

Information on the penitentiary system in Romania

The purpose of this information is to understand the penitentiary system of Romania. Penitentiaries can have different regimes and various work opportunities. This material provides an overview description of the penitentiary system and type of assistance which you can receive if you are a Romanian citizen and wish to be transferred to Romania.

What happens when I arrive at the prison?

Which prison will I go to?

The National Administration of Penitentiaries determines the detention place, taking into account that its location **as closely as possible from the convict's home place, considering the enforcement conditions, safety measures to be taken, identified social reintegration needs of, gender and age.**

Since 2013 penitentiaries have been classified based on both the detention of certain prisoners and enforcement conditions.

Sued persons in detention pending trial, against whom the first conclusion to maintain detention pending trial was issued in a preliminary chamber or during trial, when the preliminary chamber stage is not gone through, are kept in detention pending trial in penitentiaries within the judicial bodies' constituency where the matter is pending and the warrant for detention pending trial was issued.

Thus, as far as all information necessary to enforce these rules is known prior to the transfer of a prisoner into a penitentiary of Romania (*home, conviction duration - depending on which the enforcement conditions are set, other data on the necessity to take some safety measures, the judicial body where the matter concerning the person in detention pending trial is pending etc.*), one can take into consideration the penitentiary where the prisoner will be transferred to after being taken over by the Romanian authorities.

One has to state that during the period in which the punishment is served, a series of factors can occur **which cannot be managed by the detention place management or by the National Administration of Penitentiaries.**

What happens when I get there?

Depending on the amount of the imprisonment punishment, after the quarantine and observation period ends (which lasts ca. 21 days after handing over to the penitentiary), provisional enforcement conditions are enforced upon the prisoner.

Subsequently, during the first board meeting which is going to set forth, individualize

and change imprisonment measure enforcement conditions, these conditions will also be set forth for the convict to be included in, considering:

- a) the duration of the imprisonment punishment;
- b) convict's degree or risk;
- c) prior criminal convictions;
- d) convict's age and health condition;
- e) convict's behaviour, positive or negative, including the behaviour during prior detention periods;
- f) identified needs and convict's skills, necessary to be included into educational, psychological assistance and social assistance programmes;
- g) convict's willingness to work and to attend educational, cultural, therapeutic, psychological counselling, social assistance, moral-religious, school training and professional training activities;

In this context, the aforesaid will serve the punishment in a penitentiary included in the category of convicts he is part of, being included in one of the four enforcement conditions: maximum safety, closed, semi-open, open, located near the home.

Prisoners are handed over to the closest penitentiary from the crossing border where they were taken over from, as stipulated in *the Cooperation protocol for taking over/handing over the persons who are subject of some final penal conviction decisions, at Romanian crossing borders*, concluded in 2014 between the International Police Cooperation Centre and the National Administration of Penitentiaries, being kept in custody in these detention places during the quarantine and observation period. At the end of this period, the procedure will take place as mentioned above.

Convicted persons are handed over to a penitentiary facility based on an imprisonment punishment enforcement warrant, on a final judicial conviction decision acknowledging the foreign decision that enforced a punishment according to internal laws by a national court and on an identity card or an identification minute.

Persons in preventive custody are handed over to a penitentiary, based on a preventive custody warrant and a conclusion to maintain the preventive custody measure, issued in a preliminary chamber or during the trial in first instance (when the stage of preliminary chamber is suppressed), as well as on an identity card or an identification minute.

These documents represent *sine qua non* conditions to be handed over to a penitentiary.

Further conditions and necessary documents to be handed over to a penitentiary are stipulated in the enforcement regulation of *Law 254/2013 on the enforcement of punishments and measures ordered by judicial bodies during the penal lawsuit*.

Persons sentenced with educational imprisonment measures are handed over to detention or educational centres, based on final judicial decisions ordering that measure, after being identified. Persons who are sentenced with educational imprisonment measures against whom the enforcement or enforcement continuance was ordered in a penitentiary, are taken over from penitentiaries stipulated in the Cooperation Protocol for taking over/handing over persons subject of final penal

conviction decisions, at Romanian crossing borders, concluded in 2014 between the International Cooperation Centre and the National Administration of Penitentiaries; they are transferred into penitentiaries classified on the detention of these prisoners, in accordance with the Decision of the General Director of the National Administration of Penitentiaries for subordinated facilities classification.

What is the incarceration procedure after arrival into the country (registration, fingerprinting, possibility to meet a consultant/psychologist, etc.)? Who will I meet?

Convicts are received in specially equipped spaces, women being separated from men. Measures ordered against convicts after arriving in a penitentiary are taken in the following order:

- performing a thorough body search
- drawing up a personal items inventory;
- performing a **general clinical examination** by the penitentiary speciality staff, the findings being recorded in the medical record;
- **fingerprinting** with a subsequent sending and storing them on paper in the convict's individual file and electronically in the national fingerprint comparison database;
- taking pictures in order to operationalise the records;
- **convict's briefing about convicts' rights, obligations and interdictions as well as on possible rewards, violations and disciplinary sanctions that can be enforced;**
- **interviewing** in order to determine the convict's immediate needs.

If the convict presents disabilities, the penitentiary administration orders necessary punishment enforcement measures, observing human dignity.

After a convict is handed over to the penitentiary, he/she will be assigned to the quarantine and observation department for a period of 21 days.

Minors serve the educational imprisonment punishment separately from committed persons and those with the age beyond 21.

Persons who are newly arrived in detention places are accommodated in separate rooms, depending on gender and age and on other legal requirements, house or safety rules.

During the quarantine and observation period, **initial evaluation and intervention activities as well as medical examinations are being carried out, briefing and documentation measures under guard and surveillance are ordered.** In this period **a multidisciplinary evaluation of each prisoner is carried out from educational, psychological and social perspective, determining educational, psychological and social assistance needs.** Depending on the findings of the initial evaluation, an

Individualized Evaluation, Educational and Therapeutic Plan is drawn up for convicts, observing priority needs of intervention and consulting the convict. The Individualized Evaluation, Educational and Therapeutic Plan is completed and amended whenever necessary. The inclusion of convicts into activities recommended in the Individualized Evaluation, Educational and Therapeutic Plan is performed taking into account identified needs, imprisonment enforcement conditions and their enforcement moment.

All prisoners in the quarantine and observation period are included in a multidisciplinary programme aiming at: the knowledge and evaluation of each person's needs from educational, psychological and social perspective, in order to draw up speciality recommendations.

Psychological evaluation. The *psychological evaluation*, as an integral part of the multidisciplinary evaluation, substantiates the planning of any psychological step and takes into account the identification of main psychological risks and needs, in order to set specific steps during the punishment enforcement.

The initial psychological evaluation aims at:

- correct identification and diagnostics of psychological problems;
- identification or intervention needs and drawing up of recommendations, stressing crisis situations (identification of suicide risk etc.);
- maintaining the optimum functioning level and avoiding mental problems exacerbation;
- identification of situations representing a risk for detention place safety, staff and other inmates;
- evaluation of the prisoner's adaptive potential.

The findings of the convict's psychological evaluation substantiate the completion of documents necessary to render a decision within boards established within the detention places.

What happens to my property? When receiving convicts in a detention place, their assets are inventoried and are subsequently deposited in the facility warehouse; depending on their needs, part of the assets can be left on convicts in order to be stored in detention place rooms. Items exceeding the prisoners' rights stipulated in OMJ 2714/C/2008 can be handed over to their family or relatives, upon prisoners' request.

Will I be able to make a phone call? Immediately after being received in a penitentiary, the convict is entitled to personally inform or to request from the administration to inform a family member or another person designated by him/her, about the penitentiary where he/she can be found.

The penitentiary administration has the obligation to inform the inmate about

appropriate law provisions and to record in a minute the way in which the briefing took place.

If the inmate **is not a Romanian citizen**, he/she is entitled to inform or to request to inform the diplomatic mission or the consulate of his state or, as the case may be, an international humanitarian organisation if he/she does not wish to benefit from the assistance of authorities from his country of origin or the competent international organisation representative office **if he is a refugee** or, from any other reason, is under the protection of such an organisation.

These stipulations apply accordingly to prisoners in detention pending trial.

As regards persons who are being sanctioned with educational imprisonment measures, we would like to point out that within 3 days after being committed into the centre/penitentiary, the centre or penitentiary director (if an educational measure is enforced/continued to be enforced in the penitentiary), takes appropriate measures to inform the family or the legal representative, in writing, about visitation possibilities and ways to support the social reintegration process taking place within the centre.

If the inmate does not speak or does not understand Romanian or cannot express himself, the penitentiary administration orders necessary measures to brief about this and to draw up a minute in this respect.

In case of Romanian citizens belonging to national minorities, the briefing will be done in their native language.

Visitation right, packages, and phone calls

The right to make phone calls. "Depending on enforcement conditions in which they are included, prisoners can make phone calls as follows:

- a) *daily*, by prisoners upon which an open, semi-open or closed regime is enforced, as well as upon those against which enforcement conditions have not been set yet, 10 phone calls, with a cumulated maximum duration of 60 minutes;
- b) *daily*, by prisoners upon which a maximum safety regime is enforced, as well as upon those which represent penitentiary safety risk, 3 phone calls, with a cumulated maximum duration of 30 minutes;

Visits. The prisoners are entitled to the following number of visits:

- a) prisoners upon which an open regime is enforced, are entitled to 6 visits monthly;
- b) prisoners upon which an semi-open regime is enforced, are entitled to 5 visits monthly;
- c) prisoners upon which the punishment enforcement regime has not been set yet, are entitled to 5 visits monthly;
- d) prisoners upon which a closed regime is enforced, are entitled to 5 visits monthly;

- e) prisoners upon which a maximum safety regime is enforced, are entitled to 3 visits monthly;
- f) pregnant women or women who have given birth, during the period when they nurse the child inside the detention place, are entitled to 8 visits monthly (art. 142 of the Enforcement Regulation of Law no. 254/2013);

The **right to receive packages**. Prisoners are entitled to receive a package every month, containing food with a weight of max. 10 kg, to which a quantity of max. 6 kg of fruit and vegetables can be added (art. 148 par. (4) of the Enforcement Regulation of Law no. 254/2013).

What will my cell be like?

- Penitentiary detention rooms are equipped in order to provide appropriate natural and artificial light as well as ventilation, with heating installations and hygienic-sanitary utilities in order for every prisoner to have access to toilets and sanitary installations for satisfying his physiological needs. Convicted persons have permanent access to drinking water, warm water being supplied according to a schedule approved by each detention place administration, in rooms with showers, in shared bathrooms within detention departments.
- accommodation rooms are equipped with furniture which allows prisoners sleeping conditions, keeping their personal items, serving meals and carrying out some educational activities.

Practicing sports

Access to sports activities is guaranteed to all prisoners who are medically fit and wish to attend them.

Depending on existing possibilities, the penitentiary administration provides to prisoners, in specially equipped spaces, individual or collective practicing of games or sports and recreational activities, in order to maintain their physical and mental condition, taking into account their health, skills, age and preferences.

Prisoners kept in open, semi-open and closed regime can attend sports activities carried out outside the penitentiary.

At least one competition is organised in each detention place every month, attended by prisoners.

At least a sports competition is organised in each detention place every quarter, attended by prisoners, taking into consideration seasons and existing material basis."

The Right to Leave the Prison

Depending on the punishment enforcement regime to which they were assigned to,

after fulfilling legal conditions, inmates can be granted rewards consisting in:

- permission to leave the penitentiary for a day but no more than 15 days per year;
- permission to leave the penitentiary for a duration of no more than 5 days and no more than 25 days per year;
- permission to leave the penitentiary for a duration of no more than 10 days and no more than 30 days per year;

Prison Regime

- **maximum safety regime** - will be initially enforced upon persons convicted to life imprisonment and to persons convicted to imprisonment for more than 13 years, but also upon those who represent a risk to penitentiary safety. Exceptionally, the nature and way in which an offence is committed, as well as the convict's person can determine his inclusion into immediately lower enforcement conditions as degree of severity, pursuant to the conditions set forth with this law enforcement regulation;
- **closed regime** - will be initially enforced upon persons convicted to an imprisonment punishment of more than 3 years but no more than 13 years. Exceptionally, the nature and way in which an offence is committed, as well as the convict's person and his behaviour until the enforcement conditions are set, can determine his inclusion into immediately lower or higher enforcement conditions as degree of severity, pursuant to the conditions set forth with this law enforcement regulation;
- **semi-open regime** - will be initially enforced upon persons convicted to an imprisonment punishment of more than one year but no more than 3 years. Exceptionally, the nature and way in which an offence is committed, as well as the convict's person and his behaviour until the enforcement conditions are set, can determine his inclusion into immediately lower or higher enforcement conditions as degree of severity, pursuant to the conditions set forth with this law enforcement regulation;
- **open regime** - will be initially enforced upon persons convicted to an imprisonment punishment of no more than one year. Exceptionally, the nature and way in which an offence is committed, as well as the convict's person and his behaviour until the enforcement conditions are set, can determine his inclusion into immediately higher enforcement conditions as degree of severity, pursuant to the conditions set forth with this law enforcement regulation;

Prisoners with Disabilities

The National Administration of Penitentiaries and the penitentiary administration order specific measures to protect inmates' physical and mental health with disabilities.

Convicts having disabilities are provided conditions to attend educational, cultural,

therapeutic, psychological counselling, social assistance, moral-religious activities, in accordance with their needs and personality and depending on their options and skills.

Inmates' professional training activities having disabilities can be organized by the penitentiary administration, in cooperation with the specialized staff from the Ministry of Labour, Family, Social Protection and Elderly."

The Ergotherapy Programme Manual (Neuromotor Impairments Workshop and/or Elderly / Mental Impairments Workshop/Sensory Impairments Workshop) has been promoted in penitentiaries since 2014. The purpose of ergotherapy activities is to identify and contribute to the restoration of independence of persons with disabilities, independence targeting two elementary aspects: adjustment to their deficiency and/or their status improvement. Ergotherapy is addressed to persons having mental/neurological/motoric deficiencies and aim at their psycho-motoric recuperation.

As regards prisoners with prior **drug and alcohol consumption antecedents**, there are specialized programmes which they can attend: a *Psychosocial assistance programme meant for persons with addiction antecedents*, or a specific *Psychological assistance programme for persons with antecedents in alcohol consumption - Anti-alcohol*.

Furthermore **former drug consumers from penitentiaries** can be selected in order to be included in a therapeutic community in the Jilava, Rahova and Targosor penitentiaries.

The therapeutic community imposes the existence and establishing of a physically delimited space where, based on specific work strategies and principles, prisoners benefit on medium or long term, from specific assistance to change their behaviour, to study and exercise new abilities and social responsibilities by maximizing the involvement and participation of each beneficiary in his/her own rehabilitation process. These persons are also included in the National Mental Health Programme (that provides substitutive treatment with methadone).

As regards the special assistance granted to prisoners with disabilities/learning problems, drug and alcohol addiction, HIV/AIDS carriers from medical perspective, we inform you that medical assistance of these persons takes place complying with valid legal stipulations.

For **HIV/AIDS-infected persons** - "during the period they serve the punishments and imprisonment measures, **any form or discrimination** due to race, nationality, ethnic origin, language, religion, gender, sexual orientation, political opinion or appurtenance, social origin, age, disability, non-contagious chronic disease, **HIV/AIDS infection or due to other similar grounds is forbidden.**"

"HIV-AIDS-infected persons are entitled to have personal data kept confidential and **cannot be subjected to discriminatory treatment** and the right to education or work cannot be forbidden".

How do I transfer to a different prison?

The transfer of inmates into another penitentiary, as a result of provisional determination of enforcement conditions, is ordered by the penitentiary director, in accordance with the penitentiaries' classification based on a decision of the general director of the National Administration of Penitentiaries.

The transfer of inmates into another penitentiary, as a result of changes in determination or in the imprisonment enforcement conditions or due to other grounded reasons, will be ordered by the general director of the National Administration of Penitentiaries upon the board's recommendation (as stipulated in art. 32 of Law 254/2013) or upon the inmate's request, with the approval of this commission.

The transfer of inmates into another penitentiary, if necessary for the activity of a judicial body, is ordered, upon the judicial bodies' request, by the penitentiary director. If the transfer of convicts is requested by several judicial bodies during the same period of time, the temporary transfer is ordered by the general director of the National Administration of Penitentiaries.

Temporary transfer. The general director of the National Administration of Penitentiaries orders the temporary transfer of prisoners taking the following criteria into account:

- penal matters in which warrants for detention pending trial were issued against inmates;
- penal matters have priority over civil matters;
- courts have priority over other judicial bodies;
- the jurisdiction degree of the judicial body that instruments the matter;
- failure to transfer would seriously affect prosecution or trial.

When the convict receives a summons during a judicial proceedings triggered by him/her, if the convict submits an appeal against the initiation of such a judicial step, the convict's request not to acknowledge or withdraw the application will be send immediately, through the penitentiary's administration care, to the court or vested prosecution office.

The transfer of prisoners into centres or custody of detention pending trial functioning in the subordination of the Ministry of Internal Affairs, necessary for the activity of judicial bodies, is done with the approval of the penitentiary director and briefing of the imprisonment surveillance judge. The transfer period and motives are part of the letter written and signed, as the case may be, by the General Police Division of the City of Bucharest or the General Anticorruption Division, approved by the prosecutor. At the end of the period the prisoner is handed over to the penitentiary from where he was transferred.

It is forbidden to transfer into penitentiaries, for a period of more than 10 days, those persons who serve an educational measure to be committed into an educational centre or in a detention centre.

If the legal accommodation capacity of a penitentiary is exceeded, its director has the obligation to inform the general director of the National Administration of Penitentiaries in order to transfer the convict to another penitentiary. The general director of the National Administration of Penitentiaries determines if the transfer is necessary, mentioning the penitentiaries where convicts are transferred to.

In order to be presented to judicial bodies, minors who are in detention pending trial can be transferred to special departments or detention pending trial in penitentiaries, for a period up to 10 days, being accommodated separately from persons of full age.

The **transfer of a committed person into another centre, for thorough reasons**, is ordered by the general director of the National Administration of Penitentiaries upon recommendation of the educational board or the commission (as stipulated in art. 146 of Law 254/2013) or upon request of the committed person, of the family or of his/her legal representative, with the approval of the educational board or commission.

If a committed person is decided to be transferred into another centre or into a detention and preventive custody centre, the appeal of the person to be transferred is urgently solved until the transfer order date by the imprisonment surveillance judge from the centre where the transfer was ordered from, prior to actually performing this transfer.

Parole

The benefit of conditionally release is not a right of the convict, but his vocation and **only the competent court can appreciate in every case, if legal conditions are simultaneously fulfilled and if this benefit is timely and prudent for the convict.**

Convicts sentenced to imprisonment and to lifelong imprisonment can undergo an analysis in the conditionally release board if legal criteria are fulfilled.

The release on parole is granted according to the procedure stipulated in art. 587 of the Code of Penal Procedure, pursuant to art. 99 or art. 100 of the Penal Code, as the case may be, and to the stipulations of art. 97 of Law 254/2013, upon the convict's request or upon parole board recommendation.

The competence to decide on the board recommendation or convict's application, in favour of a parole, is incumbent **only to the court.**

The conditionally release is granted only if there are thorough and sufficient reasons to justify the enforcement of this institution.

In this sense, the board submits convict's parole recommendations, taking into account:

- a) the punishment fraction which was actually served and part of the punishment which is deemed to be served;
- b) the imprisonment enforcement regime to which the person was assigned to;

- c) the fulfilment of civil obligations set forth with the conviction decision, unless proven that the person had no possibility to fulfil them;
- d) the convict's behaviour and his/her social reintegration efforts, especially within rendered labour, educational, moral-religious, cultural, therapeutic, psychological counselling, social assistance activities, school and professional trainings, entrusted responsibilities, granted rewards and enforced disciplinary sanctions.
- e) prior penal convictions.

In its activity, the board will also take into account results of enforcing standard activity evaluation instruments performed by prisoners, approved with a decision of the general director of the National Administration of Penitentiaries.

If the board deems that the reasons are insufficient or do not exist in order to justify parole, it decides to postpone the case of the person in question.

If the prisoner is not satisfied with the board decision, he can appeal to the district court in the territorial range of which the penitentiary under its custody is located, submitting a parole application. The convict can also submit an appeal at the competent law court against the solution of the first instance.

Probation

Prisoners of full age are included, during their incarceration, in **educational, cultural, therapeutic, psychological counselling, social, moral-religious assistance, school and professional trainings with youngsters and persons of full age in detention**. Previously mentioned activities are accomplished by the penitentiaries' education and psychosocial services staff, with the attendance, as the case may be, of probation officers, volunteers, associations and foundations, as well as other civil society representatives. Prisoners are included in social and educational activities depending on their conviction duration, convict's behaviour, personality, risk degree, age, health condition, identified needs and social reintegration possibilities.

Young convicts are included, throughout their punishment execution, in special educational, psychological and social assistance programmes, depending on each one's age and personality. According to the laws, convicts are deemed to be youngsters if they did not turn 21. Special programmes are accomplished by the penitentiaries' educational and psychosocial assistance services, with the attendance of probation officers, volunteers, associations and foundations, as well as other civil society representatives.

Among the programmes carried out in the penitentiary by probation officers, in cooperation with the educational staff, there is also a Programme called "Reducing the risk of Relapse after Imprisonment (RRR)". This programme has been taking place since 2009 and is built on the principle of permanent cooperation between the

penitentiary specialist and the probation officer, as well as on the principle of continuing intervention in working with prisoners who are prepared to be set free. The programme includes three modules, of which two are carried out, as a rule, in the penitentiary by the probation officer with the support of a facility specialist. The third module aims at post-criminal assistance and is carried out in the probation service after being set free. The programme is carried out based on a cooperation protocol between institutions, concluded on a local level, with other institutions of interest from the community (AJOFM, ISJ, DSP etc.)

Probation officers also **have duties with respect to the parole proceedings for persons of full age in detention**. Parole is granted to the convict upon his request, or upon the parole board's recommendation, including a probation officer from the probation department who is competent according to the law within the penitentiary constituency. The board submits parole recommendations for the convict, taking into account a series of criteria. The recommendation is included in a motivated minute including the position of board members towards the parole recommendation. The probation officer submits, within the board, recommendations on obligations which the court can impose to the person, depending on the characteristics of the case. The recommendations of the probation officer is based on information and data obtained from documents existing on detention facility level, and from community level data where the person came from. The probation officer recommendations are mentioned in the minute concluded by the board and submitted to the court that passes a judgement on the parole.

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