

A Career for Prison Educators: The Perspective of Professionalization in the Romanian Prison System

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Abstract

This article analyzes, from the perspective of interdisciplinary approach, the status of the educator – a public servant with special status in the Romanian prison system, as well as the opportunity for career development through the professionalization of the occupation of prison educator. The research employs a systemic method for the structured approach to the topic, as well as for the analysis of principles of administrative law and criminal execution law. The logical method serves as the foundation for identifying reasoning and legal benchmarks both domestically and internationally. Furthermore, the analysis highlighted in this article aims to raise awareness of the need for career development for educators within the Romanian prison system and to build a legal and social framework conducive to adopting the professional status of the educator – a public servant with special status in the Romanian prison system.

Keywords: professional statute, prison system, rehabilitation through education, public servant.

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1. Introduction

This article proposes an incursion into the national, international and European regulations that establish the coordinates for the educational activity carried out in the prison environment, with the purpose to obtain an effective social reintegration for the inmates. The incursion also reaches the historical dimension for the transformation of the Romanian penitentiary system, following the humanization process and the standards alignment for the entire prison execution period of the inmates.

According to the logical thread of the research, the evolution of the Romanian penitentiary system brings in front the evolution of an occupational category and deals with the opportunity to professionalize the prison educator occupation, an essential category of civil servants² with special status in the Romanian national defense and security system. This article also includes a brief analysis of the prison educator's career, his rights and obligations, the legal nature of the service relationship in domestic law and in comparative law.

2. Modernization of the Romanian penitentiary system. Historical and legal milestones

Until the mid-20th century, most prison systems in Europe were based on military models and structures. With the progress of the United Nations and the Council of Europe, member states recommended the separation of prison administrations from the military. Thus, most Western European countries transferred the prison service from the Ministry of Internal Affairs to the Ministry of Justice, with the aim of distancing the prison administration from police and secret service

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² Regarding the notion of a public official in Romania, see Cătălin-Silviu Săraru, *Drept administrativ. Probleme fundamentale ale dreptului public*. C.H. Beck, Bucharest, 2016, p. 370-390; Cătălin-Silviu Săraru, *Dreptul administrativ - principalul instrument de reglementare a activității administrației publice*, ASE Publishing House, Bucharest, 2020, p. 157-176; Cătălin-Silviu Săraru, *Drept administrativ. Curs universitar*, vol. I, Universul Juridic, Bucharest, 2024, p. 224-233; Antonie Iorgovan, *Tratat de drept administrativ*, vol. I, 4th ed., All Beck, Bucharest, 2005, p. 547 et seq.;

structures and bringing it closer to the jurisdiction of the courts.

This stage has been completed by the Romanian penitentiary system since the end of 1990, when the General Directorate of Penitentiaries under the Ministry of Internal Affairs, with all its assets and liabilities, was transferred to the Ministry of Justice, following the promulgation of Law No. 21 of October 15, 1990, with the continued preservation of military status for all personnel - officers, military masters and non-commissioned officers.

One of the main challenges for Romania, after half a century of totalitarian rule, was the renunciation of military status for prison staff, a crucial step in the reform of justice.

The new statute of civil servants with special status in the National Penitentiary Administration was established by Law No. 293 of June 28, 2004. The normative act establishes the renunciation of military status for all penitentiary staff and certifies that the National Administration of Penitentiaries and its subordinated units are part of the public institutions of defense, public order and national security of the State and constitute the penitentiary administration system. The normative act also stipulates that the National Penitentiary Administration is established by reorganizing the General Directorate of Penitentiaries, that the new institution operates under the subordination of the Ministry of Justice and that the staff of the penitentiary administration system is made up of civil servants with special status.

The demilitarization of the Romanian penitentiary system and its transformation into a civilian entity with special status was a legislative necessity, specified in the Strategy for the Reform of the Judicial System 2003-2007, approved by 2003 Government Decision No. 1052. The process of drafting the legislative acts for the reform of the Romanian judicial system was advised by the Spanish Penitentiary Administration, within the framework of an institutional twinning program approved by the European Union for the November 2001 - November 2002 period.

The resulting draft laws at the end of 2002 were the subject of a debate organized by the Council of Europe, with the participation of European experts from Spain, Germany, Poland, Bulgaria, the Netherlands, who welcomed the new provisions. The new law on the execution of custodial sentences and the new penal code entered into force in September 2006.

The two new pieces of legislation will lay the foundations for the reform of the Romanian judicial system and create the opportunity for the development of the Romanian penitentiary system, as you will see in the following article.

3. Prison educator between international legal standards and the realities of the Romanian penitentiary system

The concept of prison educator can be first found in an official document at the level of EU body, in the Committee of Ministers of EU Member States recommendation³ on education in prisons dating back to 1989. The document also stipulates that educators working in prisons must have experience and qualifications at least equal to those of staff working in the national network of education services. The European recommendation also states that education services in the prison system should aim to facilitate the right to education.

At the national level, mention of the prison educator can be found in the 1999 instructions on the organization and conduct of individual intervention talks by specialized prison staff. In the instructions, individual counseling calls are mentioned as a type of call carried out by the educator-counselor. The role of the counselor is to support the convicted person in solving a problem or overcoming a difficult situation, to make decisions or to understand the situation in which he/she finds him/herself.

According to the 2006 Committee of Ministers of the EU Member States recommendation⁴ on minimum rules in prison systems, every state prison should provide all prisoners with access to

³ Council of Europe Committee of Ministers. Recommendation no. R (89) 12 of The Committee Ministers to member states on Education in Prison. <https://rm.coe.int/09000016804c858f>, consulted on 1.05.2024.

⁴ Council of Europe Committee of Ministers. Recommendation Rec(2006)2-rev of the Committee of Ministers to member States on the European Prison Rules. <https://rm.coe.int/09000016809ee581>, consulted on 1.05.2024.

educational programs that meet their individual needs and states that education should not be inferior in status to work activities, so that convicted persons are not disadvantaged financially or otherwise by participating in educational activities. According to the same recommendation, it is mentioned that the education of prisoners should be integrated into the national education and vocational training system so that, after their release, they can continue their education and vocational training without difficulty.

The occupation of "educator specialist in penitentiaries" was introduced in the Romanian Classification of Occupations in 2015. The first notable elements of progress for the legal statute of the prison educator were the inclusion in the National Register on the Classification of Occupations in Romania for the occupations of specialist prison educator (with higher education) and prison educator (with secondary education), even though these occupational categories existed before the reform of the Romanian penitentiary system in 2004.

By the order of the Minister of Labor, Family and Social Protection and of the President of the National Institute of Statistics on the modification and completion of Register for the classification of occupations in Romania, the occupation of "educator specialist in penitentiaries" (code 242 904) is stated in position.

Through the EIS ALP⁵ project the issue of implementing educational approaches in the Romanian penitentiary system was addressed in 2014 and a basic competency profile for the penitentiary educator was developed, adapted to the conditions and special characteristics of the prison population.

The final version of the competency profile is structured on three categories: generic, specific and supportive. Each competence is presented in terms of specific knowledge, skills, attitudes and descriptors. Generic competences include facilitating the learning process, specific competences include the ability to manage adult learners with special learning needs, and supportive competences include solving administrative problems related to the learning process.

The researchers of the project conclude that the prison educator is a professional in adult education and that he/she exchanges information and knowledge with other specialists from a multidisciplinary perspective. Also, one of the research findings is the importance of the educator's role in the design, development and delivery of learning programs that meet the needs of the learners and comply with internal and external quality assurance criteria. The final conclusion of the study is that "the profile of adult education professionals in the Romanian prison system proves to be a complex and dynamic one, given the challenges to which this professional category is subject and the way in which it can face these challenges, in the context of staff shortages, overcrowding, limited technical and logistical resources".

Nelson Mandela Rules⁶ for prisons adopted in 2015, stipulate the obligation to possess an adequate level of education and the obligation to possess the ability and means to perform their duties in a professional manner for all prison staff, including prison educators. The resolution also stipulates that the education of inmates shall be integrated into the country's education system so that after their release they can continue their studies without difficulty and that prison staff shall include a sufficient number of specialists, including educators, teachers or instructors.

Moreover, yet another research⁷ published in 2013 on the situation and challenges of the education and training system in European prisons highlights that where prison officers themselves have low levels of qualification, there may be some problems with their understanding of the value of education for prisoners and that a small number of countries require teachers or trainers to have specific qualifications related to teaching in the prison system.

⁵ European induction support for adult learning professionals to the criminal justice system – EISALP, no 539414-LLP- 1-2013-1-RO-GRUNDTVIG-GMP. Profile of Adult Learning Professionals in Criminal Justice System. https://eisalp.eu/PDFs/Research%20report-EisAlp_RO.pdf.

⁶ U.N. General Assembly resolution 70/175, annex, adopted on 17 December 2015. United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf.

⁷ Hawley, J., Murphy, I., & Souto-Otero, M. (2013). *Prison Education and Training in Europe: Current State-of-Play and Challenges*. GHK Consulting for the European Commission. http://ec.europa.eu/education/grundtvig/confprison_en.htm.

According to the Decision of the Director General of the National Administration of Penitentiaries no. 500201/2017 on the approval of the National Rules in the field of education, psychological and social assistance of inmates, the purpose of the educator's activity is to provide qualified support in order to improve the educational level of inmates and to assist them in solving the problems they face during their detention, and the professional competences of the educator are: knowledge and assessment of the educational needs and resources of the cases he/she manages, identification of ways to improve the instructive-educational and vocational level of inmates, training, development and practice of prosocial behaviors of inmates, crisis management and educational counseling. With regard to educational counseling, it should be noted that the main way of ensuring the "balanced" standard of educational counseling activities in prisons is to guarantee staff access to training courses in this field.

The 2018 annual activity report of the Social Reintegration Department of the National Penitentiary Administration states that in the whole penitentiary system, only 275 education officers, 161 prison officers and 33 priests work in the field of education – this staff category work directly with prisoners.

One of the solutions adopted by the National Penitentiary Administration to fill vacancies for specialized staff is to organize job competitions. At the end of July 2024, the National Penitentiary Administration identifies a total of 18 specialist education officer positions in 17 separate penitentiary units, for which it organizes job competition⁸ by promoting subofficers. Among the specific conditions for filling the positions set out in the job competition notice are: graduation with a bachelor's degree (for sports instructors, a bachelor's degree in sports science and physical education is required), completion of a psycho-pedagogical training program or a trainer's course and level I computer literacy.

The general presentation of the posts of education specialist officer open for job competition includes references to the individualized knowledge of inmates and the collection of relevant data on their personality, level of schooling, qualification and problems faced during detention, drawing up activity projects and carrying out educational programs, developing their own programs, organizing and coordinating cultural, occupational and leisure activities, conducting individual interviews and carrying out educational counseling.

As highlighted in the results of research⁹ published in 2017 on the professionalization of sports educators (instructors) in European prisons, filling vacancies through the promotion of prison staff can have both positive and negative aspects when there are no clear standards and a well-defined status of the profession. The sports educators (instructors) who had recently taken up the post showed more specialized training in sport than those who had more than five years of experience in the prison system. As the education level of these professionals increased, so did their specialized training, and it was the coaches with fewer years of experience and more education who exhibited the highest degree of professionalization.

4. Professionalization of the prison educator occupation. Opportunity or necessity

Education and training are internationally recognized as a method of reducing recidivism and social exclusion. Research has shown that people serving a custodial sentence who participate in specific education activities in prison can be up to three times less likely to re-offend¹⁰. In the US context, the results of the evaluation¹¹ published by the Washington State Institute for Public Policy in 2012 found that education in prison settings leads to a reduction in recidivism and a very high

⁸ <https://anp.gov.ro/blog/concurs-de-trecere-a-agentilor-in-categoria-ofiterilor-de-politie-penitenciara-29-posturi-sectorul-reintegrare-sociala/>, consulted on 1.05.2024.

⁹ Devís-Devís, J.; Martos-García, D.; Valencia-Peris, A. y Peiró-Velert, C. (2017). „La profesionalización de los educadores deportivos en prisiones europeas / Professionalization of Sport Educators in European Prisons”. *Revista Internacional de Medicina y Ciencias de la Actividad Física y el Deporte* vol. 17 (66) pp. 205-223, DOI: <https://doi.org/10.15366/rimcafd2017.66.001>.

¹⁰ <https://publications.parliament.uk/pa/cm200405/cmselect/cmhaff/193/19306.htm>, consulted on 1.05.2024.

¹¹ https://ljfo.vermont.gov/assets/Subjects/Education-Finance-Studies/f904bbde2/2012_K-12-Education-Spending-and-Student-Outcomes_JFO_Study.pdf, consulted on 1.05.2024.

return on investment (20:1) for every dollar spent on basic education, general and post-secondary educational development for adults serving a custodial sentence.

In the literature there are several models to define what an occupation is or to assess the capacity for professionalization of an occupation. In this article we refer to the model¹² stated by Millerson in 1964. His model of professionalization indicates that a profession must include a skill based on theoretical knowledge, intellectual and educational preparation, testing and confirmation of competence, the performance of a public service, recognition of the profession by authorized institutions and the existence of a professional code of ethics.

Regarding to the occupation of prison educator, as it is foreseen in the National Register on the Classification of Occupations in Romania, in the specific legislation of the Romanian penitentiary system, in the European recommendations and according to the basic competences profile developed by the EIS ALP project, we can conclude that it meets most of the criteria set out in Millerson's professionalization model, except for the recognition of the profession by authorized institutions and the existence of a professional code of ethics.

It is important to mention another challenge of professionalization in the article¹³ dealing with the professionalization of counselling from an international perspective, namely that "the process of establishing and legitimizing a new profession is called professionalization or standardization". As in the case of the occupation dealt with in the aforementioned article, the professional identity of the prison educator has been developed through years of practice and collaboration.

5. Conclusions

Considering the legal and socio-professional context exposed chronologically in this article, we can conclude on the idea of the career and role of the prison educator in full development over the last 10 years in the Romanian penitentiary system, but we cannot help but note the slow and laborious progress. Moreover, we cannot fail to note the contemporaneity of the situation related in the study¹⁴ carried out in 2014 in the English prison system, which shows that the role and career of the prison educator suffers from a lower professional status than that of higher education or adult education teachers.

Nor can we exclude the fact that the professionalization process involves (at least) two parties: the aspiring profession and the state and that, according to the legal rules in force, only the state can authorize or create new professions¹⁵.

At the same time, it is also necessary to mention the obligation of governments, stemming from the Council of Europe recommendations, to try to promote skills that are particularly relevant today, such as working in multicultural environments, with people from disadvantaged backgrounds and with special needs¹⁶.

In conclusion, we can state not only that the occupation of prison educator has naturally gone through a broad process of development over time and that this transition may be an important reason for professionalization, but also that professionalization of the occupation of prison educator is both an opportunity and a necessity for the Romanian penitentiary system.

¹² Millerson, G. (1964), *The Qualifying Associations: A Study in Professionalization*, Routledge & Kegan Paul, London, p. 7.

¹³ Meredith L. T. Montgomery, Blythe Shepard, Hildah Mokgolodi, Mingyi Qian, Mei Tang, „Professionalization of Counseling: Perspectives from Different International Regions”, *International Journal for the Advancement of Counselling*, 2018, № 4, p. 343-364, <https://doi.org/10.1007/s10447-018-9330-6>.

¹⁴ Rogers, L., Simonot, M., & Nartey, A. (2014). *Prison Educators: Professionalism Against the Odds*. University and College Union (UCU) and the Centre for Education in the Criminal Justice System (CECJS) at the Institute of Education, University of London, https://www.ucu.org.uk/media/6179/Prison-education-professionalism-against-the-odds-Feb-14/pdf/prisoneducators-fullreport_feb14.pdf, consulted on 1.05.2024.

¹⁵ Stephen Timmons (2011). „Professionalization and its discontents”. *Health (London)*, 15(4), 337–352. <https://doi.org/10.1177/1363459310383594>.

¹⁶ Sánchez-Tarazaga, Lucía, y María Matarranz. (2023). „El Perfil Competencial Docente En La política Educativa De La Unión Europea”. *Revista De Educación* 399 (enero):131-57. <https://doi.org/10.4438/1988-592X-RE-2023-399-564>.

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