditions still do not meet the

¹³² Ibid, p. 165

¹³³ UN Universal Periodic Review (UPR), National Report submitted in accordance with paragraph 15(A) of the annex to Human Rights Council Resolution 5/1, UN Docs. A/HRC/WG.6/2/ROM/1, 2 May 2008

¹³⁴ Ibid, p. 11

general standards of food, security, hygiene, and privacy. Special conditions of detentions for juveniles and women have been set up as well as for those in preventive detention. The report also mentions the classification of imprisonment in maximum security, closed, semi-open and open.¹³⁵

Unannounced visits are regularly carried out according to the UPR report, by NGOs and other international human rights organizations in order to monitor the situation in the prisons.¹³⁶

The UPR working group recommendations made by Denmark, Turkey and Ireland stated the necessity of improving the detention conditions, as well as to strengthen the efforts in order to avoid torture and ill-treatment of the detainees.¹³⁷ In the response given by the Romanian Government in 2013¹³⁸ to the recommendations made by the previous 2008 report, according to the Ministry of Justice the minimum standards regarding the conditions of accommodation have been improved; standards of 4sqm of space and 6cbm of air.¹³⁹ The step taken is a very important one in order to comply with the standards.¹⁴⁰ Also, it is mentioned the increasing capacity of accommodation, and involvement of detainees in educational and other sporting or entertaining activities.¹⁴¹

Remarks

The recommendations and conclusions made by the UNSRT and UPR are more related to legislative/administrative improvements. Improvements have been made regarding the prisoners in remand, as a great number was released based on the UNSRT recommendation. Also, currently, NGOs do not encounter problems in visiting the detention places, however there are instances in which the inmates are reluctant to speak to them due to fear of retribution.

¹³⁵ Ibid, p. 13

¹³⁶ Ibid, p. 12

¹³⁷ UN Universal Periodic Review, Report of the Working Group on the Universal Periodic Review: Romania, UN Docs. A/HRC/8/49, 3 June 2008, p. 17

¹³⁸ UN Universal Periodic Review, Compilation prepared by the Office of High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council Resolution 16/21, UN Docs. A/HRC/WG.6/15/ROU/2, 9 November 2012

¹³⁹ Ibid, p. 9

¹⁴⁰ Ibid, p. 9

¹⁴¹ Ibid, p.9

The most important changes that have been done from a legislation perspective is the Law 254/2013 (regarding the execution of punishments), through which there is a clear separation between the juveniles in detention, and men and women, and the four types of prisons are explained (open, semi-open, closed and maximum-security). Also the Order 433/2010 regarding the minimum mandatory norms regarding the accommodation conditions of the people deprived by their liberty is a document of high importance regarding the material conditions of detention. The Order was drawn in order to have the Romanian legislation up to the EU standards and norms. However, the reality in the prisons does not respect in many cases the legislation. The researcher presented in the following chapter a summary of the conditions in selected¹⁴² prisons in Romania.

4.4.3. EU Committee for the Prevention of Torture (CPT) and Organization for the Defense of Human Rights in Romania – Helsinki Committee (APADOR-CH)

The CPT has been set up through Article 1 of the European Convention for the Prevention of Torture and other Inhuman and Degrading Treatment; *“there shall be established a European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (...) the Committee shall, by means of visits, examine the treatment of persons deprived of their liberty with a view to strengthening, if necessary, the protection of such persons from torture and from inhuman or degrading treatment or punishment”*.¹⁴³ The CPT carries out monitoring visits (both announced and ad-hoc) in the States Parties and writes recommendations to the Government in cause.

APADOR-CH is one of the most relevant Romanian NGO that carries out monitoring missions in prisons. The NGO tries to visit all the prisons and juvenile detention centers at least once every four years. After each visit, they write a very detailed report regarding the conditions of detention.

¹⁴² Where information was available from the CPT and NGO reports

¹⁴³ European Convention for the Prevention of Torture and other Inhuman and Degrading Treatment or Punishment, CPT/Inf/C (2002), Op. Cit., art. 1

The purpose of this chapter is to present how in some cases the detention conditions improved, remained the same or worsened over the course of the years.

The researcher used the reports of the CPT and contrasted the information with newer reports made by APADOR-CH.

Bacau Prison

The CPT visited the prison in Bacau in 2006 and in order to follow if there were any improvements or not, the researcher used also the monitoring report made by APADOR-CH in 2014. Thus, one will be able to see the evolution or the involution of the material conditions or human rights violations.

In 2006, Romania was congratulated for the measures taken at the Bacau prison in terms of overcrowding, enlargement of the windows and for the new heating system. But on the other hand, the conditions for detention in the area of women were still at a low level. Some inmates shared beds and had 0,6sqm of living space; due to overcrowding, also natural lightning was an issue¹⁴⁴. The Committee also looked at the juveniles in detention at the prison in Bacau and it noted that 26 juveniles were sharing 12 beds, thus leading to a 1,3sqm of living space for each one of them. According to the report, great human rights violations occur, as well as degrading living conditions.¹⁴⁵

Regarding the activities, almost half of the inmates had no access to any activities outside of the cells, except the outdoor exercises. The educational activities or workshops were accessible only to a few inmates. In the instances when they were practiced, such activities took place only a few times a week due to a lack of personnel.¹⁴⁶ In the case of juveniles, it was considered inadmissible the fact that recreational activities consisted in a 10-20 minutes walk. The prison lacked in educational activities, the only entertainment for the juveniles in detention being the

¹⁴⁴ EU Committee for the Prevention of Torture (CPT), Rapport Au Gouvernement De La Roumanie Relatif à La Visite Effectuée En Roumanie Par Le Comité Européen Pour La Prévention De La Torture Et Des Peines Ou Traitements Inhumains Ou Dégadants Du 8 Au 19 Juin 2006, CPT/Inf (2008) 41, 11 December 2008, p. 41

¹⁴⁵ Ibid, p. 52

¹⁴⁶ Ibid, p. 43

television, reading and some society games, but overall the greatest concern was the fact that juveniles were locked in their cells between 20-22 hours.¹⁴⁷

The medical conditions were also insufficient. The medical team encompassed 3 doctors and 5 nurses, which were not enough for a number of 1,036 inmates.¹⁴⁸ Usually the inmates were transferred to the nearest hospitals due to the lack of specialized doctors. The Committee was concerned by the lack of psychiatrists, as there were many inmates who were in need of such care.¹⁴⁹

The prison in Bacau was visited in 2014 by APADOR-CH, and the report was published in July 2014. The prison was meant to accommodate juveniles (aged between 18-21), men and women. The researcher drew up the table below, based on the information provided in the report in order to show the occupancy rates. In 4 out of 6 sections the occupancy rate was at 125%, resulting in 3sqm per inmate, which is in clear violation of the norms imposed of 4sqm per detainee. A great advancement was the fact that juveniles were separated from the rest of the inmates. However, the administration was positive regarding the issue of overcrowding, as works for a new establishment were about to start in the fall.¹⁵⁰

Sections	No. Inmates	Capacity
S1 – Juveniles	230	221
S2 – Male inmates	192	186
S3 – Male inmates	29	40
S4 – Female inmates	62	67
S5 – Female inmates	115	75
S6 – Female inmates	119	75

Regarding educational activities, 76 inmates took classes, and a number of 41 passed the year. Out of these 17 juveniles took remote high-school classes, and one of

¹⁴⁷ Ibid, p. 52

¹⁴⁸ Ibid, p. 55

¹⁴⁹ Ibid, p. 55

¹⁵⁰ Buzatu, Cristinel, and Dolores Benezic. "Raport Asupra Vizitei De Verificare a Evolutiei Situatiei in Penitenciarul Din Bacau", 16 July 2014, APADOR-CH, available from <http://www.apador.org/raport-asupra-vizitei-de-verificare-a-evolutiei-situatiei-din-penitenciarul-bacau>, (accessed 14 July 2016)

them passed the Bacalaureate exam. Also the conditions in the classrooms have improved, following a donation in construction materials from a private company¹⁵¹.

The penitentiary administration stated that continuous sanitations are made in the rooms, although bedbugs are still an issue; they are believed to reoccur from inmates transferred from other prisons, and as a cause of the old and overused mattresses. As part of a protocol made with the county hospital, the inmates receive condoms on a monthly basis in order to prevent the spread of sexually transmitted diseases¹⁵².

One can note the improvements made in the area of education, considering the Committee's observations in 2006, where it was noted the lack of educational and extracurricular activities.

After looking at the two reports, one can conclude that some of the biggest issues are overcrowding, lack of adequate medical services and medical personnel. Even if improvements have been done regarding sanitation of the rooms, the bedbugs still pose an issue.

Ploiesti prison

The Committee visited the prison in Ploiesti in 2006. The prison's capacity was of 400 places and at the time of the visit, the prison accommodated 602 inmates.¹⁵³ The conditions in the cells were overall acceptable, and regarding the showers, at the time of the visit, it was mentioned that a few of them were not working. Although the overcrowding rates were not that high, the inmates had to share beds, and the overall living space in the cell was of 1,5sqm, which lead to a lack of fresh air.¹⁵⁴ However, in the case of juveniles, the Committee noticed that the general imprisonment conditions were more favorable than for the rest of the inmates. There were enough mattresses, tables and chairs, the cells were properly lightened and aired, and the living space was up to 3sqm.¹⁵⁵

¹⁵¹ Idem

¹⁵² Idem

¹⁵³ Rapport Au Gouvernement De La Roumanie Relatif à La Visite Effectuée En Roumanie Par Le Comité Européen Pour La Prévention De La Torture Et Des Peines Ou Traitements Inhumains Ou Déggradants Du Du 8 Au 19 Juin 2006, CPT/Inf (2008) 41, Op. Cit., p. 36

¹⁵⁴ Ibid, p. 42

¹⁵⁵ Ibid, p. 53

A lack of activities was noted, less than half of the inmates having access to educational, religious, informational or cultural activities.¹⁵⁶ The situation was not better for the juveniles, as the only recreational activity they could take part in was the daily one-hour, one hour and half daily walk.¹⁵⁷

Regarding medical assistance, the prison had two doctors, and five nurses, a number, which was not enough to cover the needs of such a high number of inmates (602). Also it was noted that there was no psychologist on the premises.¹⁵⁸

The prison in Ploiesti is one of the most recently visited prisons by APADOR-CH in 2016. The main issue that the prison administration confronted with was overcrowding, the indices were at 179,5% according to the CPT standards, each detainee having around 2,2sqm of space. In some cases, inmates had to share beds.¹⁵⁹

At the visit conducted in 2010, there were still two general doctors, as in 2006. In 2016 the situation has not changed but the number of nurses increased from five to seven. The doctors attested that there was no cases of inmates infected with HIV, but also mentioned that they do not dispose of the necessary means in order to conduct the testing. With the help of 1 psychologist and 2 social workers, 133 inmates had a chance to benefit from counseling.¹⁶⁰

The NGO representatives have conducted interviews with the inmates, and their general complaints were related to the medicine, as it was ineffective, that not all of the inmates had access to work, that the prices of the commissary were too high and unaffordable, that the hygiene conditions were not that great, and that 1 bar of soap and 1 toilet paper roll was not enough for one month. Also there were complaints regarding the educational activities, as the only courses offered were for grades 1-4. When asked by the representatives why they do not complain, most of them answered that they fear they will be transferred to another prison.¹⁶¹

¹⁵⁶ Ibid, p. 43

¹⁵⁷ Ibid, p. 53

¹⁵⁸ Ibid, p. 55

¹⁵⁹ Popescu, Nicoleta, and Georgiana Gheorghe. "Raport Asupra Vizitei in Penitenciarul Ploiesti", 5 July 2016, APADOR-CH, available from <http://www.apador.org/raport-asupra-vizitei-in-penitenciarul-ploiesti/>, (accessed 14 July 2016)

¹⁶⁰ Idem

¹⁶¹ Idem

One can note that the situation regarding overcrowding has worsened over the past years but one can note a great improvement, as the inmates benefit from counseling from a psychologist and from social workers. In the past years they did not have access to counseling. However, the situation of educational programs still needs improvements, as there are not enough psychologists and social workers, in order to allow all the inmates to take part in activities. Also, there is a pressing need to hire trained medical personnel.

Craiova Prison

The Committee visited the prison in Craiova in 2006, but only the maximum-security section of the prison, and it was noted that it had been renovated in 2007, and there was no overcrowding at the moment of the visit.¹⁶² The Committee noted that the cells were in overall good conditions, and that the living space was around 6,4sqm, without encompassing the toilet space, which was in good conditions.¹⁶³

Regarding the educational activities, the prison administration was congratulated on its efforts in proposing various motivational activities; two hours of outdoor exercise everyday, three to four hours in the living rooms which had a library, computers, and a Ping-Pong table. Religious services were held during the weekends for the inmates who wanted to take part in them.¹⁶⁴

After the visit of the CPT in 2006, one can see some improvements 8 years later, one from the APADOR-CH report of 2014¹⁶⁵.

The water network has had various works done, as well as the kitchen and supply areas, and thanks to some Norwegian funds, a new entertainment area was built. Some of the inmates had the possibility of working in maintaining the green areas at the hospital in Craiova, and the ones who have less than 9 months of sentence left could

¹⁶² Rapport Au Gouvernement De La Roumanie Relatif à La Visite Effectuée En Roumanie Par Le Comité Européen Pour La Prévention De La Torture Et Des Peines Ou Traitements Inhumains Ou Déggradants Du Du 8 Au 19 Juin 2006, CPT/Inf (2008) 41, Op. Cit, p. 36

¹⁶³ Ibid, p. 47

¹⁶⁴ Ibid, p. 48

¹⁶⁵ Bobosatu, Adelina, and Valentin Simionov. "Raport Asupra Vizitei La Penitenciarul Craiova", 9 Sept. 2014, APADOR-CH, available from <http://www.apador.org/raport-asupra-vizitei-in-penitenciarul-craiova/>, (accessed 14 July 2016)

work there. The women have the possibility of working at sewing shoes. The inmates receive 40% of their pay¹⁶⁶.

According to the report, the prison in Craiova is still one of the most overcrowded prisons in the country, having an occupation index of 180%, even if a new section was inaugurated and women were moved there. Even so, the NGOs have appreciated the efforts put into the new building of the prison¹⁶⁷.

Although in the first part of the analysis (made by CPT in 2006) of the Craiova prison there was no mention regarding the medical conditions, the most recent report of APADOR-CH shows that the prison had at the time of the visit six doctors, five nurses, one pharmacy assistant, one radiology assistant and one dentist-technician assistant. There were noted various cases of gynecological problems in the line of women, due to the lack of proper hygiene and lack of hygienic products; according to the inmates they would receive only 3 tampons and 1 bar of soap per month¹⁶⁸.

Craiova Juvenile Detention Center

The CPT visited the juvenile detention center in Craiova in 2010. At the time of the visit, the juvenile detention center in had a capacity of 280 places, and at the moment of the visit it had 270 juveniles.¹⁶⁹ The Committee observed no allegations of torture or ill treatment during their visit at the center. Due to an adequate number of inmates at the center and educational programs, the violence rates between inmates had considerably decreased. At the moment of the visit, the detention center had 35 juveniles who were split into 7 cells, resulting in each of them having 35sqm of space. The conditions in the cells were up to the standards of lightning and fresh air; as well in some cases they had tables and chairs¹⁷⁰.

¹⁶⁶ Idem

¹⁶⁷ Idem

¹⁶⁸ Idem

¹⁶⁹ EU Committee for the Prevention of Torture (CPT), Rapport au Gouvernement de la Roumanie relatif à la visite effectuée en Roumanie par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants du du 5 au 16 septembre 2010, CPT/Inf (2011) 31, 24 November 2011, p. 27

¹⁷⁰ Ibid, p. 35

The juveniles are allowed to shower for 20 minutes per cell twice a week. The shower conditions are not mentioned in the report, but it is mentioned that children who did not have financial means, were provided monthly with the necessary hygiene products¹⁷¹.

The juveniles were taken care of by a multidisciplinary team (teachers, psychologists, and social assistants) who worked for 12 hours per day during the week and a few hours during the weekend. Also, the Committee noticed that the detention center in Craiova disposed of a very good infrastructure in order to carry out educational and extracurricular activities. There is a school, a gym, an outside sports field and a leisure room¹⁷².

The juvenile detention center in Craiova was visited by APADOR-CH in 2014. According to the declaration given by the administration, the children placed there were underage, and they did no longer feel like they were in a detention center due to the educational and extracurricular activities they take part in.¹⁷³

The hygiene conditions in the kitchen were very good, the kitchen and the storage spaces were clean, and the bread was kept separately and was fresh. The juveniles in open detention were serving the meals in the food hall, the female juveniles were serving their meals separately from men, and the ones in closed detention served their meals in their rooms¹⁷⁴.

The detention center has its own school. At the time of the visit, 131 students had finished the first semester. They were also offered other extracurricular activities and programs such as “Life after being behind bars, health education and civic studies”, and education through physical activities. With the help of an Austrian association, the personnel had the chance to visit an Austrian center and have training on their practices. Also with Austrian funding, the detention center opened typography, a cooking and pastry and an iron workshop¹⁷⁵.

¹⁷¹ Ibid, p. 36

¹⁷² Ibid, p. 36

¹⁷³ Benezic, Dolores, and Doina Bobosatu. "Raport Asupra Vizitei Centrului De Detentie Pentru Minori Craiova", 16 Apr. 2014, APADOR-CH, available from <http://www.apador.org/raport-asupra-vizitei-in-centrul-de-detentie-pentru-minori-craiova/>, (accessed 15 July 2016)

¹⁷⁴ Idem

¹⁷⁵ Idem

The Craiova juvenile detention center is one of the most positive example of the whole Romanian penitentiary system; there were no incidences of overcrowding, the juveniles are taken care of a good team of teachers, psychologists and social-workers and take part in various educational activities. Also, the hygienic conditions seem to be in great shape.

Bucharest Rahova Juvenile Detention Center

The Committee visited the juvenile detention center at the Bucharest Rahova prison in 2010. The juvenile section had 6 cells of approximately 20sqm each, with toilet for each cell. The occupation rates of the cells were up to the standards as at the moment of the visit there were 24 juveniles in detention there. However, the detention conditions were not up to the standards. The furniture was in bad shape, and at times the toilets were unusable due to the deplorable conditions. The only criteria, which were up to the standards, were the lightning and the fresh air¹⁷⁶.

The mattresses were also in bad shape, there was a case reported where one of the children was sleeping on a bed without any mattress. An NGO provided the hygienic products, but even so they were not enough. There were no complaints regarding the food conditions, but the Committee observed that some children had to split the blankets and the food bowls. The Committee's conclusions were that the children were imprisoned in unacceptable conditions¹⁷⁷.

It is important to mention that after the Committee's observations, the National Penitentiary Administration sent a control to the Bucharest-Rahova detention center, which realized that the living conditions were insanitary. The detention center was closed in 2010 and the juveniles were transferred to Slobozia in order to start the works. The Committee acknowledged with happiness the fact that the Romanian Government took the necessary and moved so quick to find a solution¹⁷⁸.

¹⁷⁶ Rapport au Gouvernement de la Roumanie relatif à la visite effectuée en Roumanie par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants du du 5 au 16 septembre 2010, CPT/Inf (2011) 31, Op. Cit., p. 37

¹⁷⁷ Ibid, p. 38

¹⁷⁸ Ibid, p. 38

During the 2013 visit of APADOR-CH at the Bucharest-Rahova detention center, there was no mention of rehabilitation works, as it was mentioned in the Committee for the Prevention of Torture report of 2010.¹⁷⁹

Even so, at the time of the visit there were 19 underage juveniles, all in in remand. The rooms seemed to be in good conditions, with proper natural lightning and fresh air. The inmates had proper access to bathrooms, which encompassed in a toilet and a shower; the inmates had access to hot water only twice a week¹⁸⁰.

Regarding the educational activities, there were 2 teachers on campus, but the underage juveniles had no access to courses or educational activities, which was one of the recommendations made by the NGO. While interviewed, the juveniles seemed to be content with the detention conditions¹⁸¹.

Bucharest Jilava

The Committee visited the prison in Bucharest Jilava in 2006, but only the section for maximum-security inmates. The material conditions of detention were considered deplorable, and the overall status of the building was in terrible shape. Not only the inside conditions were bad, but also the way the prison looked on the outside. Access to natural lightning was not found in most cells. The cells were infested by parasites, and due to overcrowding there was a lack of beds. Due to serious flooding which occurred in 2005, a great part of the prison was damaged.¹⁸²

The outdoor activities were not always granted, thus the inmates spent most of their time in their cells listening to the radio. They were not given any working or educational possibilities.¹⁸³ The Committee noted the fact that during the medical examination prisoners were handcuffed, and policemen were present.¹⁸⁴

¹⁷⁹ Ibid, p. 38

¹⁸⁰ Andreescu, Nicoleta, and Doina Bobosatu. "Raport Asupra Vizitei in Penitenciarul Rahova-Bucuresti", 17 July 2013, APADOR-CH, available from <http://www.apador.org/raport-asupra-vizitei-in-penitenciarul-rahova-bucuresti/>, (accessed 15 July 2016)

¹⁸¹ Ibid

¹⁸² Rapport Au Gouvernement De La Roumanie Relatif à La Visite Effectuée En Roumanie Par Le Comité Européen Pour La Prévention De La Torture Et Des Peines Ou Traitements Inhumains Ou Déggradants Du Du 8 Au 19 Juin 2006, CPT/Inf (2008) 41, Op. Cit., p. 46

¹⁸³ Ibid, p. 48

¹⁸⁴ Ibid, p. 49

The APADOR-CH report on the Bucharest-Jilava prison in 2008, came as a additional monitoring 8 years later regarding the prison and detention conditions of the report filed by the CPT in 2006, when the detention conditions were described as inhuman and degrading.

The oldest building of the prison continued to have its basement flooded, leading to the detention spaces to be filled with rats, cockroaches and lice, thus leading to health issues and constituting inhuman and degrading living conditions for the inmates. Lice are also a cause of the old mattresses, and no disinfestation will be successful unless the mattresses are completely replaced¹⁸⁵.

The water was also in a bad conditions, making impossible to drink and unsanitary to be used for personal hygiene. Some water filtering machines have been installed, and the inmates have access to them whenever they are not in their cells. Also, the food quality seemed to be deplorable, as well as the hygiene conditions in the kitchen and storage areas¹⁸⁶.

Looking at the educational and social personnel, the NGO observed the complete lack of adequately trained personnel who would be able to deal with the big number of inmates in the prison. It is important to mention that the prison in Jilava is a transitional point for the inmates, thus resulting in a continuous fluctuation of the inmate population. However, this should not constitute an excuse for the lack of educational activities. Some of the inmates participated in foreign language courses, taught by the inmates themselves (English and Italian). The courtyards are not properly equipped with benches or tables, and the inmates are not allowed to use footballs or any other type of ball, so they would not ruin the fences. Access to the sport area, where they can play with balls is granted once a week through rotation¹⁸⁷.

The number of working inmates is at $\frac{1}{4}$ of the total prison population. However, the inmates receive information about their salaries only when they want to make purchases at the commissary, which is not fair, as all of them should be informed regarding payment of their work¹⁸⁸.

¹⁸⁵ Raport Asupra Vizitei La Penitenciarul Bucuresti-Jilava, Op. Cit.

¹⁸⁶ Idem

¹⁸⁷ Idem

¹⁸⁸ Idem

Bucharest Jilava remains one of the biggest challenges. Besides overcrowding, the building is in a bad shape both on the inside and on the outside, the inmates do not have access to potable water, and cannot keep their personal hygiene. There is a constant lack of activities; the inmates not being granted even the minimum one hour walk a day.

Targsor Prison

The Committee visited the women prison in Targsor in 2014, and it is the most recent report regarding the prison conditions.

The women prison in Targsor is in a 20th century building, and is situated in a relatively close proximity from Bucharest. At the moment of the visit, the prison had 677 inmates, while its capacity was of 362 places.¹⁸⁹ The maximum-security sections were the most overcrowded ones, as the cell space was of approximately 25sqm for a number of 16 inmates, who were living in triple bunk beds. The cells did not have adequate access to lightning, and at times even the artificial lightning was not enough. At the time of the visit, the Committee was informed of renovation plans by the administration, who was intending to create 400 more spaces, and an additional 60 spaces for open-space detainees. The sanitary conditions were also in a bad shape, as the water pressure was very low and at times the inmates had to clog the toilets with water in order to prevent bad smells and lice. According to the report, the inmates would receive only 5 tampons per month, which is a very small amount.¹⁹⁰

Food conditions did not seem to be good either, according to the Committee, inmates would barely receive meat, vegetables and fruits, and at Targsor the main foods served were pasta, rice, some vegetables and small pieces of meat. The prison administration confirmed the complaints received regarding the food conditions,

¹⁸⁹ EU Committee for the Prevention of Torture (CPT), Rapport au Gouvernement de la Roumanie relatif à la visite effectuée en Roumanie par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants du 5 au 17 juin 2014, CPT/Inf (2015) 31, 24 September 2015, p.31

¹⁹⁰ Ibid, p. 32

arguing that the small budget per person per day was not enough (RON 3,76 / EUR 0,80).¹⁹¹

Concerning working conditions, 182 inmates were working, 39 inmates were following first and second-degree studies, and 44 inmates were involved in social and therapeutic activities. The women could use the prison gym once a week. Although the Committee observed improvements in the recreational activities that the women could perform, the ones who were in closed regimen spent 20-22 hours a day watching television or listening to the radio¹⁹².

The CPT noted that it seemed some inmates were reluctant to speak due to fear of retribution.¹⁹³

From the official site of NPA, the researcher was able to draw the following table, presenting the situation in the prisons in July 2016.¹⁹⁴

¹⁹¹ Ibid, p. 33

¹⁹² Ibid, p. 33

¹⁹³ Ibid, p. 10

¹⁹⁴ "Situatia Privind Capacitatea De Cazare a Unitatilor Si a Efectivelor Acestora", 12 July 2016, ANP, available from <http://www.anp.gov.ro/documents/10180/9264127/Capacitatea+de+cazare+a+unitatilor+si+efectivele+ac+estora+la+data+de+12.07.2016+-+site.pdf/1a5c1434-4684-41e6-b109-ea2a7018c3e7>, (accessed 30 July 2016)

Table 1: Concerning the Capacities of Each Prisons and the Real Number of Inmates

	Prison	Total Number of inmates	Legal Norm	Occupation index (%)
1	Aiud	872	765	121,62
2	Arad	945	1104	85,6
3	Colibasi	637	493	137,88
4	Craiova	1120	607	210,92
5	Focsani	684	449	190,53
6	Galati	740	498	148,59
7	Gherla	777	540	143,89
8	Giurgiu	1185	1214	97,61
9	Iasi	1520	699	217,45
10	Margineni	794	476	166,81
11	Miercurea Ciuc	357	221	161,54
12	Oradea	509	405	125,68
13	Rahova	1282	1063	120,6
14	Slobozia	473	378	125,13
15	Targosor	646	410	157,56
16	Tulcea	1033	597	173,03
17	Bacau	415	312	133,01
18	Baia Mare	379	247	153,44
19	Bistrita	450	332	135,54
20	Braila	554	278	184,6
21	Botosani	995	539	135,54
22	Jilava	1370	661	207,26
23	Codlea	578	331	174,62
24	Deva	704	661	115,22
25	Gaesti	329	248	132,66
26	Pelendava	305	210	145,24
27	Ploiesti	410	211	194,31
28	Poarta Alba	922	566	162,9
29	Targu Ocna	28	22	127,77
30	Satu Mare	534	235	227,23
31	Targu Jiu	470	230	204,35
32	Targu Mures	411	192	214,06
33	Timisoara	949	699	141,85
34	Turnu Severin	330	222	148,65
35	Vaslui	988	621	159,1
Total		24695	16736	

Remarks

As one can see from the above reports, visits have been made in seven detention centers, out of which two juvenile detention centers and one women prison. The researcher has reached the conclusion that a great number of the monitored indicators by the CPT and APADOR-CH have not changed even if recommendations have been made in this regard.

Among some of the aspects underlined in the reports above, the researcher concludes that some issues, such as overcrowding, detention conditions and cultural/educational activities are a serious issue. Although improvements have been made regarding overcrowding, it is still a matter of concern. The lack of educational and cultural activities is also a concern, as Romania has a great problem with the social reintegration of ex-inmates. Also, the prison medical system constitutes a great issue, and it should be taken into consideration by the authorities. The prisons usually have general doctors in their service. This aspect should be considered and changed, in order to offer the inmates access to specialized doctors (for example gynecologists in the case of women). Undoubtedly there are risks for the doctors working in prisons, and in most cases they are reticent to work in a prison, thus the high number of jobs unfilled. Besides the medical training, doctors working in prisons should get additional training in attending detainees. For instance, in the case of Bacau the number of doctors increased over the years, but unfortunately, an average of three doctors for 1000 inmates is still not enough. There is no mention in the Romanian legislation regarding the minimum number of doctors for a certain number of detainees, however, the reality encountered in the reports is under any expectation, and the legislation should be adjusted making this change.

It is alarming that despite all the reports and recommendations made both by international institutions and national bodies, the situation in the prisons of a EU country Capital city, Bucharest, has not seen improvement, and in some aspects it has worsened. The cells can be downright considered as “pest holes”, starting with the lice, parasites, rats, mold, and ending with flooding in the basement and façade conditions. Some inmates do not have mattresses; some who can be considered fortunate have a mattress but share beds with other inmates. Taking these into account, it is not a

surprise that protests occurred (as mentioned in the previous chapter). The conditions do not abide the law, first of all, the Order 433/2010 regarding the minimum detention conditions for the persons deprived of liberty, where it is stated that the spaces for detention should be respecting the human dignity: hygiene, sanitary conditions, air, lightning, and adequate acclimatization.¹⁹⁵ It is clear that neither Bucharest Jilava nor Bucharest Rahova comply with the before mentioned.

On a positive remark, the reports have shown some positive examples, for example the prison in Ploiesti where renovations have been made in order to bring the windows, lightning and fresh air up to the standards. Also, the reports noted improvements in the prison in Craiova regarding the detention conditions. The Craiova juvenile detention center should serve as an example of good practice regarding the educational and extra-curricular activities. Furthermore, the personnel working there should constitute an example for all teachers and social workers in the prison system. It seems that they are truly devoted to their work.

The fear of retribution is still high, as the only moment when the inmates voiced freely their complaints was during the protests. However, on a daily basis it is doubtful that they file complaints to the supervision judge. Even if the opinion of the detainees might not count for much in the eyes of the Government or of the administration, at least the reports should serve in order to open their eyes regarding the conditions in prisons.

Chapter 5 – Prison Protests and ECtHR

This chapter is intended to present, in the first part, the evolution of the prisons protests that occurred in Romania in July 2016, and in the second part it will give an overview of cases brought to the ECtHR, and some case examples.

¹⁹⁵ Order 433/2010, Op. Cit., art. 1

5.1. Prison Protests

As presented in the previous chapter based on the international reports and the reports of the Romanian NGO APADOR-CH, the prison conditions in Romania are still not up to either the international standards or even up to the standards imposed by the Romanian national law. Thus, on July 11th protests started in the Romanian prisons. This chapter is intended to examine how the protests started, how they emerged at a national level, and to show what the Minister of Justice's measures to combat the situation were.

The first incidents started on July 5th at the Giurgiu prison, where the inmates protested by hitting the window bars with food bowls and spoons. 102 inmates out of 1216 refused food, but one day later the situation was under control as the prison administration had a discussion with them. The main complaints of the inmates in this case were broadening the recreational activities, training courses, working and counseling activities, extending the television schedule, and setting up phones in cells. Fortunately the event was solved by the prison administration without having to alarm the whole unit¹⁹⁶. Also, on the 5th of July, an inmate from the prison in Rahova burned his cell down. According to statements from the prison administration he was a smoker, thus he had a lighter. He started by burning the mattress and afterwards he locked himself in the toilet. The prison personnel intervened with the necessary equipment. The inmate died and 67 prisoners were evacuated and 11 guards were taken to the hospital¹⁹⁷.

However, on Monday July 11th, at the maximum-security prison in Iasi, some inmates started talking out-loud about their discontent with the detention conditions. After sunset, the inmates went to the cells windows, screaming and hitting the bars with

¹⁹⁶ "Un Nou Protest La Penitenciarul De Maximă Siguranță Iași. Deținuții Au Dat Foc La Saltele", Realitatea TV, 11 July 2016, available from http://www.realitatea.net/protest-spontan-la-penitenciarul-de-maxima-siguran-a-ia-i-de-inu-ii-au-dat-foc-la-saltele_1957762.html (accessed 20 July 2016)

¹⁹⁷ "Deținutul Care și-a Incendiat Celula La Penitenciarul Rahova a Murit", Libertatea, 5 July 2016, available from <http://www.libertatea.ro/stiri/stiri-interne/detinutul-care-si-incendiat-celula-la-penitenciarul-rahova-murit-1531158> (accessed 21 July 2016)

various objects. In some cells prisoners even lit the mattresses on fire. The prison administration required the help of extra personnel¹⁹⁸.

According to news from Digi24, a number as high as 1500 inmates protested at the Iasi penitentiary. The number of inmates was almost double from the capacity, which is of 699¹⁹⁹. The levels of concern at the National Penitentiary Administration were high, as they were expecting the protests to grow at a national level²⁰⁰.

On the morning of July 12th, the inmates at the Iasi penitentiary climbed on the roof of the prison and burned a cell. The prison personnel intervened in order to evacuate the inmates in the cell. In the second day of the protests, the inmates continued complaining about the detention condition, the dictatorial attitude of the prison administration and also that the personnel subjected them to beatings. The only authority that took a statement in this case was the Ombudsman through its local office overseeing Bacau and Iasi counties, which started an investigation regarding the revolts and the complaints that the inmates voiced out²⁰¹.

By July 13th, the protests extended to 10 prisons. 1000 inmates from the Botosani prison protested, they burned their clothes, and 7 of them broke the bars of the window of their cells and climbed on the roof of one of the buildings. The protest started as an act of solidarity with the inmates in Iasi, but they were also complaining regarding the detention conditions; a high number of inmates in a cell, the toilets and bathrooms described as unhygienic, as well as the food²⁰².

¹⁹⁸ "Un Nou Protest La Penitenciarul De Maximă Siguranță Iași. Deținuții Au Dat Foc La Saltele", Realitatea TV, op. cit.

¹⁹⁹ "Protest La Penitenciarul Din Iași. Aproape 1500 De Deținuți Au Reclamat Mâncarea, Condițiile și Bătăile", Digi24, 12 July 2016, available from <http://www.digi24.ro/Stiri/Digi24/Actualitate/Stiri/Protest+la+Penitenciarul+din+Iasi+Aproape+1500+de+detinuti+au+re> (accessed 20 July 2016)

²⁰⁰ Livia Stanciu , "Iau Foc Puscarile Provoaca Revolta in CCR" *in* Vorbe De Fumoar", Luju, 12 July 2016, available from <http://www.luju.ro/culise/vorbe-de-fumoar/vorbe-de-fumoar-12-07-2016-iau-foc-puscarile-livia-stanciu-provoaca-revolta-in-ccr> (accessed 20 July 2016)

²⁰¹ "Avocatul Poporului s-a Autosesizat in Cazul Revoltei Din Penitenciarul De Maxima Siguranta Din Iasi", Hotnews, 12 July 2016, available from <http://www.hotnews.ro/stiri-esential-21152502-avocatul-poporului-autosesizat-cazul-revoltei-din-penitenciarul-maxima-siguranta-din-iasi.htm> (accessed 20 July 2016)

²⁰² "Revolte în închisori. Deținuți Din 10 Penitenciare Protestează", Digi24, 13 July 2016, available from <http://www.digi24.ro/Stiri/Digi24/Actualitate/Stiri/Revolta+in+inchisoare+Detinuti+pe+acoperisul+penitenciarului+Bot> (accessed 20 July 2016)

The inmates in Botosani also required the resignation of the head of the prison. Police forces were called to help with the situation as the penitentiary administration had been carrying out negotiations but were not able to reach a conclusion.

On the 13th of July was also the first declaration of the Minister of Justice, Raluca Pruna, who stated that she knows the situation the inmates are facing in prisons; the overcrowding, issues related to the food, hygiene and working possibilities, the right to medical assistance and social reintegration of the inmates. She mentioned that this issue is under the responsibility of the civil society, of the Parliament and of the general public who must be well informed regarding the prison situation. However, she also stated that she would not take any measures under pressure, and that the issues of the Romanian prisons will not be solved through remand, and that remand will not decrease the crime rates. The head of APADOR-CH also gave an interview for the news, stating that the main issue is overcrowding which in some cases is extreme. She also said that the main solution to this issue is building more prisons in order to be able to accommodate the existing and future inmates, and that she believes that pardon is not a long time solution²⁰³.

The magistrate Cristi Danilet, member of the Superior Council of Magistracy, gave a declaration for the news, concluding that the prison conditions must be human, and respectful towards the human dignity. He also confirmed that the prison conditions must be adequate in order for the inmates to be able to reflect upon their actions and to revise their behavior. According to him, in Romania the rate of return to prisons is 75%²⁰⁴.

It is clear that another great issue in the penitentiary system in Romania, that one draw from this statement is the reintegration of the prisoners once they are out. The lack in workshops or vocational courses in prison leads to an impossibility of finding a job

²⁰³ "Proteste Si Revolte in Mai Multe Penitenciare Din Tara", Stirile ProTV, 13 July 2016, available from <http://stirileprotv.ro/stiri/actualitate/revolta-impotriva-conditiilor-mizare-din-inchisori-s-a-extins-la-botosani-si-la-porarta-alba-se-ineaca-de-fum-e-jale.html> (accessed 20 July 2016)

²⁰⁴ Ionescu, Sinziana, "Pușcăriada României: Protest Spontan Sau Răscoală Premeditată? „Este O Ofensivă Mediatică Foarte Puternică Pe Tema Amnistiei și Grațierii“", Adevarul, 13 July 2016, available from http://adevarul.ro/locale/constanta/puscariada-romaniei-protest-spontan-rascoala-premeditatai-este-ofensiva-mediatica-foarte-puternica-tema-amnistiei-gratierii_1_578675685ab6550cb8d3b0cb/index.html (accessed 20 July 2016)

and reintegrating in the society, thus, their only better option is the return to prison even if the detention conditions are poor.

In order to give a broad overview of the prison protests, the researcher collected the information from various news sources and made the following table:

Table 2: Overview of prison protests in Romanian cities

Nr. Crt	Prison	Situation
1	Iasi	480 inmates refused food
2	Poarta Alba	50 inmates refused food
3	Botosani	5 inmates still protested on the roof after lights out, 258 inmates refused food, and the inmates continued protesting overnight
4	Oradea	3 inmates refused food
5	Miercurea Ciuc	81 inmates refused food
6	Giurgiu	1 inmate refused food
7	Vaslui	56 inmates refused food
8	Bucharest-Jilava	6 inmates refused food
9	Tulcea	68 inmates refused food
10	Bistrita	The last 2 inmates protesting on the roof went back to their cells and 133 inmates refused food
11	Deva	6 inmates refused food
12	Aiud	27 inmates refused food
13	Bacau	The inmates burned their clothes and kept on hitting the cell bars, the special forces had to intervene in order to restore the peace, 43 inmates refused food
14	Margineni	Inmates burned the mattresses in their cells, the special forces intervened without victims, 45 inmates refused food
15	Arad	1 inmate refused food
16	Targu Mures	10 inmates refused food

The prison protests escalated very quickly going from one prison to being a nation-wide protest. The Romanian media covered the incidents, until the opinions regarding this started to shift. Two years ago, the head of the media trust Antena 3, Dan Voiculescu was arrested, and it was believed that the protests were just a way to put pressure upon the authorities in order to pardon the inmates.

Monica Macovei was the past Minister of Justice, and now a Member of the European Parliament also gave a declaration regarding the situation in the Romanian prisons, which she is very familiar about. According to her, the media has manipulated

the revolts, but at the same time she acknowledges the poor detention conditions the inmates are facing on a daily basis. Based on her experience as Minister of Justice, she proposed the rehabilitation of old military units and transforming them into new penitentiaries. At the same time she declared that under the Ministry of Justice there is a department, the Control Corps, which has the task of monitoring the detention conditions and the activities of the heads of prisons, who, according to her have very high salaries. Measures can be adopted at a prison level without changing the laws; building areas where inmates can practice sports and recreational activities or instituting vegetable gardens where the inmates could also have the possibility to work²⁰⁵.

The detention conditions are not, unfortunately a matter of news for any of the Romanian high officials, but even so, for so many years nothing has been done in order to remedy the situation. One of the few Romanian Government officials, the Vice Prime-Minister, Vasile Dancu, and a renowned lawyer, Catalin Predoiu, gave very reassuring statements saying that the project of rehabilitating the unused military units in order to accommodate 14.500 inmates is necessary, and that the society is the one that needs to be convinced about all the investments that have to be made. Also, it is of a high importance to make the society understand the pressing need for the social reintegration of the inmates²⁰⁶.

The first concrete measures after the ten-day protests, were the resignation starting with August 1st of the head of the National Penitentiary Administration, being replaced by an interim director, the constitution of a working group formed of 5 penitentiary directors who will first of all be working for improving the inmates' working opportunities²⁰⁷.

Before the protests, on June 3rd, the Ministry of Justice organized a seminary, entitled "Detention Conditions in Romania: challenges, good practices and

²⁰⁵ "Macovei: Revoltele Din Penitenciare, Manipulare Hrănită Artificial", Gandul, 14 July 2016, available from <http://www.gandul.info/stiri/macovei-revoltele-din-penitenciare-manipulare-hranita-artificial-15527339> (accessed 20 July 2016)

²⁰⁶ "Revolta in Inchisori: Predoiu Propune Un Plan De Urgenta, Dancu Vrea Dezbateri Publica", Ziare, 14 July 2016, available from <http://m.ziare.com/stiri/revolta-in-inchisori-predoiu-propune-un-plan-de-urgenta-dancu-vrea-dezbateri-publica-1429038> (accessed 21 July 2016)

²⁰⁷ Ministrul Justiției, Raluca Prună, Primele Măsuri După Revoltele Din Penitenciare", Realitatea TV, 15 July 2016, available from http://www.realitatea.net/ministrul-justitiei-raluca-pruna-primele-masuri-dupa-revoltele-din-penitenciare_1959287.html (accessed 21 July 2016)

perspectives”²⁰⁸. The event was open to the press and it consisted in a presentation made by the Romanian NGO GRADO (Romanian Group for the Defense of Human Rights), and 3 working groups on the procedure regarding the regulation of the scientific papers, social reintegration, health projects, and the inmates’ right to work. Following this, the Ministry of Justice drew up a Sectorial Plan for the Improvement of the Detention Conditions, which was supposed to enter into force from 1st July 2016.

The main points that the plan discussed was focusing on work, access to adequate medical care and social reintegration. Regarding the working conditions it was proposed to have a database of all the inmates who could work, the identification and closure of contracts with possible beneficiaries, identifying working opportunities within the communities, analyzing the possibilities of exploitation of agricultural spaces close to the prisons, as well as identifying possible fiscal benefits to the employers (beneficiaries) who would help through hiring inmates²⁰⁹.

From the access to adequate medical services, it was apprehended a need to adapt the current conditions to the prison’s actual needs (from an infrastructural perspective, having privacy in the exam rooms), developing the competences of the medical personnel and hiring the necessary personnel. Another requirement was for competent personnel to deal with mental health patients, as well as the prerequisite to identify the needs of people with disabilities²¹⁰.

The third section, the one regarding the social reintegration of the inmate made the following points: to identify the good practices of social reintegration and to use them as a model, the creation of friendly places where the inmates could interact with their children when they visit, helping consolidate the relationship with the family, having a trimestral job fair for ex-inmates, informal activities such as presentations held by the inmates for the rest of the inmates²¹¹.

²⁰⁸ „Condițiile De Detenție Din România: Provocări, Bune Practici și Perspective”, Just, 3 June 2016, available from <http://www.just.ro/administratia-nationala-a-penitenciarelor/> (accessed 21 July 2016)

²⁰⁹ "Plan De Actiune Sectorial Pentru Imbunatatirea Conditiei De Detentie", Just, 30 June 2016, available from <http://www.just.ro/wp-content/uploads/2016/06/Plan-de-masuri-pentru-imbunatatirea-conditiilor-de-detentie2.pdf> (accessed 21 July 2016)

²¹⁰ "Plan De Actiune Sectorial Pentru Imbunatatirea Conditiei De Detentie", Just, op. cit.

²¹¹ Idem

After analyzing the Action Plan, it is important to mention the fact that the prison administration could organize various workshops in order to teach the inmates how to use hammers, pliers, how to strike nails, or even fretwork. The inmates could use the information they learn to make small objects that they could give to their families. Also, the prison administration could set up a vegetable garden, that way the inmates could have fresh vegetables they could use (it is obvious that not for feeding the whole prison, but occasional dinners using vegetables from the prison could be organized twice a month for the inmates who have had a good behavior). At the same time the inmates could build small chicken cages. Regarding women, they could learn how to knit and sew. A vegetable garden could be instituted also at the women prison. Regarding juveniles, the main focus should be on their education, sports, drawing classes, reading workshops, social games.

After looking in the previous chapter at the medical conditions in the Romanian prisons, one can admit that the needs are much stronger than covered in the Action Plan above. There is an immediate necessity of adequately trained staff and medical personnel in order to fill up all the job openings. There is a great need for psychologists and social workers in order to help with the inmates' mental health and mental well being right from the time they enter the prison. Better measures need to be taken in order to identify the patients who have diseases such as HIV, hepatitis or tuberculosis (which seemed to be a reoccurring disease). Much better databases must be kept with all the inmates' files and personal information and treatment. Much more funding needs to be given towards medicine purchase, as not all diseases can be cured with ibuprofen. The medical facilities of the prisons must be renovated and properly equipped.

Regarding the social inclusion, first of all adequate teaching personnel must be hired. Secondly, the prison administration should make sure that the inmates realize their punishment without being even more punished for their actions (especially in the cases of juveniles). The inmates should take the time in prison as an understanding of their actions and to learn better in order not to commit the same mistake a second time. Regarding the situation in Romania, much work has to be done regarding the civil society and the public's mentality regarding ex-inmates. The same way the inmates

need to understand their mistake it is the same for the society, as society needs to accept them and help them make a life on the outside.

The same way it happened with the protests in the beginning of July this year. Of course, the public was not indifferent towards what the detention conditions were, but during the same time, it was discovered that 65 people were held in slavery and tortured in a small town for 8 years, and that a woman died due to a wrong blood transfusion (in a hospital that did not even have an authorization to run a transfusion bank). So at this time, it is obvious that the public would say that the people who tortured and kept in slavery 65 souls (among which there were also children), should be kept in way worse detention conditions than the existing ones. It is normal that people think like this when in a European Union country in 2016 such barbarities are committed and such medical mistakes are made. There is a great need to improve the detention conditions, the quality of the food, the medical assistance and all the other amenities in the prisons, as it is an ongoing issue since so many years. Of course, there are improvements that have to be done in the overall medical and educational sectors, but there are solutions if the people are willing to work and put some heart into their work.

Another issue is the budget. It is often blamed that changes aren't made due to the low budgets and the lack of funding. According to the information from the National Prison Administration, from the whole budget, 68,2% was used to pay salaries to the personnel, 3.3% was used for food, and 0,31% was used for medicine.²¹² Of course salaries are important, but so are the food and the medicine that the inmates should have access to. Budgetary deficiencies occur everywhere, and in all institutions, but now more than ever, the competent authorities should address this issue.

²¹² “Bugetul Administratiei Nationale a Penitenciarelor”, 31 December 2015, Ministerul Justiției, available from <http://www.anp.gov.ro/documents/10180/4566691/BUGET+2016.pdf/4b8405e8-a32d-49dc-b680-6134f014f708> (accessed 30 July 2016)

5.2. European Court of Human Rights

The European Court of Human Rights (ECtHR) was set up in 1959, and is located in Strasbourg. The Court is established through Article 19 of the European Convention of Human Rights (ECHR).²¹³ Both individuals, through Article 34²¹⁴, and States, through Article 33²¹⁵, can make applications regarding violations of rights. The decisions of the Court are legally binding. Article 41 of the Convention²¹⁶, provides that in the case of a violation of the Convention or its Protocols, reparations shall be paid by the concerned State to the injured party. By being part of the Council of Europe since 2007, Romania complies with the judgments and decisions made by ECtHR.

Table 3: The number of cases brought to the ECtHR against Romania (2006-2016)

Year	Judgments	At least 1 violation	Violation of Art. 3
2015	116	109	27
2014	87	74	51
2013	88	83	29
2012	79	70	25
2011	68	58	20
2010	143	135	123
2009	168	153	14
2008	199	189	7
2007	93	88	2
2006	73	64	0
Total	1114	1023	298

The human rights situation in the Romanian prisons is of great concern. The table below shows the number of judgments of the Court regarding Romania, the ones that have at least one human rights violation, and the last column, consisting in violations of Article 3 of the European Convention of Human Rights, on the prohibition of torture.

²¹³ Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, Op. Cit

²¹⁴ Ibid, art. 34

²¹⁵ Ibid, art. 33

²¹⁶ Ibid, art. 41

While 2010 was the year with most violations, one of the most relevant cases is *Iacov Stanciu v. Romania*.²¹⁷ Mr. Stanciu was sentenced to 12 years and 6 months, and served his time in various Romanian prisons. He complained about the poor detention conditions at the Ploiesti prison, Jilava (prison and hospital), Rahova (prison and hospital) and the prison in Margineni, and filed a complaint to the Court. He attested being imprisoned in overcrowded cells, lack of adequate food, inadequate medical conditions and lack of extra-curricular activities. According the facts of the case, not only did Mr. Stanciu not have the adequate space in a cell, there were times when he even had to share a bed with other inmates. Furthermore, the cells were filled with rats and insects, and the linen and mattresses were infested with lice.²¹⁸

Mr. Stanciu developed various diseases during his imprisonment, among which dental problems, chronic migraines and neuralgia. Due to the lack of adequate medical conditions he could not be treated during imprisonment.²¹⁹

According to the Court decision, it was found that there were indeed violations of Article 3 of the Convention, and that he was indeed exposed to inhuman and degrading conditions of detention (overcrowding, bad hygiene, and inadequate medical conditions). It was also found that the conditions Mr. Stanciu was exposed to during his imprisonment consisted in poor hygiene conditions, infestation with lice, rats and insects, poor water supply. The Court noted that he had not been subjected to these conditions on purpose, and that the conditions he had to face went beyond a violation of Article 3 of the Convention, thus ruling that human rights violations indeed occurred.²²⁰ Under Article 41 (Just Satisfaction), the Romanian Government had to pay Mr. Stanciu a total sum of EUR 24,800.²²¹

²¹⁷ *Iacov Stanciu v. Romania*, Application no. 35972/05, ECtHR, 24 October 2012, available from http://www.fln.dk/~media/FLN/Publikationer%20og%20notater/Notater/CASE_OF_IACOV_STANCIU_v_ROMANIA.ashx, (accessed 20 July 2016)

²¹⁸ *Ibid*, p. 4

²¹⁹ *Ibid*, p. 9

²²⁰ *Ibid*, p. 40

²²¹ *Ibid*, p. 43

The case *Iacov Stanciu v. Romania* has a high importance for the study, as through it, the Court adopted a quasi-pilot judgment against Romania, for the recurring violations of Article 3 of the Convention.²²²

The Court indeed concluded that violations of Article 3 were constantly found in Romanian prisons, especially with regards to overcrowding and lack of adequate hygiene and medical care.²²³ Although the Romanian Government has taken legislative measures to remedy this issue, the Court urged the Government to invest into measures, which would lead to long-term effects.²²⁴

The pilot judgment procedure is a way to address the systemic human rights violations²²⁵. The ECtHR introduced it in 2004, in the case *Broniowski v. Poland*²²⁶, (case regarding properties situated past the Bug River. This procedure was meant to help the European Union countries in order to solve the human rights violations faster at a national level, thus decreasing the number of application on a certain subject.²²⁷

According to an article published in the *Journal of European Studies and International Relations*, the pilot judgment is based on three pillars: the pilot judgment itself, the quasi-pilot judgment which describe systemic violations related to the same issue, and the last one where the Court addresses recurring violations of the Convention²²⁸.

In the case of Romania, this concerned the issue of the poor material conditions in detention, and implied that the country has to address and propose measures to solve

²²² Juri.ro, "Iacov Stanciu v. Romania – Hotarare Cvasi-pilot Pentru Reglementarea Despagubirilor Cuvenite Persoanelor Detinute in Conditii Inumane Sau Degradante (Art. 3 Din Conventie). Presumtia De Prejudiciu Moral. Supraaglomerarea, Problema Recurenta a Sistemului.", 27 July 2015. Available from <http://juri.ro/iacov-stanciu-vs-romania-hotarare-cvasi-pilot-pentru-reglementarea-despagubirilor-cuvenite-persoanelor-detinute-in-conditii-inumane-sau-degradante-art-3-din-conventie-presumtia-de-prejudiciu-moral-supraaglomerarea-problema-recurenta-a-sistemului-penitenci>, (accessed 25 July 2016)

²²³ Idem

²²⁴ Idem

²²⁵ Council of Europe, "Pilot Judgments", July 2015, available from http://www.echr.coe.int/Documents/FS_Pilot_judgments_ENG.pdf, (accessed 25 July 2016)

²²⁶ Idem

²²⁷ Idem

²²⁸ Oana Nedelcu, "Brief Analysis of the Operation of the Pilot judgment Procedure Before the European Court of Human Rights", *Journal of European Studies and International Relations* Vol. I – Issue 1/2010, available from <http://rseri.srpsec.ro/wp-content/uploads/2011/04/BRIEF-ANALYSIS-OF-THE-OPERATION-OF-THE-PILOT-24-32.pdf>, (Accessed 25 July 2016)

this, as conditions of detention are the main issue inmates or ex-inmates complain about.

Another relevant case for the study is *Oprea and others v. Romania*²²⁹. The case consists in 20 complaints based on Article 3 ECHR regarding the material conditions of detentions. The Court has jointly examined the complaints, as they were all based on the same issues: overcrowding, poor hygienic conditions, limited access to showers, lack of adequate food, insufficient out of cell time, cells infested with bedbugs and other insects, lack of adequate ventilation, natural and artificial light, lack of adequate storage space and passive smoking²³⁰.

After close examination, the Court concluded that, indeed, the applicants' detention conditions had been indeed in violation of Article 3, and invoked Article 41(Just Satisfaction), thus, the Romanian Government had to pay EUR 164,150 in pecuniary and non-pecuniary damages²³¹.

In the case of *Tirean v. Romania*²³², the applicant complained about the material conditions of his detention in the Aiud, Rahova, Gherla, Dej, Rahova, Slobozia, Jilava and Miercurea-Ciuc prisons, and alleged ill-treatment by the police during investigation. He made civil proceedings against the Romanian Ministries of Justice and Finance seeking material compensation for being subjected to violence during arrest and for inadequate medical treatment in the pre-trial time. The Cluj Court has considered his proceedings inadmissible²³³.

On one hand, the Romanian Government argued that his complaint was inadmissible as; Mr. Tirean served most the most part of his conviction having a space

²²⁹ *Oprea and others v. Romania*, Applications nos. 54966/09, 57682/10, 20499/11, 41587/11, 27583/12, 75692/12, 76944/12, 77474/12, 9985/13, 16490/13, 29530/13, 37810/13, 40759/13, 55842/13, 56837/13, 62797/13, 64858/13, 65996/13, 66101/13 and 15822/14, ECtHR, 18 June 2015, available from https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwiiiOeIjzOAhWJXhQKHZSSBjwQFggeMAA&url=http%3A%2F%2Fhudoc.echr.coe.int%2Fapp%2Fconversion%2Fpdf%2F%3Flibrary%3DECHR%26id%3D001-155195%26filename%3D001-155195.pdf%26TID%3Dihgdqbxnfi&usg=AFQjCNGJmJH9AfsuQeDz_pCyULbhEKgoBg&sig2=w0Sn ydpzHCA49ZAfTfp3Ow, (accessed 20 July 2016)

²³⁰ *Ibid*, p. 5-12

²³¹ *Ibid*, p. 5-12

²³² *Tirean v. Romania*, Application no. 47603/10, ECtHR, 28 Oct. 2014, available from http://www.luju.ro/static/files/2014/decembrie/00_cedo/CASE_OF_TIREAN_v._ROMANIA.pdf, (accessed 22 July 2016)

²³³ *Ibid*, p. 2

of 3-5sqm of living space, and was incarcerated in non-smoking cells. On the other hand, the Court, based on available evidence concluded the complaint admissible as the conditions in the above mentioned prisons were facing an issue with overcrowding. The Court considered the dismissal of the lack of medical care as Mr. Tirean's condition did not worsen during imprisonment, and the allegations of violence as there was no proof in this regard²³⁴.

However, the Romanian Government paid EUR 3,000 in non-pecuniary damage²³⁵, thereby, acknowledging the human rights violations which occurred in the prison.

The above-mentioned cases were chosen in order to prove the poor detention conditions and the violations under Article 3 ECHR. In 2015, Romania was the sixth ranking country in Europe with the most applications at the Court. This indicates the gravity of the detention conditions and human rights violations.

The high number of cases brought to the ECtHR should constitute a great alert for the authorities, lawmakers and Government, and make them understand the gravity of the situation and should also constitute an immediate call to action.

The Government needs to address as soon as possible the material detention conditions in order to avoid violating the inmates' human rights. Also, the money paid in damages, could be used in order to improve the prison conditions, of course not in all the prisons, but it could constitute a good start. Also, addressing these problems would lead to fewer applications filed to the Court, and a possible pilot judgment could be avoided.

Of course, the Strategic Action Plan²³⁶(mentioned in the previous sub-chapter), adopted at the end of May is a start, but consistent and tangible improvements have to be made. The Government all the time adopts plans of action, reforms and strategies, but there is a constant lack of implementation.

²³⁴ Ibid, p.8

²³⁵ Ibid, p. 9

²³⁶ Strategia de Dezvoltare a Sistemului Judiciar 2015-2020, "Plan De Actiune Sectorial Pentru Imbunatatirea Conditieiilor De Detentie.", 30 June 2016, available from <http://www.just.ro/wp-content/uploads/2016/06/Plan-de-masuri-pentru-imbunatatirea-conditiilor-de-detentie2.pdf>, (Accessed 22 July 2016)

Chapter 6 – Inmates Social Reintegration

According to Chira Vasile, “the experience of prison is a unique rite of passage. For some, prison represents the passage from antisocial behavior to an opportunity to change their lives. For others, the time in jail enhances already existing attitudes and behaviors, making them embrace their criminal identity. For others, prison dehumanizes them, making them into sad people, and just like some people never come back from the traumas caused by wars, prisoners do not come back from the traumas caused by jail”.²³⁷

The next chapter of the thesis will look at the social reintegration, how the respect of human rights in prison is an important factor to take into account, and what measures have been made in this regard in Romania.

6.1. Importance of social reintegration

In the Preamble of the UN Mandela Rules, it is stated that “*persons deprived of their liberty shall retain their non-derogable human rights and all other human rights and fundamental freedoms, and recalled that the social rehabilitation and reintegration of persons deprived of their liberty shall be among the essential aims of the criminal justice system, ensuring, as far as possible, that offenders are able to lead a law-abiding and self-supporting life upon their return to society*”²³⁸.

Through this, it is important to note that the inmates should have their human rights respected while in prison, and reiterates the importance of the inmates’ social reintegration. Social reintegration is a crucial part of the detention process. First of all, the inmates are punished by the deprivation of their liberty and secondly they must be prepared in order to face the realities of life upon release.

In the case of Romania, one of the biggest issues of the reintegration process is the public opinion. The society is not yet ready to receive ex-inmates, to accept them as

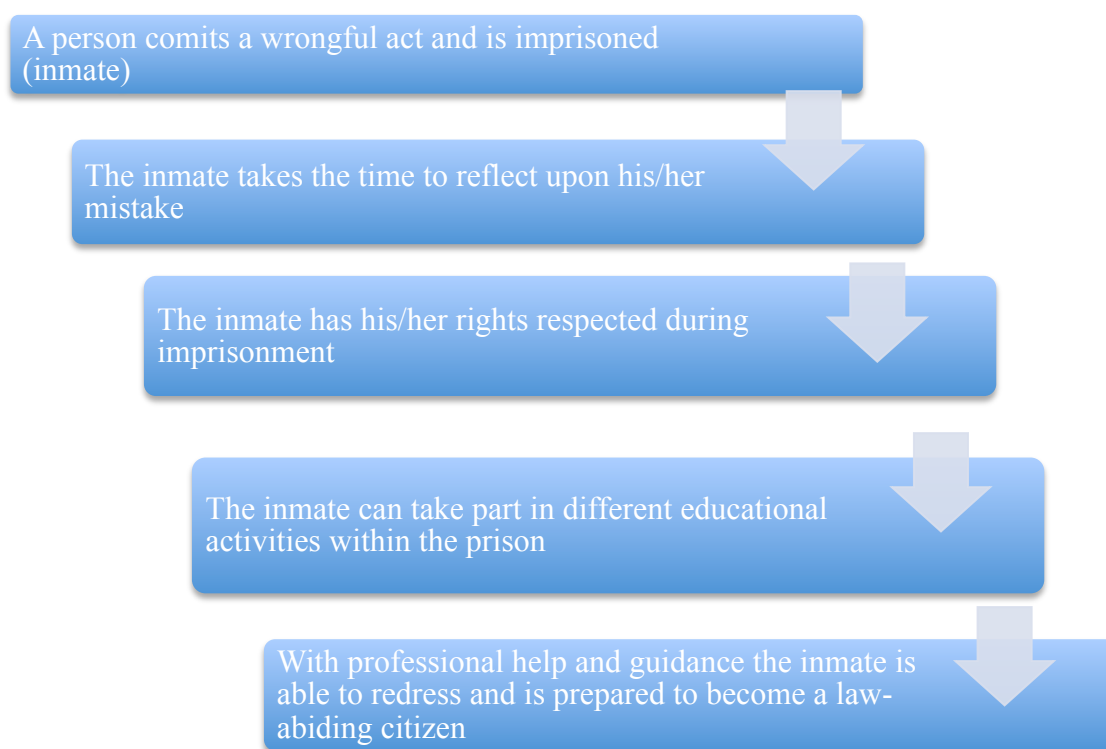
²³⁷ Chira Vasile, “Inmate’s Social Reintegration”, 30 May 2011, available from http://www.dreptonline.ro/articole/articol.php?id_articol=53, (accessed 31 July 2016)

²³⁸ Mandela Rules, Op. Cit., Preamble

being part of the communities, thus the ex-inmates keep on being blamed and punished even after they are released.²³⁹

The researcher drew up the graph below in order to show an ideal path for the social reintegration of ex-inmates. Also, the researcher wants to stress out the importance of respecting the human rights and dignity during imprisonment, as well as the facilitation of educational activities and workshops, in order to prepare the detainees to have a smooth transition post release.

Table 5: Ideal Path for Post Detention Reintegration



²³⁹ Strategia Nationala de Reintegrare Sociala a Persoanelor Private de Libertate 2012-2016, available from http://www.ana.gov.ro/doc_strategie/proiecte/strategie%20reintegrare%20ANP.pdf, (accessed 31 July 2016), p. 6

6.2. National Strategies for the Social Reintegration of People Deprived of their Liberty

This subchapter is intended to show what has been done at the national level in order to promote the social reintegration of ex-inmates. The first such National Strategy was implemented in 2012-2016, was followed by 2014-2018, and was soon replaced by the National Strategy 2015-2019. One can observe the incoherence of the measures regarding reintegration at a national level.

6.2.1 The National Strategy for the Social Reintegration of People Deprived of their Liberty (2015-2019)

The National Strategy for the Social Reintegration of People Deprived of their Liberty was adopted in 2015²⁴⁰. It is a 4-year plan, which will be further discussed. The Strategy comes as a result of various working groups constituted by the NPA, and after close consultation with the Ministry of Justice, the Ministry of Education, the Ministry of Labor and others.

The strategy recognized the importance of preparing the inmates for their post-detention, thus educational programs, psychological and social assistance programs and social inclusion measures should be considered, and implemented. Close cooperation between the ministries and other governmental institutions especially at a local level is crucial in the implementation of the strategy, as all the ex-inmates are part of certain communities in which they will need to reintegrate.²⁴¹

The main objectives of the strategy are further presented:

- Having adequately trained personnel in the social reintegration field²⁴²
- Developing the institutional infrastructure and cooperation²⁴³
- Elaborating and implementing the inter-institutional procedures²⁴⁴

²⁴⁰ Strategia Strategia Nationala de Reintegrare Sociala a Persoanelor Private de Libertate 2012-2016 Annex 1, available from <https://anp.gov.ro/documents/10180/577191/Anexa+1+Strategie.pdf/24b6e043-1675-4356-a6a1-b64e781ea40b>, (accessed 28 July 2016)

²⁴¹ Ibid, p. 7

²⁴² Ibid, p. 22-24

²⁴³ Ibid, p. 22-24

²⁴⁴ Ibid, p. 22-24

- Developing the educational, social assistance and psychological programs during detention²⁴⁵
- Raising awareness regarding the inmates' social integration²⁴⁶
- Recognizing the active role which the state institutions play in the social reintegration process²⁴⁷
- Developing partnerships between the local and central authorities, NGOs and local communities²⁴⁸

The timeframe allocated for these measures is between six months and one year. However, the progress and the implementation of the objectives was not found on the Government's website.

6.3. Comments

In the researcher's opinion the Strategy presented above is a great starting point in addressing social reintegration and inclusion. However, in the 70 pages that the strategy has, the objectives and goals are just 3-4 pages. It is important to define how these steps will be put into practice, and what the concrete measures to implement them are.

For example, in the case of Romania one of the biggest issues regarding the reintegration, as mentioned above, is the public opinion and the stereotyping. The society is reluctant in accepting and welcoming back the inmates.. One of the main factors that have negatively impacted the public opinion is the return rate to prisons, which, as mentioned in a previous chapter in Romania is 75%. Some ex-inmates prefer being subjected to the poor detention conditions, as it is their only chance of survival. In the worst of the cases they still have a place to sleep and some food provided to them.²⁴⁹

²⁴⁵ Ibid, p. 22-24

²⁴⁶ Ibid, p. 22-24

²⁴⁷ Ibid, p. 22-24

²⁴⁸ Ibid, p. 22-24

²⁴⁹ Andrei Boroschi, "Reportaj Puscariasi", 20 June 2013, available from <https://www.youtube.com/watch?v=rMBrFUzJAPc>, (accessed 28 July 2016)

A great way to shift the public opinion and to prove the recovery of the ex-inmates would be through specially designed programs (activities) that they could be involved in, in order to show, with the help of the media that they are willing to change. If inmates' rights are respected and they take benefit from adequate and professional psychological training, their relapse will be less likely to occur. In the case in which the inmates' material conditions are respected, they benefit from the space they should (4sqm), from proper hygienic and sanitary conditions, adequate medical assistance, they will be more focused on their own person, on their punishment, and on participating in educational activities and workshops.

In the CPT Standards, it is very well explained that *“a satisfactory program of activities (work, education, sport, etc.) is of crucial importance for the well-being of prisoners. This holds true for all establishments, whether for sentenced prisoners or those awaiting trial. The CPT has observed that activities in many remand prisons are extremely limited. The organization of regime activities in such establishments - which have a fairly rapid turnover of inmates - is not a straightforward matter. Clearly, there can be no question of individualized treatment programs of the sort, which might be aspired to in an establishment for sentenced prisoners. However, prisoners cannot simply be left to languish for weeks, possibly months, locked up in their cells, and this regardless of how good material conditions might be within the cells”*²⁵⁰ and also *“Specific mention should be made of outdoor exercise”*. These two quotes best explain the importance of educational and other activities.

First of all a literacy study as to be made in order to assess what the needs are in each prison, and be able to cater to each one's needs. It is normal that if people do not know how to read or write, it is impossible for them to attend classes and at a given point to even graduate. Besides offering these courses, different recreational workshops such as book clubs, painting courses, fretwork, knitting, sowing and, gardening, should also be offered. Of course all these require trained personnel, but voluntaries or students who are willing to make a change and do good could also hold them.

²⁵⁰ Council of Europe, CPT Standards, CPT/Inf/E (2002) 1 - Rev. 2015, available from <http://www.cpt.coe.int/en/documents/eng-standards.pdf>, (accessed 31 July 2016), p. 17-18

If the inmates are offered these activities and counseling, they will be more welcomed in the society. The public opinion would shift, as it would know that they have made efforts to redress, change and get on the good-path.

As educational programs and activities have a great importance while in prison, a follow-up mechanism post-release in order to assess the ex-inmates reintegration progress should be instituted as in Romania there is no such mechanism. Also, individual or group counseling should be available in order to assess what are the main challenges people face in starting their new lives. These challenges could be used as a study for further strategies and plans of action.

Chapter 7 – Findings

This chapter is intended to show the findings of the research, and conclude the Master thesis.

Chapter 3 constitutes the starting point in the analysis of the prison conditions as it provides the legal framework, which safeguards the inmates' human rights, and lays out laws regulating the detention conditions. Chapter 4 and Chapter 5 provide the actual conditions in Romanian prisons, thus, after careful analysis, the researcher is able to draw the final conclusions and recommendations.

7.1. Main Violations

The researcher looked at the situation in Romanian prisons through international reports and reports of the Romanian NGO APADOR-CH. Through the presentation of the reports, as well as through the chapters analyzing the prison protests and cases brought to the ECtHR, one can conclude that systemic human rights violations still occur in the Romanian prisons. One can note that there have been few improvements in renovating the prisons and providing the minimum mandatory norms as provided in the law.²⁵¹

²⁵¹ Order 433/2010, Op. Cit., art. 1-4

The study was meant to evaluate the situation in prisons in the past ten years (2006-2016) and see what improvements have been made. Unfortunately, one can conclude that the material conditions of detention need to be addressed immediately. First of all the main issue is overcrowding, as it was showed through the table regarding overpopulation in Chapter 4. This leads to the violation of the minimum space of 4sqm and 6cbm²⁵². Secondly, the medical assistance continues to be a problem, even if there were some improvements. Still, most prisons do not have enough doctors, and access to medicine. Lastly, there is a very low level of educational activities as seen in the reports, despite some efforts made in this direction.

All the reports mentioned above should serve as guidance for the lawmakers and for the Government when adopting new strategies and plans of action. The situation is presented, measures are proposed, all that is left is that the decision makers take the time to look them over and start proposing tangible measures to address the problem. However, these measures should have been made a while ago, as now, the penitentiary system needs action rather than strategies.

One of the main improvements made over the course of the last ten years were the changes in the Romanian legislation, with the adoption of Law 254/2013 and the adoption of the New Penal Code. Although the legislation is up to the European and international standards, the actual conditions in prisons do not abide by it. Thus, one can conclude that:

7.1.1. Violations

First of all, Article 1 of the Charter of Fundamental Rights of the European Union is violated starting from a micro level (insanitary conditions, having to share beds, not having access to potable water) to macro level (lack of fresh air and lightning, decent food, lack of furniture).²⁵³

Also, there is a violation of Article 3 of the ECHR²⁵⁴ and Article 7 of ICCPR²⁵⁵ regarding inhuman and degrading treatment. The prison conditions in some cases are

²⁵² Ibid, art. 1

²⁵³ Charter of Fundamental Rights of the European Union, Op. Cit., art. 1

²⁵⁴ ECHR, Op. Cit., art. 3

described as inhuman and degrading, for example in the CPT report²⁵⁶ of 2006 regarding the conditions at Bucharest Jilava.

Also, Article 10 (1) of the ICCPR²⁵⁷ is violated as in most cases the inmates are not treated with respect to their human rights and dignity. There is a systematic violation of this Article, as the detention conditions, the overcrowding, the lack of potable water, the impossibility of practicing personal hygiene, lead to a continuous breach of the human dignity.

There is a breach of Article 37(c) of the CRC, “*Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age*”²⁵⁸, as showed in the CPT report²⁵⁹ of 2010, where, even if there was no overcrowding, the detention conditions were not suitable for the needs of their age. Also, there was a violation of the second part of Article 37 (c), “*In particular, every child deprived of liberty shall be separated from adults*”²⁶⁰, as well of Article 10 (3) of the ICCPR²⁶¹, at the prison in Bacau, where juveniles used to be accommodated with the rest of the inmates, without making a clear differentiation and separation.

The dignity and the respect of human rights are also in breach of the Mandela Rules, Rule 1²⁶².

The cell space of 4sqm, and the regulation of 6cbm of air are up to neither the national law²⁶³, or up to the Mandela Rules, rules 12 and 13²⁶⁴. The lack of necessary space leads to overcrowding, which leads to the breach of the inmates’ human dignity as provided in Article 10 (1) of the ICCPR.²⁶⁵

²⁵⁵ ICCPR, Op. Cit., art. 7

²⁵⁶Rapport Au Gouvernement De La Roumanie Relatif à La Visite Effectuée En Roumanie Par Le Comité Européen Pour La Prévention De La Torture Et Des Peines Ou Traitements Inhumains Ou Déggradants Du Du 8 Au 19 Juin 2006, CPT/Inf (2008) 41, Op. Cit., p. 46

²⁵⁷ ICCPR, Op. Cit., art. 10 (1)

²⁵⁸ CRC, Op. Cit., art. 37 (c)

²⁵⁹ Rapport au Gouvernement de la Roumanie relatif à la visite effectuée en Roumanie par le Comité européen pour la prevention de la torture et des peines ou traitements inhumains ou dégradants du du 5 au 16 septembre 2010, CPT/Inf (2011) 31, Op. Cit., p. 37

²⁶⁰ CRC, Op. Cit., art. 37 (c)

²⁶¹ ICCPR, Op. Cit., art. 10 (3)

²⁶² Mandela Rules, Op. Cit., art. 1

²⁶³ Order 433/2010, Op. Cit., art. 1

²⁶⁴ Mandela Rules, Op. Cit., art. 12-13

²⁶⁵ ICCPR, Op. Cit., art. 10 (1)

Regarding the cells, there were reported cases for example at the Bucharest Jilava juvenile detention center, where the cells did not have adequate furniture, or the existing furniture was in bad shape.²⁶⁶ This is in violation of the national law, Article 4 of Order 433/2010²⁶⁷ and of Article 37 of the CRC.²⁶⁸

In some prisons, for example in Bucharest Jilava as seen in the CPT report of 2006²⁶⁹, the rooms are infested with bugs, lice and rats. This situation has not changed, as seen in Chapter 5, talking about the prison protests, thus, it is in violation of the national law²⁷⁰, and of Article 10 (1) of ICCPR. No person shall be subjected to such detention conditions, under no circumstances.

Most prison cells do not have access to natural or artificial lightning, which is in violation of the national law²⁷¹, and of the Mandela Rules, rule 14.²⁷²

Access to potable water is not granted, as seen at the prison in Bucharest Jilava²⁷³, which is in violation of Article 5 of Order 433/2010²⁷⁴, and of the Mandela Rules, rule 22 (2).²⁷⁵

Most prisons do not offer educational activities, in violation of Articles 193-197 of HG 156/2016²⁷⁶, of Article 37 of the CRC²⁷⁷, Mandela Rules, rule 4 (2)²⁷⁸, and Havana Rules, rule 38²⁷⁹. Also there is a lack of exercise and sports activities, especially as seen in Bucharest Jilava²⁸⁰, Ploiesti²⁸¹, and the juvenile detention center in Bucharest

²⁶⁶ Rapport au Gouvernement de la Roumanie relatif à la visite effectuée en Roumanie par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants du 5 au 16 septembre 2010, CPT/Inf (2011) 31, Op. Cit., 37

²⁶⁷ Order 433/2010, Op. Cit., art. 4

²⁶⁸ CRC, Op. Cit., art. 37

²⁶⁹ Rapport Au Gouvernement De La Roumanie Relatif à La Visite Effectuée En Roumanie Par Le Comité Européen Pour La Prévention De La Torture Et Des Peines Ou Traitements Inhumains Ou Dégradants Du Du 8 Au 19 Juin 2006, CPT/Inf (2008) 41, Op. Cit., p. 46

²⁷⁰ Order 433/2010, Op. Cit., art. 5

²⁷¹ Order 433/2010, Op. Cit., art. 3

²⁷² Mandela Rules, Op. Cit., art. 14

²⁷³ Raport Asupra Vizitei La Penitenciarul Bucuresti-Jilava, Op. Cit.

²⁷⁴ Order 433/2010, Op. Cit., art. 5

²⁷⁵ Mandela Rules, Op. Cit., art. 22 (2)

²⁷⁶ HG 156/2016, Op. Cit., art. 193-197

²⁷⁷ CRC, Op. Cit., art. 37

²⁷⁸ Mandela Rules, Op. Cit., art. 4

²⁷⁹ Havana Rules, Op. Cit., art. 38

²⁸⁰ Raport Asupra Vizitei La Penitenciarul Bucuresti-Jilava, Op. Cit.

²⁸¹ Rapport Au Gouvernement De La Roumanie Relatif à La Visite Effectuée En Roumanie Par Le Comité Européen Pour La Prévention De La Torture Et Des Peines Ou Traitements Inhumains Ou Dégradants Du Du 8 Au 19 Juin 2006, CPT/Inf (2008) 41, Op. Cit., p. 36

Rahova.²⁸² These are in breach of the national law, Article 79 of Law 254/2013²⁸³, in breach of Article 37 of CRC²⁸⁴, of the Mandela Rules, rule 23²⁸⁵, and of the Havana Rules, rule 47.²⁸⁶

Access to medicine and medical services is a recurring issue in Romanian prisons. First of all, as mentioned in Chapter 4 there is a lack of doctors and secondly a lack of additional medical staff such as psychologists, psychiatrists and social workers. The right to medicine and medical services in prisons is granted through Article 71 of Law 254/2013²⁸⁷, as well as it is outlined in the Mandela Rules, rules 24-28²⁸⁸, in the Bangkok Rules, rules 10 and 11²⁸⁹, and in the Havana Rules, rules 49-55.²⁹⁰ Also, the right to health is granted in the following international conventions, which Romania signed and ratified: Article 25 of the Universal Declaration of Human Rights²⁹¹, Article 12 of the International Covenant on Economic, Social and Cultural Rights²⁹², Article 24 of the CRC²⁹³, and Articles 12 and 14 of the Convention for the Elimination of all forms of Discrimination Against Women.²⁹⁴

²⁸² Raport Asupra Vizitei in Penitenciarul Rahova-Bucuresti, Op. Cit.

²⁸³ Law 254/2013, art. 79

²⁸⁴ CRC, Op. Cit., art. 37

²⁸⁵ Mandela Rules, Op. Cit., art. 23

²⁸⁶ Havana Rules, Op. Cit., art. 47

²⁸⁷ Law 254/2013, Op. Cit., art. 71

²⁸⁸ Mandela Rules, Op. Cit. art. 24-28

²⁸⁹ Bangkok Rules, Op. Cit., art. 10-11

²⁹⁰ Havana Rules, Op. Cit., art. 49-55

²⁹¹ UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, available from <http://www.un.org/en/universal-declaration-human-rights/>, (accessed 30 July 2016), art. 25

²⁹² UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, available from <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>, (accessed 30 July 2016), art. 12

²⁹³ CRC, Op. Cit., art. 24

²⁹⁴ UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, available from <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>, (accessed 30 July 2016), art. 12 and 14

7.2. Recommendations

Based on the study of the Romanian penitentiary system over the past 10 years, and based on a thorough understanding of the actual needs, the researcher proposes the following measures in order to remedy the above-mentioned issues, and to avoid human rights violations in the Romanian prisons.

First of all, the budget constitutes a great issue. The current budget of the National Penitentiary Administration is RON 1.269.554, out of which RON 849,000 is allocated for salaries. Expenses for inmates food are RON 38,520 and for medication RON 5,067²⁹⁵. It is clear that it is not evenly split, most of it going to salaries and only a small part to expenses regarding the inmates' food or medication. A solution would be first of all to analyze the costs and try to reduce as much as possible the unnecessary ones, or to allocate more money from the state budget for the prison expenses.

In order to avoid most human rights violations and the violation of human dignity, the issue of overcrowding must be immediately addressed. First of all, there is a need to build more prisons in order to be able to accommodate the inmates in conditions, which would not be inhuman or degrading for them. Secondly, it is important to address the current conditions and try to ameliorate, where possible the existing detention conditions. It is a matter of great concern that the inmates have to be subjected to such conditions, living in cells with lice, rats and other insects, and not having access to potable water. These conditions need to be addressed immediately. Regarding the new prisons, there are various unused military units, which could be renovated into prisons. This would be the best-case scenario, as the new prisons would be up to the standards.

Educational activities as well as training and sports are not granted, the inmates or juveniles having to spend most of the time in their cells. This is not only a violation of human rights, but also, as mentioned in the previous chapters, is not a way that would help the inmates in their life post detention. The inmates have to be ready to start their new lives with certain skills and with a certain academic background. Teachers and social workers have a very important role in this matter. As recommendation, a good

²⁹⁵ Bugetul Administratiei Nationale a Penitenciarelor, Op. Cit., p. 2

starting point would be the organization of workshops and other recreational activities, and the organization of different playful competitions between the inmates (badminton, volleyball, football, chess, backgammon). This would facilitate their interactions, and would help them socialize with each other.

The medical services and medical assistance are also in need of major improvements. The most important issue is the lack of trained medical personnel in order to attend to the inmates, but that is most likely due to the lack of medical services provided in prisons. Medical services need to be improved and medicine should be provided. A pleasant workspace should be provided, as much as possible, in order to allow them to practice their jobs.

There is also a great need for psychologists. They play a very important role in the inmates' recovery. Adequate offices in order to conduct the sessions should be provided, as in the case of doctors to allow them to practice their jobs. Also group therapy and group counseling would be a great idea in order to help the inmates integrate with others and have the sense of belonging.

7.3. Closing remarks

Every country confronts itself with various problems and issues, which have to be addressed by the decision-makers; some countries more than others. The decision-makers should be more open to receiving input from the civil society, should listen more to the voice of the people.

The first hypothesis submitted at the beginning of the study (*Romania has made considerable progress in respecting the basic human rights of the inmates, as well as regarding the conditions in the prisons*) is infirmed. Not much progress has been made in either one of the cases; neither in respecting the basic human rights of the inmates nor in improving the conditions in the prisons.

The researcher tried however to prove in Chapter 6 that the second hypothesis (*Respecting the basic human rights of the inmates has a direct impact on their social reintegration*) is viable and is a measure worth exploring.

The researcher considers that the inmates are already punished through the deprivation of liberty; thus, they should not have to be subjected to a second punishment, having their human rights violated, such as the right to dignity or inhuman and degrading treatment. This should constitute the main reason for the need of improving the detention conditions.

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Annex – Interview with Cristinel Buzatu, a jurist, working within the Non-Governmental Organization APADPR-CH.

1. How does the monitoring process work? Have you had any issues with the Government or the National Administration of the Penitentiaries?

At the beginning when people did not know so much about the Organization we encountered some obstacles, but now, after so many years, we managed to establish a friendly relationship with both the Government and the National Penitentiary Administration.

Regarding the visits, we sign a protocol at the beginning of the year (we have been doing so since 1995), and on the protocol we include a list of the people who will be doing the visits. We never announce when we are coming, we just enter, show the protocol and the IDs and we are good to go.

2. Do you visit all the prisons on a yearly basis?

Usually we manage to visit all the prisons every 4 years.

3. Have you encountered any inmates who are reluctant to speak to you due to the fear of retribution?

In most cases the inmates want to talk to us, understanding that with their declarations we might be able to make better recommendations towards the prison administration. Usually we interview 30 to 40 inmates, and out of this number we encounter 2 or 3 who are reluctant to speak to us.

4. Where are the biggest differences between the law and the practice?

During our monitoring experience, we can conclude that the prisons in Baia Mare and Satu Mare are the most troublesome ones from the detention conditions perspective and from the overcrowding perspective.

5. What do you think are the biggest issues with the Romanian penitentiaries?

Besides overcrowding, what constitute a real issue are the lack of medicine and the lack of doctors. Regarding the medical personnel, the positions are filled only up to 50%. Usually doctors are reticent to work in prisons. Also there are not enough psychologists.

We have seen improvements with the freedom to religion, and there is a high number of priests visiting the prisons on a voluntary basis.

6. Do you think that the Government along with help from NGOs should invest more in programs to train the personnel and the guards regarding human rights?

We observed that usually the prison personnel and the guards behave good with the inmates, the only times when we encountered issues between the two were cases where the inmates were either gay, or drug addicts. The guards do not understand the withdrawal, the special needs required by the inmates during that time. During those times they would slap the inmates instead of recognizing their need for psychological and medical assistance.

7. What are the areas in which the penitentiaries have changed over the past years?

There have not been many changes in the penitentiaries. Due to the lack of funding we can conclude only very small renovations and improvements.

8. What are the real possibilities of working in prisons?

There are very few cases where the inmates go out from the premises in order to work. In the Eastern part of the country the inmates are engaged in agricultural works, and in the Western part of the country for example there is a shoe company who has its production area in the prison and the inmates work there.

9. Are there any changes regarding the complaint procedure against the guards?

Usually in the maximum-security prisons adult inmates have no fear of complaining, as they realize there is not much left to lose for them. When looking at underage inmates, they are the ones more reluctant to complain, as there have been cases where they were beaten up.

10. By speaking to the inmates, what would they want most to be changed in the legislation?

With the new legislation, the inmates are allowed to receive 1 package of 10kg each month, they would like that to be changed to how it was before, 10kg each month. That would be more beneficial as they would be able to receive food more often, and would not have to eat all the time the bad food served in prisons.

Abstract

The purpose of this Master thesis is to see if human rights are respected in Romanian prisons. In order to see this, the national, European and international legal frameworks are presented in order to show what rights the inmates have. Afterwards, the situation in prisons is presented through international reports and reports of NGOs. The second part is meant to analyze the social reintegration of ex-inmates after they leave the prisons.

The thesis will look into human rights violations and improvements made in the past 10 years (2006-2016), and will resemble the reports made by the International Community/Groups of experts when monitoring an issue in a certain state. The thesis will resemble to a fact-finding mission in order to address the gaps and propose possible solutions to meet them.

The study leads to the remarks that in some cases the detention conditions have improved, but in others, over time they have worsened. Also, the study is meant to draw attention over the importance of the post detention social reintegration.

Der Zweck dieser Masterarbeit zu analysieren, ob die Menschenrechte in rumänischen Gefängnissen respektiert werden. Um das zu behaupten, die nationalen, europäischen und internationalen rechtlichen Rahmenbedingungen werden angeführt, um welche Rechte die Insassen haben zu beweisen. Anschließend wird die Zustand in den Gefängnissen durch den Berichten von Internationale- und Nichtregierungsorganisationen(NGO) untersucht.


Der zweite Teil soll die soziale Wiedereingliederung von ehemaligen Insassen zu analysieren, nachdem sie die Gefängnisse verlassen. Die Arbeit wird sich mit den Menschenrechtsverletzungen und Verbesserungen beschäftigen, die in der letzten 10 Jahren stattgefunden haben. . Gleichfalls werden die Berichte aus der Internationalcommunity / Expertengruppen ähneln, wenn sie in einem bestimmten Zustand ein Problem zu überwachen ist. Dieser Arbeit wird ähnlich wie einer Fact-


Finding-Mission ausschauen und der Zweck ist die Schwächen, die Lücken und die mögliche Lösungen zu aufzuzeigen.

Die Studie führt zu den Bemerkungen, dass die Haftbedingungen in einigen Fällen sich verbessert haben, aber in anderen, im Laufe der Zeit verschlechtert. Außerdem wird die Studie die soziale Wiedereingliederung nach der Hanf analysieren.

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WORK EXPERIENCE

Mar 2016–Jul 2016

Studied for the Corps Diplomatique examination within the Romanian Ministry of Foreign Affairs
Finished Master thesis - "Are Human Rights respected in Romanian Prisons?"

Jun 2015–Mar 2016

Junior Account Executive
OxygenPR, Bucharest (Romania)
Preparation of Media Monitoring reports for different clients of the agency
Preparation of press releases
Event planning and coordination

Feb 2015–May 2015

Internship
Romanian Ministry of Foreign Affairs, Bucharest (Romania)
Preparation of formal documents
Translation of documents
Preparation of archives
Preparation of studies on current issues

Sep 2014–Dec 2014

Internship
Department for Romanians Abroad, Bucharest (Romania)
Research on Romanian minorities in neighbouring countries
Preparation of relevant studies regarding the Romanian minorities and their rights in the countries of residence

May 2011–Oct 2012

Internship
Permanent Mission of Romania to the UN Office in Geneva and the International Organisations in Switzerland, Geneva (Romania)
Organization of the Romanian National Day reception in Geneva
Participation in the Human Rights Council in Geneva
Ensuring the smooth achievement of day-to-day issues regarding administration issues

Oct 2011–Apr 2012

Internship
UNITAR - UNITED NATIONS INSTITUTE FOR TRAINING AND RESEARCH,
Geneva (Switzerland)

Organization of face-to-face trainings in Myanmar and Russia
 Updating the database of the International Environmental Law Program
 Facilitation of correspondence between the students and moderators

EDUCATION AND TRAINING

- Oct 2013–Sep 2015** MA Human Rights Law
 Vienna University, Vienna (Austria)
 In-depth study of human rights mechanisms such as the UN, OSCE, Council of Europe, and the European Union
 Knowledge of other regional human rights mechanisms in the context of the Organization of American States, the African Union, the Association of Southeast Asian Nations, and the League of Arab States
 Human Rights of specific groups: torture, discrimination, women, children
- Sep 2010–Jul 2013** BA International Relations
 International University in Geneva, Geneva (Switzerland)
 Good understanding of International Relations theories
 In depth study analysis on issues regarding Foreign Policy, Migration, International Trade, Globalization, Geopolitics, Security
- Sep 2009–Jul 2010** High School Diploma
 American International School, Salzburg (Austria)
- Aug 2008–May 2009** Youth Exchange Program
 Durango High School, Durango, Colorado (United States)
- Sep 2006–May 2008** High School
 Liceul National "Andrei Saguna", Brasov (Romania)

PERSONAL SKILLS

Mother tongue(s) Romanian

Other language(s)	UNDERSTANDING		SPEAKING		WRITING
	Listening	Reading	Spoken interaction	Spoken production	
English	C2	C2	C2	C2	C2
French	B2	B2	B2	B2	B2
Spanish	C2	C2	C1	C1	C1

Communication skills Excellent communication skills achieved due to the international environment I was constantly exposed to
Excellent written and verbal skills, both formally and professionally achieved through my internships
Excellent presentation skills learned during university

Organisational / managerial skills Excellent organisational and planning skills gained during my working experiences
Strong leadership skills acquired while being responsible for Charities within the University's Student Council
Excellent abilities to meet deadlines, to use time wisely, and to work well under pressure, in a team or unsupervised

Job-related skills I have learned the importance of communication, media management, and digital communication through my work at the PR Agency
Understanding the importance of bilateral and multilateral relations, learned within the Ministry of Foreign Affairs
Preparing reports and facilitation of correspondence acquired during the internship at the Permanent Mission of Romania to the UN Office in Geneva and the International Organisations in Switzerland

Updating databases, conducting research, drawing annual reports as well as progress reports of the International Environmental Law at UNITAR
I have developed a strong work ethic, problem-solving skills, as well as the ability to accept as well as to learn from constructive criticism, as well as the ability to use time wisely and to prioritise different tasks