

European Public Policy Perspectives. The Norwegian Way vs. the Romanian Way in the Social Rehabilitation of Inmates

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Abstract

This article analyzes the institutional approaches in two European states (Norway and Romania) regarding to the social reintegration of inmates. The analysis of public policies and potential of the two prison systems, as well as the results obtained following the implementation of the two systemic approaches, are the main objectives of the study. Also, the study highlights the collaboration between the two European states, the logistical and financial support and the example of good practice that the Norwegian state offered to Romania, in order to streamline the process of social reintegration.

Keywords: public policy, social reintegration, penitentiary system, rehabilitation of inmates.

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1. Introduction

Within the development of the United Nations and the Council of Europe, member states recommended that prison administrations be separated from the military services. The demilitarization of Romanian penitentiary system and its transformation into a civilian structure with a special status was a legal requirement, being expressly provided in for the 2003-2007 Judicial System Reform Strategy, approved by Romanian Government Decision no. 1052 from 2003.

The predictability and trust in the administration were strongly affected in 2017, when the Strasbourg Court concluded that Romania must implement systemic reforms to improve the quality of the Romanian penitentiary system by issuing a pilot decision. The main systemic problems raised were the phenomenon of overcrowding and the shortage of staff faced by the Romanian penitentiary system. Correlating this information with the high rate of recidivism at the national level, (8468 people convicted were recidivists - 36.76% of the total prison population²), the possibility of an insufficient level of implementation of international and European recommendations³ in national legislation⁴ can be easily questioned.

The first Romanian National Strategy for Social Reintegration of Inmates was designed for 2015-2019 period and updated by the 2020-2024 new National Strategy for Social Reintegration of Inmates, that highlighted the 4th UN Rule⁵, which states that: “1. The purposes of a custodial sentence are primarily to protect society from crime and to reduce recidivism. The given goals can only be achieved if the period of detention is applied to ensure reintegration into society after release, (...). 2. For this purpose, the prison administration and other competent authorities must ensure studies, professional training and work, as well as other appropriate and applicable forms of assistance,

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² According to the data published on the website of the National Administration of Penitentiaries in September 2023.

³ Recommendation no. R (89) 12 on education in prisons, Recommendation no. R (2006) 2 on European prison rules, Revised Minimum Standard Rules for the Treatment of Prisoners, The Guide on jurisprudence derived from the European Convention on Human Rights.

⁴ The Execution of Sentences Act, Regulations relating to the Execution of Sentences.

⁵ United Nations Standard Minimum Rules for the Treatment of Prisoners – known as the Nelson Mandela Rules (2015).

including those of a recuperative, moral, spiritual, social, medical and sports nature (...).” For the public policies analysis, I chose the Operational strategy for the NCS⁶ 2021 – 2026, because of the collaboration between the two European states, the logistical and financial support and the example of good practice that the Norwegian state offered to Romania, in order to streamline the process of social reintegration.

For the research, I used the systemic method in the structured approach to the subject, in the analysis of public policies and the principles of criminal law enforcement. The comparative method has been used as the basis of the analysis, for the two public policies as well as for the legal provisions incident to each penitentiary system analyzed. The logical method was used as the basis for the identification of legal reasoning and elements of good practice at the level of public policies, concurrently with the interpretive method on which the conclusions and main ideas are based.

2. Situational analysis

According to Council of Europe Annual Penal Statistics on Prison Populations⁷, we can find major differences between the two countries. In terms of prison population rate (per 100,000 inhabitants) in 2020 and 2019, Romania obtained a medium score (the score is close to the European median value – 103.2), in comparison with Norway, that obtained a very low score (more than 25% lower than the European median value). The average duration of imprisonment in Romania is very high (the score is more than 25% higher than the median European value – 8.5), and in Norway is very low. Also, the rate of releases in 2019 in Romania was very low, while in Norway was medium, and the ratio of inmates per staff member in Romania was medium, while in Norway was very low.

Not only that Romania has a bigger population incarcerated in comparison with Norway, but also the rate of release is lower and the period of imprisonment is bigger in the southeastern country. It may seem from the start that an effective social rehabilitation of inmates can be real challenging in Romania, even though the ratio of inmates per staff member is bigger. That is because the personnel in Romanian prisons includes also specialists for social reintegration while Norwegian prisons do not have their own staff for medical or educational services, as the services for reintegration are delivered by local service providers.

The first public policy differences are the *integrated solution* in Romania for social rehabilitation through specialized prison officers and the *society-based solution* in Norway for receiving reintegration services from local providers⁸.

In terms of legislative and other measures, which directly influence trends in the number of inmates, Norway registered no changes in criminal law, no new legislation concerning certain categories of inmates, zero amnesties, zero individual or collective pardons, while Romania registered two changes in criminal law⁹. According to the explanatory memorandum, the aim of the initiative is to eliminate the social disturbances caused by Law no.169/2017 and to amend the Penal Code in order to increase people's confidence in the prevention purpose of the sentence. This is achieved by discouraging the offender who endures the coercive effect of the penal sentence. The general aim is also to discourage the serious antisocial acts committed with violence and to increase the safety of the citizen, by reducing criminality.

In terms of the trends in prison population rates from 2010 to 2020, Norway registered a decrease by 21.4% (24% of the population detained in prisons are the drug offenders), while Romania registered a decrease by 23.3% (31.7% of the population detained in prisons are the combined theft and robbery offenders).

⁶ Norwegian Correctional Service.

⁷ Aebi, M. F., & Tiago, M. M. (2021). SPACE I - 2020 – Council of Europe Annual Penal Statistics: Prison populations. Strasbourg: Council of Europe.

⁸ For an extensive comparative view see Anders Nilsson, *Living Conditions, Social Exclusion and Recidivism Among Prison Inmates*, „Journal of Scandinavian Studies in Criminology and Crime Prevention”, 4:1, 2003, pp. 57-83, DOI: 10.1080/14043850310005321.

⁹ Law no. 240/2019 on the repeal of Law no. 169/2017 for the amendment and completion of Law no.254/2013 on the execution of sentences and custodial measures ordered by judicial bodies during the criminal proceedings, as well as on the amendment of Law no. 254/2013 on the execution of sentences and custodial measures ordered by judicial bodies during criminal proceedings.

Regarding to the prison capacity and prison density (per 100 places), on 31 January 2020, Norway had 86.6 prison density and Romania registered 112.8 prison density.

In terms of the distribution of the staff employed by the penitentiary administration, in Norway, the total staff number was 3924, out of which 3613 actually worked inside penal institutions and no officers responsible for evaluation and education activities, with a 0.8 ratio of inmates per staff member. In Romania, the total number of staff was 12354, out of which 11795 actually worked inside penal institutions, and 760 officers were responsible for evaluation and education activities, with a 1.7 ratio of inmates per staff member.

The average amount spent per day in 2020 for the detention of one inmate was 318 euro Norway, and 42.7 euro in Romania.

3. Comparative overview

The Operational strategy for the NCS¹⁰ 2021 – 2026 aims a future-oriented approach for the execution of sentences through efficient reintegration, reduced recidivism and convicted persons who take responsibility. NCS cooperates closely with other social actors to ensure that the needs of convicted persons are met upon completing their sentences. The activities are based on knowledge and expertise, weather as decisions are made based on experience, good analysis and relevant research. NCS has developed leading research and educational community, and offers both bachelor's and master's degree programs for employees. The three-year bachelor's degree provides basic education and training for everyone and explores the possibility of a joint master's degree for employees. NCS prioritizes professional updating and sharing of expertise and ensures that the collaborative partners within government agencies have relevant and up-to-date knowledge in the field of correctional services.

The Romanian's National Strategy for Social Reintegration of Inmates 2020 – 2024 strategic target, aims at the functional reintegration of inmates in the family environment, in the community and on the labor market, by consolidating, optimizing and developing the necessary legal and procedural mechanisms. Crime registered a downward trend - 2018 was the seventh consecutive year in which reported crime decreased (-2.4% compared to 2017), registering the lowest value in the last eleven years. The strategic action directions for the period 2020 – 2024 were built on the results of the study "*Identification of the needs regarding the facilitation of the social reintegration of persons deprived of liberty*"¹¹. Several main problematic aspects are highlighted in the report, including the lack of certainty regarding the level of schooling declared by the inmate, in order to continue the courses during the detention period, the lack of respect for social values and the potential for the development of criminal behaviors, which can have an impact on the risk of recidivism. Also, problematic aspects highlighted in the report for the post-liberation period include the lack of valid identity documents, the lack of housing/shelter, the lack of financial resources/lack of food or clothing after release, and difficulties regarding the identification of a job and lack of support from the community.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), stated in the report drawn up following the 2018 visit to Romania that "it is obvious that more needs to be done to offer prisoners practical activities, in order to prepare them for reintegration into the community", with direct reference to work, profession, education, sport and recreation.

Professional qualification is considered one of the basic conditions that contribute to post-detention reintegration, ensuring ex-inmates the opportunity to identify a job, a source of income, being able to support individual independence. In order to realize this objective, NAP¹² wants to ensure a better professional and vocational orientation of the prisoners and to adapt the offer of

¹⁰ Norwegian Correctional Service.

¹¹ Report resulting from the implementation of Activity I.3.3. Identification of the needs regarding the facilitation of the social reintegration of persons deprived of liberty, approved by Decision no. 9/24.05.2018 of the Inter-Ministerial Commission.

¹² Romanian National Administration of Penitentiaries.

professional training to the requirements of the labor market. For this purpose, NAP develops an annually training plan for inmates, included in the professional training plan of the National Employment Agency.

Regarding the post-detention assistance, in order to ensure the transition from the penitentiary environment to the community, NAP considers that it is necessary to have structures in charge of taking over the persons who are released, offering integrated, specialized services and monitoring the cases taken over, in order to overcome, successfully, the critical post-detention period, when there is a high risk of recidivism. For this purpose, NAP involves local authorities to create a support network that includes, in addition to social services, volunteers, community police, non-governmental organizations, economic agents and representatives of religious associations/entities¹³.

For the efficiency of the support network, NAP intends to stimulate the involvement and to harmonize the actions organized by social actors (institutions, central and local public authorities, cults, civil society organizations) in order to have a real role in the social reintegration of inmates.

The Execution of Sentences Act in Norway entered into force in March 2002 and was last consolidated in December 2019. According to the regulations, prison sentence and preventive detention can be served in prisons with a high security level (closed prisons), in prisons with a lower security level (open prisons), in halfway houses, outside prison subject to special conditions and on probation, subject to certain conditions. As this is possible in practice and is appropriate, convicted persons should be committed to a prison in the vicinity of their home district.

NCS may transfer a convicted person for execution of sentence outside prison, subject to special conditions, when half the term of the sentence has been served, with or without electronic monitoring. Also, NCS may grant inmates permission to take part in work, training, programs or other measures outside prison if security reasons do not contraindicate this, and there is no reason to assume that inmates will evade execution of their sentences.

NCS has the obligation to offer the inmates the possibility to practice activities during the daytime and to take part in leisure activities, including opportunities for physical and cultural activities. Inmates are allowed to be out in the open air every day, and to practice their religion and philosophy of life. Also, inmates are entitled to participate in work, training, programs or other measures, but NCS may not order persons remanded in custody to take part in such activities. They may, however, be ordered to help with necessary cleaning and other housework in the prison.

NCS make, with sufficient time in advance, preparations and contribute to suitable arrangements for release on probation. This also applies, insofar as possible, to inmates who are serving shorter prison sentences. Necessary contact shall be made with public authorities, organizations or private persons who can assist in providing properly organized living arrangements, work, training or other measures that will help in ensuring that the inmate leads a law-abiding way of life following release.

The Execution of Sentences Act in Romania entered into force in August 2013 and was last consolidated in October 2023. According to the regulations, president of the Appeal Court designates, annually, one or more judges to supervise and ensures the legality the execution of sentences in prison.

The prison sentence can be served in prisons with a high security level (maximum security and closed regime), in prisons with a lower security level (semi-open and open regime) or in special prisons (penitentiaries for women, young offenders a hospital penitentiaries) and inmates may be released conditionally before the full execution of the sentence.

Inmates can be monitored electronically at distance. The ones classified in semi-open regime can work and carry out educational, cultural, therapeutic, psychological counseling and social

¹³ For example, at the international level there are social and economic standards imposed by treaties that emphasise equal treatment in terms of human rights. See for a complete view Cristina Elena Popa Tache, *Ranking of Treatment Standards in International Investments*, „International Investment Law Journal”, Volume 1, Issue 1, February 2021, pp. 79-87; Cristina Elena Popa Tache, *The New International Triangle: Human Rights-Digitalization-Security*, „International Investment Law Journal”, Volume 4, Issue 1, February 2024, pp. 4-17; Ľubica Bajžíková, Daniela Nováčková, Jana Vnuková, *Significant Investment and Screening of Foreign Investment in Slovakia*, „International Investment Law Journal”, Volume 3, Issue 2, July 2023, pp. 133-145.

assistance, moral and religious activities, school training and professional training, outside the penitentiary, under supervision, including electronic supervision. Inmates classified in open regime can move unaccompanied in predetermined areas inside the penitentiary, they can perform work and can carry out educational, cultural, therapeutic, psychological counseling and social assistance activities, religious, school training and professional training, outside the penitentiary, without surveillance.

Representatives of non-governmental organizations, which carry out activities for protection of human rights, can visit the penitentiaries and make contact with the inmates. Inmates can participate, based on their free consent, in religious services or meetings organized in penitentiaries, they can receive visits from representatives and can procure and own publications of a religious nature, as well as objects of worship.

Each convicted person is guaranteed daily outdoor walking for at least one hour, in depending on the execution regime of the custodial sentence. Medical assistance, treatment and medical care in penitentiaries are provided with qualified staff, free of charge, upon request or whenever necessary.

Convicted persons are guaranteed a minimum of seven hours of sleep per day and inmates who work have the right to weekly rest, according to labor legislation. Inmates may be required to work, in relation to the type of execution regime, taking into account their qualifications, skills and abilities, age, health condition and safety measures.

Educational, psychological and social assistance activities are organized in each penitentiary and aim at the social reintegration of convicted persons. These activities are carried out with penitentiary staff, like educators, priests, technical agents, sports monitors, as well as psychologists and social workers. A library operates in each penitentiary and the book fund is provided by NAP, from budget subsidies, own income, as well as from sponsorships or donations.

In the Romanian penitentiary system, schooling and professional courses are organized and inmates can also participate to university study programs.

The Regulations relating to the Execution of Sentences in Norway entered into force in March 2002 and was last consolidated in September 2020. According to the regulations, in order to qualify for a permanent position as a prison officer, the person appointed is required to have successfully completed and passed specified prison officer training. The Directorate of NCS may issue regulations for the admission of trainees and the content of the training, including the taking and completion of exams and tests.

The income from the work of inmates done in the prisons accrues to the State. Participation in work, programs, training and other measures is remunerated on an equal basis. The Directorate of NCS annually regulates the amount of the daily pay and inform the inmates. Inmates who, because of their state of health or working capacity, are deemed to be unfit for employment in the ordinary activity of the prison it is granted a minor amount of benefit payment. Equivalent amounts may be granted to convicted persons who voluntarily isolate themselves or to persons remanded in custody who will not work.

Restrictions on interaction between inmates shall be compensated through expanded contact with staff and adequate work, training and other activities and leisure options.

The regulations relating to the Execution of Sentences in Romania entered into force in June 2017 and was last consolidated in September 2023. According to the regulations, inmates can declare their religious confession or affiliation, based on their free consent upon entering the place of detention and later during the execution of the sentence. Change of religious affiliation during the period of detention is proven by a written declaration of the inmate. Representatives of cults or religious associations have access to the penitentiary and may distribute publications and religious objects to the inmates, and those who participate in activities may request confidential meetings with representatives of cults or religious associations. Detainees cannot be forced to practice any religion or adopt any faith, participate in religious meetings or gatherings and to accept the visit of a representative of a cult or a religious belief.

Detainees are guaranteed a minimum of seven hours of sleep per day, and those who work have the right to a weekly rest. Public holidays are considered rest days. The duration of work is eight

hours per day and no more than 40 hours per week. The incomes made by prisoners for the work performed are collected by the administration of the penitentiary. An amount of 40% of the income goes to the convicted person, who can use it during the execution of the sentence, and 60% of the income belongs to the penitentiary administration, constituting its own income.

For each inmate, during the period of quarantine and observation, an evaluation is carried out from an educational, psychological and social perspective that result into the Individualized Plan for Educational and Therapeutic Evaluation and Intervention, that includes the programs and activities recommended to the inmate¹⁴.

Inmates can benefit of the permission to leave the penitentiary for one to ten consecutive days if they have a consistently positive demeanor, they are persistent in work and actively participate in educational, cultural, therapeutic, psychological counseling and social assistance, school training and professional training activities.

The 2020 Annual Report of the NCS states that the objective of the Norway Grants is to contribute to reducing economic and social disparities in Europe, and to strengthen the bilateral relationship between Norway and six other European countries, including Romania. The goal of the NCS's cooperation is to contribute to the correctional services in the recipient countries, developing and having practices that apply international human rights standards. NCS has developed an overarching project concept to be implemented in all six countries that are part of the cooperation. The concept includes the establishment of pilot prisons that meet international standards and the strengthening of the rehabilitation services for inmates. All countries that participate in project have a Norwegian partner.

In cooperation with Romanian prison authorities, NCS has continued its preparations for the project implementation. Cooperation between the Norwegian and Romanian correctional services is well-established, although NCS identified a risk of delays in the tender processes for the prison buildings.

In 2020, 28 NGOs received funding from the grant scheme for voluntary and non-profit organizations that are active in NCS's area of operations. Over 2 million euros was allocated in grants.

The 2020 NAP's Annual Report stated that prison population registered an upward trend, with an increase from 22,989 inmates in 2021, to 23,114 inmates in 2022. The shortage of accommodation places decreased from 4,319 places at the end of 2021 to 2,888 places, due to the measures taken by NAP to increase the capacity for detention places, each one with a minimum space of 4 m².

According to the 2020-2025 Action Plan, developed in order to execute the judgments on *Rezmives - Bragadireanu and others against Romania*, the improvement of material conditions in prisons is being achieved by creating 7,849 new accommodation places and the modernization of 946 accommodation places. An amount of 1,400 new accommodation places and 100 modernized accommodation places are financed through the Norwegian Financial Mechanism and 1,900 new accommodation places are created through the establishment of two new penitentiaries, financed by a loan from Council of Europe Development Bank.

Compensations for 3,655 resolute claims awarded to prisoners by decisions pronounced by the European Court for Human Rights against Romania, on inappropriate imprisonment conditions, registered until December 2022, ran-down Romanian's state budget with 14,259,211 euros and 10,000 Swiss francs.

In 2022, out of the average workforce of 23,114 inmates, 5,990 were assigned to work in comparison to 2021, when, for an average population of 22,565 inmates, 4,884 were involved. This fact confirms institutional efforts to involve as many inmates as possible in gainful activities and spending as much time as possible outside the cells. The revenues collected from the work of inmates are in amount of 61,045,830.63 RON without VAT, with 32,903,923.34 RON more than those collected in 2021(the achievement increased by 46.10%).

¹⁴ Also see Barbara E. Milliken, Karen M. Keptner, Jacqueline E. Boehnlein, Heather E. Corcoran, Anna M. Knappenberger & Colleen L. Krupa, *A Comparison of Perspectives of Inmates vs. Staff in Determining Critical Content for Occupational Therapy Transitional Programming with Female Inmates*, „Women & Criminal Justice”, 2022, p. 1-25, DOI: 10.1080/08974454.2022.2126742.

According to northern correctional statistics¹⁵, the electronic monitoring implies serving a prison sentence outside the prison establishment, having a residence, a daytime occupation (e.g., a job or attending school) and consent from any cohabitants are minimum requirements for all participants serving electronic monitoring in the Nordic countries. The order on electronic monitoring includes a prohibition to leave one's residence except at specified times and for specified reasons, for example to go to work or to buy necessities. Use of alcohol or drugs is also prohibited while serving the order. Electronic equipment is used to check whether there is a breach of restrictions. On 1st of August 2008 Norway introduced electronic monitoring as a pilot. The order was implemented nationwide in 2014. The target group in Norway was initially those sentenced to prison for four months or those who have four months left to serve. In September 2020 the law was changed making it possible for people sentenced to six months prison or six months left to apply.

Also, northern correctional statistics on staff refers to the sum total of employed and available staff expressed in full time equivalents (FTEs), irrespective of sick leave. Thus, a half-time staff member who has worked for six months during a given year is counted as 0.25 staff resource. In Norway, librarians, teachers and health staff are not employed by the correctional service. In Denmark and Sweden, teachers for inmates, teachers for staff, officers under education and officers in training are employed by the correctional service.

According to Romanian correctional statistics¹⁶, in September 2023, the Romanian penitentiary system had 23,549 inmates (22,502 men and 1,047 women), out of which 23,014 (22,071 men and 943 women) were in prisons and penitentiary hospitals, 322 (266 men and 56 women) were in detention centers, and 213 (165 boys and 48 girls) were in educational centers. From the total amount of inmates 8667 (36.81%) are recidivists, 6825 (28.98%) are with criminal record and 8057 (34.21%) have no criminal record.

4. Conclusion

Not only that Romania have a larger prison population in comparison to Norway, but the release rate is lower and the average period of imprisonment is longer. This fact can highlight a real challenge in Romania in terms of effective social rehabilitation of prisoners, and even if the ratio of inmates per prison staff is higher compared to the Norwegian state, the amount of money consumed daily for a convicted person is more than seven times smaller in Romania.

Some of the major public policy differences are represented by the difference between Romania's integrated solution for social rehabilitation through specialized prison officers, and Norway's civil society-based solution for the provision of social reintegration services.

As the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) stated, the obvious conclusion on Romanian Prison System is that there are more needs to be done in order to deliver a proper reintegration into the community for the inmates, and NAP tries to accomplish that through the revision of the legislation, through the improvement of material conditions in prisons and through creating new accommodation places. Also, the efforts done by Romania are sustained by the collaboration Norway, through the logistical and financial support and the example of good practice that the Norwegian state offers to Romania, in order to streamline the process of social reintegration.

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