

The Resilience of the Romanian Penitentiary System in the Context of the COVID-19 Pandemic

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Abstract

This article analyses, from an interdisciplinary approach perspective, the challenges faced by the Romanian penitentiary system, as a representative institution of the national security system, in the context of the COVID-19 pandemic, the solutions identified to protect the population segment for which it is directly responsible, and how it managed to empower central structures and subordinate units in this regard. The analysis aims to highlight the institutional adaptability of the Romanian penitentiary system in the face of certain dynamic elements (escalation of the situation regarding the spread of the virus, gradual recommendations from European and global health organisations), as well as considering certain internal and international legal benchmarks. Furthermore, the analysis highlighted in this article aims to correlate the institutional adaptability of the Romanian penitentiary system with the concept of resilience, considering its multidisciplinary.

Keywords: *resilience, penitentiary system, institutional policies, national security, public health, fundamental rights and freedoms, organisational behaviour.*

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1. Introduction

Detection of cases of infection with the new coronavirus (COVID-19) in China in December 2019, as well as the rapid spread worldwide, led the World Health Organization to declare a Public Health Emergency of International Concern on January 30, 2020, and a Pandemic² on March 11, 2020.

The way each country chose to protect its population and empower its

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² World Health Organization, <https://www.who.int/europe/emergencies/situations/covid-19>, consulte on 1.05.2024.

institutions were based on dynamic elements (escalation of the situation regarding the spread of the virus, affected groups of people, vaccination campaigns, and gradual recommendations from the World Health Organization and the European Centre for Disease Prevention and Control), as well as considering certain internal and international legal benchmarks. Each country built and updated its public health and public security policies based on these factors. In this paradigm, regarding the COVID-19 episode, each country had the opportunity to test and develop resilience at various levels (because this concept is indeed multidisciplinary and intersects multiple domains).

In the research, I used the systemic method in the structured approach to the theme, analysing the public policy adopted by the Romanian state in the field of public health and security, as well as the solutions adopted by the Romanian penitentiary system regarding the application of principles for the execution of penal law. Additionally, I documented the measures taken by the Spanish state in the same field, in order to highlight a common trait of the two prison systems – resilience. The logical method underpins the identification of legal reasoning and best practices within the Romanian penitentiary system, while the interpretative method supports the argumentation of conclusions and main ideas.

2. Definition of key terms used in the research

The term *resilience* comes from the Latin ‘resilire’ meaning ‘to bounce back’, and the concept of resilience has its roots in the work of C.S. Holling, an ecologist who first noted the characteristics of a resilient ecological system in 1973. Since then, the concept of resilience has been applied in fields as diverse as psychology, disaster management, supply chain management and, more recently, strategic management³.

In some areas, the trend in interpreting the concept of resilience is towards identifying it with the ability to bounce back from disruption or to resist change and control it in order to maintain stability, materialising in how we learn to live with and use change.

In simple terms, resilience is the ability to persist in the face of change, to continue to thrive in changing environments, and the practical approach to the concept of resilience is about how periods of gradual change interact with sudden change, and the ability of people, communities, societies, cultures to adapt or even transform themselves into new developmental pathways in the face of dynamic change⁴.

In terms of organisational behaviour, resilience can be understood as ‘the ability of an organisation to survive, adapt and grow in a dynamic and uncertain

³ Waller, M.A. (2001), ‘Resilience in ecosystems context: evolution of the concept’, *American Journal of Orthopsychiatry*, Vol. 71 No. 3, pp. 290–297, DOI: 10.1037/0002-9432.71.3.290.

⁴ Folke, C. 2016. Resilience (Republished). *Ecology and Society* 21(4):44. <https://doi.org/10.5751/ES-09088-210444>.

environment'⁵.

According to a study⁶ conducted in April 2014 on a group of 340 men serving a custodial sentence in the Polish prison system, one of the determinants of quality of life for prisoners is resilience, the ability that allows a convicted person to adapt to adverse conditions, and during the coronavirus pandemic, as you will see throughout this article, the individual resilience of prisoners was complemented by assisted resilience.

The concept of assisted resilience was described by Professor Ovidiu Predescu, almost six years before the pandemic was declared, in an interview for Juridice Publication⁷ on the eve of the Second World Congress on Resilience: 'From Person to Society' (Timișoara, 8–10 May 2014), starting with the fact that 'resilience is a multidisciplinary concept, being a universal process, of interactions with others, it cannot take place without the support of mentors, tutors' and continuing with the statement that it 'resides in the fact that the process is supported by specialists, has a preventive nature and is based on the strengths of the person at risk ... resilience, especially assisted resilience, influences the legal factor ... in terms of preventing delinquency ... opening up new perspectives'. The concept of assisted resilience of inmates in the Romanian penitentiary system materialises, without excluding the other categories of staff interacting with this social category, through the support of penitentiary police specialists in the fields of education, psychological assistance and social assistance.

We can also extend the definition of the concept of assisted resilience to the whole penitentiary system by implementing the institutional policy of the National Administration of Penitentiaries in the field of COVID-19, aimed both at sentenced prisoners and all staff on duty, as well as representatives of civil society (relatives of sentenced persons, representatives of partner NGOs, economic operators who contract inmates to do labour activities).

3. Institutional strategy development according to the evolution of the pandemic

The first official reaction with legal implications regarding the global situation caused by COVID-19 came from the Romanian State on the 6th of May 2020, when, following the meeting of the Technical-Scientific Support Group on the management of highly contagious diseases on the territory of Romania, Decision No. 6 was adopted, whereby certain measures were taken and certain rights

⁵ Siddharth Shankar Rai, Shivam Rai & Nitin Kumar Singh (2021), 'Organisational resilience and social-economic sustainability: COVID-19 perspective', *Environment, Development and Sustainability*, Vol. 23, pp. 12006–12023, doi: 10.1007/s 10668-020-01154-6.

⁶ Skowroński B., Talik E. 'Quality of Life and Its Correlates in People Serving Prison Sentences in Penitentiary Institutions'. *International Journal of Environmental Research and Public Health*. 2021; 18(4):1655. <https://doi.org/10.3390/ijerph18041655>.

⁷ <https://www.juridice.ro/317649/interviu-ovidiu-predescu-despre-rezilienta-juridica.html>, consulted on 1.05.2024.

of the population were restricted (procedures for suspending school classes, prohibition of activities involving more than 1000 people, etc.). Following the declaration of the Pandemic by the World Health Organization on the 11th of March 2020, the President of Romania decreed a state of emergency on the territory of Romania for an initial period of 30 days by Decree 195 of 16th of May 2020, to be subsequently extended. This is the first piece of legislation to establish additional obligations for prison officers (the obligation to participate in all activities carried out in accordance with the instructions of superiors and the creation of the legal possibility for prison officers to change the place and/or type of work without their consent) and to suspend certain obligations (obligations to perform unpaid community service, to attend school or vocational training courses, to attend one or more social reintegration programmes) and rights of inmates (exercise of the right to receive visits, exercise of the right to private visits, exercise of the right to receive goods through the visiting sector, application of rewards consisting of permission to leave the prison).

As regarding the institutional policy of the National Administration of Penitentiaries in the field of COVID-19, it started initially by addressing to the subordinate establishments the Plan of Measures for the Prevention of Sickness and Infection with SARS-CoV-2. Given that, in the period from 22nd to 23rd of February 2020, outbreaks had already been confirmed on the territory of Italy in the regions of Lombardy, Piedmont, Veneto, Emilia-Romagna, the impact on the penitentiary system in certain cases (extradition, visits of relatives of persons deprived of liberty returned from Italy, return to work of staff after a period of rest carried out in areas at high epidemiological risk) on the 24th of February 2020, the first Plan of measures for the prevention of COVID-19 infection among staff and prisoners is approved and submitted to the subordinate prisons⁸. By the decision of the Penitentiary Director General no. 394 from the 24th of May 2020, the Intervention Methodology for combating COVID-19 infection in the penitentiary system was adopted, and after the end of the state of emergency, the Action Plan for the penitentiary system was established and regularly updated.

The possibility of SARS-CoV-2 infection in the Romanian prison environment led from the very beginning to management of the phenomenology with maximum responsibility, considering the particularities of the prison system and the fact that the virus could be easily transmitted through staff, visitors, through the transfer of convicted persons, through the mobility of staff and between prisoners through daily interactions, which required constant monitoring of the health status of staff and convicted persons and updating/adapting working procedures to limit the sickness of prisoners and protect their health.

The directives issued by the Romanian central penitentiary institution in

⁸ Laurenția Ștefan, Răzvan Grecu, 2020, 'Provocarea COVID-19 în sistemul penitenciar românesc', *Revista de Practică Penitenciară* No. 3/2020; pp. 4-12.

charge of control and coordination, provided measures suspending/limiting certain rights established by the law on the execution of custodial sentences, such as the suspension of visits without separation and intimate visits, suspension of the granting of rewards with permission to leave the prison, limitation of social reintegration activities supported by external collaborators in prison units or planned outside the places of detention and suspension of work activities carried out outside the places of detention, to external beneficiaries, and also exceptions have been established: two types of work activities were maintained which involved the packaging of humanitarian aid packages for disaster victims/inhabitants in need.

As regarding to the implementation of social reintegration activities, from the 24th of February 2020, according to the plan of measures established by the National Administration of Penitentiaries, group activities as well as activities in the community were to be suspended, in the event of confirmation of infection of a convicted person with COVID-19, while informing prisoners about the possibility of applying these types of measures. The information of convicted persons was carried out through the campaign on the prevention of SARS-CoV-2 infection, which mainly involved the transmission of the necessary information through the inner TV studio, and the practice of positive behaviours among prisoners was carried out through the ‘Cleanest Room’ Campaign, a thematic competition with the motto ‘Cleanliness – the basis of health and the mirror of feeling’. The pioneering of the campaign was ensured by the Bucharest-Jilava Penitentiary and the subsequent activities were carried out by a multidisciplinary team (educator, social worker, psychologist, ward manager).

The schooling process for inmates was carried out exclusively online and the vocational training activity was suspended. Sports activities carried out in the open air exclusively involved the participation of inmates in planned activities at sports fields in groups constituted according to the type of accommodation (at the level of holding room/small groups of holding rooms within the same holding section). The measure to suspend visits was compensated by increasing the number of online calls.

These measures and information campaigns were continued even after the end of the state of emergency and were also reflected in the Plan of measures for the penitentiary system after the end of the state of emergency, and the focus was on making the most of the information opportunities offered by the inner TV studio, alternating with individual or small group activities. That enabled reintegration activities to be carried out in groups of detainees belonging to the same holding room or in groups of rooms belonging to the same holding section, with the wearing of protective equipment by both reintegration staff and detainees. The information and empowerment campaigns this time included both the segment of information transmission via the inner TV studio and the alternation of direct social reintegration activities with activities carried out in the holding rooms. The schooling process continued to be carried out online and there was

created the possibility to carry out the training process applying the principles of social distancing and wearing of protection equipment.

According to the information provided in May 2020 by the National Administration of Penitentiaries at the request of the Association for the Defence of Human Rights in Romania – Helsinki Committee, the Romanian penitentiary system held over 20,000 inmates, of whom 7,700 with chronic diseases, and had a number of 11,000 full-time employees, excluding medical staff. As of 7th of May 2020, there were no confirmed or suspected COVID-19 cases among inmates, with 333 inmates and 558 prison officers tested to that date and 22 cases of COVID-19 infection confirmed among the above-mentioned categories. These data support the effectiveness of the initial measures taken by the National Administration of Penitentiaries to stop the infection of inmates with the new coronavirus. Further evidence for the effectiveness of the measures taken in the penitentiary system is the fact that during the state of emergency no place of detention was closed.

Another element that supports the adaptability of the Romanian penitentiary system is the effective way in which, through information campaigns and the personal example of prison officers, the vaccination campaign was implemented in the penitentiary system, which made it possible to immunize, through vaccination against SARS-CoV-2, 21,817 prisoners. Of these, 4,055 inmates were released. As a result of the institutional actions undertaken, through the collaboration supported by the National Coordinating Committee for Vaccination Activities against COVID-19, at the systemic level, the data showed that as of 7th of January 2022, a total of 17,763 inmates had been vaccinated with the full schedule, representing an immunization rate of almost 80% of the total prison population. At the same time, 95 convicted persons were confirmed infected with SARS-CoV-2 and were in medical isolation, receiving medical care in specialized prison units.

The maximum number of simultaneously recorded prisoners infected with SARS-CoV-2 was in the second part of 2021, i.e. 450 prisoners.

By comparison, the Spanish prison system holds 55,195 inmates as of the 17th of January 2021. From March to December 2020, a total of 783 cases of confirmed infection with the new coronavirus were reported in the Spanish prison system, with a low incidence⁹. Spain was invited by the World Health Organisation to present the measures adopted in prison in a forum held on the 21st of July 2020, attended by 120 countries, where examples of good practice in the prevention and control of Covid-19 in prison were presented. Among these we can list some measures implemented since the first half of 2020, such as suspension of visits, communications and transfers, suspension of permission to leave prison, with certain exceptions, extension of telephone communication with family and

⁹ Defensor del Pueblo [Publicación en línea] Informe sobre « Actuaciones ante la pandemia de covid-19 », https://www.defensordelpueblo.es/wp-content/uploads/2020/12/Documento_COVID-19.pdf, consulted on 1.05.2024.

lawyers and suspension of intimate visits, suspension of educational activities, vocational training, work and in general all group activities. In the case of the Spanish prison system, we can also identify indicators of personal and institutional resilience, similar to the situation and approaches adopted by the Romanian prison system. This information reinforces the findings of study mentioned on the quality of life of sentenced persons that an attitude of acceptance of an unfavourable situation is conducive to acting in accordance with one's conscience and contributes to the development of morality, and last but not least, highlights a common feature of the two prison systems – resilience.

Regarding the vaccination campaign in the Spanish prison system, according to the Ministry of Health press release of 17th of February 2021, the criteria for prioritising vaccination have been updated, moving from social groups (elderly people in hostels, care staff, front-line medical staff, etc.) to the criterion of age. Prison staff are mentioned as one of the groups included in the strategy, but inmates are not included¹⁰.

4. Conclusions

The interactions of the Romanian penitentiary system's staff with inmates, and in particular the experiences of the social reintegration staff, revealed during the pandemic period the need of the majority of the prison population for specialized support and assistance, and because both staff and inmates experienced the same situations of restrictions and the general feeling of insecurity, the process of assisted resilience was naturally achieved, the restrictions and solutions offered to the convicted persons by the social reintegration staff were easily assimilated, especially from the perspective of the group of individuals of different status but with a common goal – to achieve together a transformative process in which, although limited and subject to rather discouraging restrictions to social interactions, the specialised assistance and individual or small group interactions facilitated the crossing of this period efficiently and effectively.

While resilience was apparently found to be a common feature of some prison systems during COVID-19, it can vary widely in organisational, personal or social manifestations. In the face of significant stressors such as the risk of illness or the risk of losing a family member or a close friend, resilience can generate different approaches or solutions such as active problem solving or seeking social support¹¹. Taking into account these coordinates, as well as the evidence

¹⁰ Julio García-Guerrero, Enrique J. Vera-Remartínez 2022. 'Normativa frente a la pandemia covid-19 en las prisiones españolas', *Cuadernos de Bioética* 33(107): 89-98, doi 10.30444/CB.115.

¹¹ Emma K PeConga, Gabrielle M Gauthier, Ash Holloway, Rosemary S W Walker, Peter L Rosencrans, Lori A Zoellner, Michele Bedard-Gilligan. 2020. 'Resilience Is Spreading: Mental Health Within the COVID-19 Pandemic'. *Psychological trauma-theory research practice and policy*, Aug; 12(S1): S47-S48. doi: 10.1037/tra0000874.

related to the solutions addressed and the results obtained by the Romanian penitentiary system during COVID-19, we can conclude that, both at managerial and executive level, but also with regard to the majority of people serving a custodial sentence, the main attitude was the adoption of adaptive behaviours and experimentation with some of the best solutions.

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