

CHILDREN'S RIGHTS BEHIND BARS

Human rights of children deprived of liberty:

Improving monitoring mechanisms

ROMANIA
2014

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ABBREVIATIONS

APADOR-CH:	Association for the Defence of Human Rights in Romania –Helsinki Committee
ANP:	National Administration of Penitentiaries (www.anp.gov.ro)
CAT:	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CMT:	Detention Center for Minors and Youth
CM:	Committee of Ministers
CoE:	Romania joined the Council of Europe
CPT:	Comite Européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants
CRC:	Committee of the Rights of Children
CRJ:	Center for Legal Resources
CRB:	Educative Center in Buzias (www.crbuzias.ro)
DGASPC:	County's Direction on Social work and Child Protection
EU:	European Union
FRA:	European Union Agency for Fundamental Rights (www.fra.europa.eu)
MJ:	Minister of Justice in Romania
NGO:	Nongovernmental organization
NATO:	North Atlantic Treaty Organization
OPCAT:	Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

I. INTRODUCTION

1. Partner organisation

West University in Timisoara (WUT) is one of the universities in Romania committed to promote academic education and research according with the best standards in our country and in Europe. The strategy of WUT regarding the development of research build-up the national and international image of the university based on its contributions to the development of knowledge and of its commitment for continuum promoting the interdisciplinary and multidisciplinary research (www.uvt.ro). The Centre for Research in Child-Parent Interaction (CICOP) is a research unit of Social Work Department within the University of West in Timisoara. CICOP was certified in 2005 by the Minister of Education in Romania. The research unit develops activities of research and training and is editing the *Today's children - tomorrow's parents* Journal (www.tctp.cicop.ro). The continuity in the work, connections and partnerships of CICOP is an important strength of the developmental strategy. The CICOP research team consider the partnership within "Child behind Bars" one of the most welcome developments of the field of interests.

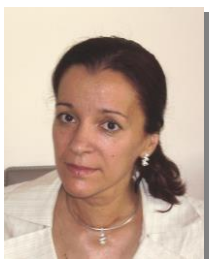
2. Team of West University in Timisoara

Coordinator: Prof. Ana Muntean, PhD, specialized in human development.



Ana Muntean is professor, at the West University in Timisoara - Social Work Department. She was, in 1995, the Founder President of the Society for Children and Parents (SCOP). Ana Muntean is currently the Founder Editor of the Journal „Today's Children are Tomorrow's Parents” (TCTP) and the Chairperson of National Society for Prevention of Child Abuse and neglect. She is currently the coordinator of a national research project in adoption and she is the author of numerous books (examples Social work practice. Romania and Germany, Polirom, 2007; Supervision: practical aspects and current trends, Polirom, 2007, Psychology of human development, Third edition, Polirom, 2009 etc.) and articles.

Researcher 1. Associate Professor Mihaela Tomita, PhD,



Mihaela Alida Tomita, graduated the Faculty of Law with specialization in Judicial Psychology, has a Ph.D. in Sociology and currently works as an associate professor at the Department of Social Work, Faculty of Sociology and Psychology from West University of Timisoara (Romania) and researcher at the Research Center Based on Child-Parent Interaction (CICOP). She also leads Timisoara Regional Office from National Antidrug Agency. Her professional, academic and scientific activity is closely related to the promotion of the alternative sanctions in the criminal justice system. Author and coauthor of several books and articles on the field, she coordinates and participates in research and intervention projects with budgetary and extra-budgetary funding.

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Researcher 2: Roxana Ungureanu, MSW.



She is a research assistant at the Research Center Based on Child-Parent Interaction (CICOP). In 2011, Roxana graduated the master program Preventing violence against children in the family and society. She has been accepted for doctoral study with a thesis based on childhood.

3. Methodology

In Romania the children 'behind bars' were almost forgot by the child protection system. Child protection system is linked to all other systems providing services for the society, such as educational system, health system, and legal system. Their rights as children were practically denied. Only during the last years these children became 'visible'.

According with the last re-organisation of the detention's system in Romania, there are 5 units dedicated to children and youth in detention. The 5 units which can be see in the map, are:

- 2 education centers (Buzias for girls and boys, and Tgu Ocna, for boys);
- 3 Detention's centers for minors and teens (**Craiova**, for boys and girls, **Targu Mures**, for boys and girls and **Tichilesti**, just for boys).

Beside these specific units, the romanian system has 6 hospital units, spread all over the country (see the map) and 2 of them (Jilava, Dej) have special units for mental health pathology. The hospitals does not have specific units for children and youth and receive adults and children and teenagers as well (see bellow the table regarding the system in June 2014).

Out of the 5 specific units for children and youth deprived of freedom, our visits in the field covered 3 units:

1. The Center for Education in Buzias (CRB).

The center has 4 different pavilions:

- 1A (difficult children);
- 2A (children easy complying and youth; youth are placed separated by children);
- 1B (new arrived children, in their first 3 weeks in the center);
- 2A (girls).

2. The Detention Center for Minors and Youth in Targu Mures (CMT Targu Mures)

3. The Detention Center for Minors and Youth in Craiova. (CMT Craiova).

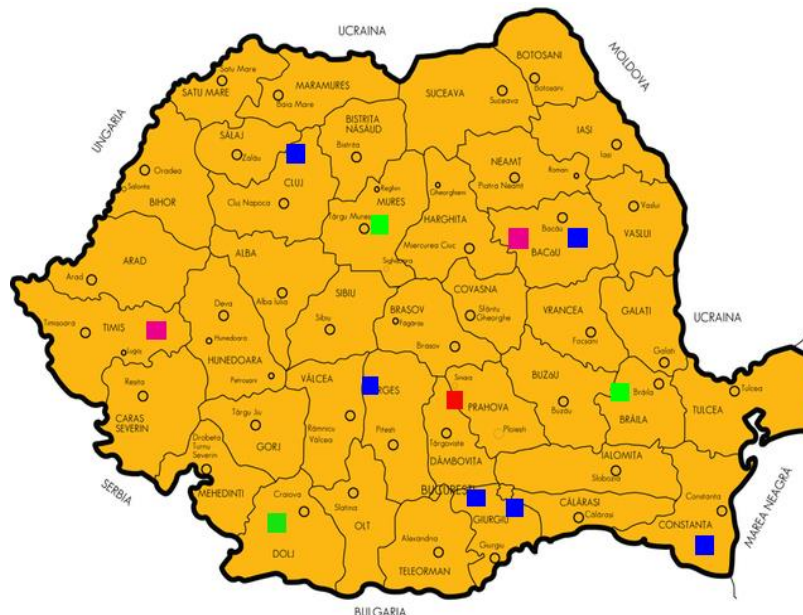
All the children had agreed to participate in the research and we collected signed consents from each child joining the focus group. The focus groups were organized on the presence of represents of the administration (in CMT Tgu Mures, Craiova and in CRB –during the first meeting; the second meeting with children in CRB, was not attended by administration representatives only the video camera were in use; the images are stored for 30 days.).

The detainees in CMT Craiova received 3 credits rewarding the participation to the focus group. The participating children in all 3 places were selected by the staff.

The 4 meetings of the research team's members with children and teens in detention (2 in CRB, 1 in Targu Mures and 1 in Craiova) were developed as focus group, with the researchers as facilitators. Two focus groups with children (CRB, the second visit and CMT Craiova) were audio recorded based on the approval of the administration of units. Transcripts followed the audio records. The 2 other focus groups were done by two researchers together and in order to accurately remember the information collected during the focus group, the researchers did the Reports on the meetings immediately following the meetings (same day). They worked together and made together efforts to remember all the significant details.

In CRB and CMT Craiova, the meetings with Directors of institutions as well as the focus groups with personnel were audio recorded. On the contrary, within CMT Targu Mures, this procedure was not allowed and the 2 researchers participants to meetings did their Reports immediately (same day) after the meetings trying to keep maximum accuracy in their telling.

Children and Youth “behind bars” in Romania



LEGEND

EDUCATIV CENTER

BUZIAS/TIMIS

TG. OCNA/BACAU

DETENTION CENTER FOR MINORS AND YOUTH

TG. MURES/MURES

CRAIOVA/DOLJ

TICHILESTI/BRAILA

HOSPITAL PENITENTIARY

COLIBASI/ARGES

JILAVA/ILFOV

RAHOVA/ILFOV

DEJ/CLUJ

TG. OCNA/BACAU

POARTA ALBA/
CONSTANTA

WOMEN/MOTHERS PENITENTIARY

TARGSOR/PRAHOVA

Table 1. The capacity of detention centers for minors and youth in Romania (June, 2014)

No.	Location /city	Male				Female				Total in jail	Total capacity
		Minors In jail	Total capacity	Youth In jail	Total capacity	Minors in jail	Total capacity	Youth in jail	Total capacity		
1	CMT Craiova	68	117	141	187	7	38	18	24	234	366
2	CMT Tgu Mures	47	71	89	165	1	3	0	0	137	239
3	CMT Tichilesti	93	116	189	206	0	0	0	0	282	322

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EUROPEAN UNION



CONSEIL DE L'EUROPE

Table 2. The capacity of penitentiary's hospitals in Romania (June 2014)

No .	Location/city	Male				Female				Total in jail	Total capacity
		Minors In jail	Total capacity	Youth In jail	Total capacity	Minors in jail	Total capacity	Youth in jail	Total capacity		
1	Hospital Penitentiary Colibasi	0	0	4	-4	0	0	0	0	4	0
2	Hospital Penitentiary Dej	1	-1	3	-3	0	0	0	0	4	0
3	Hospital Penitentiary Jilava	2	-2	17	-17	0	0	2	-2	21	0
4	Hospital Penitentiary Poarta Alba	2	-2	8	-8	0	0	0	0	10	0
5	Hospital Penitentiary Rahova	0	0	2	-2	0	0	1	-1	3	0
6	Hospital Penitentiary Tg. Ocna	0	0	4	-4	0	0	0	0	4	0

Table 3. The capacity of Educational centers for delinquent children and youth in Romania (June 2014)

No.	Location / city	Male				Female				Total in jail	Total capacity
		Minors In jail	Total capacity	Youth In jail	Total capacity	Minors in jail	Total capacity	Youth in jail	Total capacity		
1	CRB Buzias	60	96	8	12	8	16	0	4	76	128
2	CR Tg. Ocna	45	55	11	17	0	0	0	0	56	72

Penitentiary for **women Targsor** has in June 2014, 6 teenagers girls and 11 places for teen girls. No minors are received in this penitentiary.

The situation in the tables above is following the huge re-organization of the system in February 2014.

But on December 31st 2013, in the units of the National Penitentiary Administration system, there were 512 juveniles (492 boys and 20 girls), of which 38 imprisoned for murder, 39 for rape, 243 for theft, 175 for robbery, 2 for bodily injury, 1 for battery or other violence, 2 for assault against morality and public order disruption, 2 for offenses on preventing and combating trafficking in persons, 1 for offences on the prevention and combating of illicit drug trafficking and 9 for other offences.

Of the 512 minors, 400 had definitive sentences, 49 by ruling of the first instance and 63 were in preventive arrest, according to the data recorded by the NPA at the end of last year.

Of the 400 minors with definitive sentences, 163 are sentenced to internment in a reeducation center and 237 received a prison sentence. Also, of the 49 for which rulings are given in the first instance, 11 are sentenced to internment in a reeducation center and 38 received a prison sentence.

At the end of last year, reeducation centers held 170 people sanctioned with this educational measure, of which 159 had definitive sentences and 11 first instance sentences.

On June 30th 2014, the legal situation and their distribution in centers were as follows:

The units of the National Penitentiaries Administration system housed 346 (321 boys and 25 girls) minors arrested for the following offenses: 35 murder (18 old Criminal Code + 17 new Criminal Code), 27 rape (14 old Criminal Code + 13 new Criminal Code), 124 theft (39 old Criminal Code + 85 new Criminal Code), 148 robbery (41 old Criminal Code + 107 new Criminal Code) and 12 (5 old Criminal Code + 7 new Criminal Code) other offenses.

For 291 of these minors, decisions are definitive, 8 are sentenced in first instance and 47 are in preventive arrest.

Of the 291 minors with definitive sentences, 119 are sentenced to confinement in an educational center and 172 are sentenced to internment in a detention center and of the 8 whose decisions are rendered in first instance, 2 are sanctioned with the measure of internment in an educational center and 6 are sanctioned with internment in a detention center.

4. Limitations of our research

The most important limitation came from the limited **financial support** for the field research. The 3 units visited are place at 45km out of Timisoara (CRB Buzias), 350 km (CMT Targu Mures), 334 (CMT Craiova). All the costs were covered from our pocket and in Targu Mures we also had 2 nights at the hotel. CRB Buzias is officially recognized as being **the best** and we consider that this is a limit of our research. The choice was made because of the vicinity to Timisoara.

Another limitation was created by the **selection** of participating children and by the **staff attending** the focus groups.

The moment when we did the research was also not in our favor as **the new methodology** for the new laws and regulations was not in use that moment.

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II. THE INTERNATIONAL FRAMEWORK

Ratified conventions

Romania joined the Council of Europe (CoE) on October 7, 1993, when it has been signed statutory documents and the European Convention of Human Rights and Fundamental Freedoms, at the first Summit of the CoE (Vienna, 1993).

Currently, Romania has an important political and institutional capital in the Council of Europe, represented by the sum of the efforts of policy makers and the Romanian state institutions (parliament, government, judiciary, local authorities) to promote the application of the acquis of the Council of Europe in Romanian society in the legal, institutional and societal area.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

This international human rights instrument, aiming to prevent torture and cruel, inhuman degrading treatment or punishment around the world, requiring states to take effective measures to prevent torture within their borders, and forbidding states to transport people to any country where there is reason to believe they will be tortured, was ratified by Romania on the 18th of December 1990.

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

This treaty that supplements to the 1984 United Nations Convention Against Torture was signed by Romania on the 24th of September 2003 and ratified on the 2nd of July 2009. It establishes an international inspection system for places of detention modeled on the system that has existed in Europe since 1987, the Committee for the Prevention of Torture. Under the Convention, SPT delegations have unlimited access to places of detention and the right to move inside such places without restriction. They interview persons deprived of their liberty in private and communicate freely with anyone who can provide information, based on the information gathered, the committee creating a report which is sent to the State concerned, report representing the starting point for an ongoing dialogue with the State concerned. The guiding principles of the SPT are co-operation with the national authority, as the aim is to protect persons deprived of their liberty rather than to condemn States for abuses and confidentiality, this principle referring to the committee's reports, which are confidential, unless the country fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, case in which the SPT may decide to make a public statement.

European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Widely regarded as being one of the most important of the Council of Europe's treaties, overseeing compliance with the provisions of the Convention is the task of the Committee for the Prevention of Torture. It was signed by Romania on the 4th of November 1993 and ratified on the 4th of October 1994.

The Convention on the Rights of the Child (CRC)

The Convention on the Rights of the Child (CRC) has been adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 and entry into force on 2 September 1990, in accordance with article 49. This convention was signed by Romania on the 26th of January 1990 and ratified on the 28th of September of the same year.

Governments of countries that have ratified the Convention are required to report to, and appear before, the United Nations Committee on the Rights of the Child periodically to be examined on their progress with regards to the advancement of the implementation of the Convention and the status of child rights in their country. Their reports and the committee's written views and concerns are available on the committee's website.

Recommendations of international monitoring and inspection mechanisms and treaty bodies. Complaint mechanisms available to minors under these conventions

The **first reference** to the conditions of imprisoned children or children in limited freedom circumstances is made in 2009, by *COMMITTEE ON THE RIGHTS OF THE CHILD (CRC), Fifty-first session CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION, Concluding observations of the Committee on the Rights of the Child: Romania*. The document mentions:

“43. The Committee reiterates that law enforcement officers continue to employ ill-treatment, including threats and physical abuse when coming in contact with children, particularly in the investigation stage of cases. The Committee notes that **no mechanism is available to children deprived of liberty in all areas, including psychiatric institutions, with which they can file a complaint regarding their treatment, and which can also serve to inform authorities and gather data.**

44. The Committee, reiterating its previous recommendations, urges the State party to:

- (a) Investigate all allegations of torture and other cruel, inhuman or degrading treatment or punishment of children and make all efforts to fully cooperate with the Special Rapporteur on the question of torture;
- (b) Ensure the inadmissibility of evidence obtained through the use of torture;

- (c) Set up a mechanism to which children deprived of liberty in all areas, including psychiatric institutions, can address complaints of torture or other cruel, inhuman or degrading treatment or punishment;
- (d) Take measures to follow-up on the recommendations made by the Human Rights Committee (CCPR/C/79/Add.111, para. 12);
- (e) Take immediate measures to stop police violence against all children and challenge the prevailing culture of impunity for such acts;
- (f) Enhance the implementation of legislation prohibiting all forms of torture and other cruel, inhuman or degrading treatment or punishment and provide care, recovery, reintegration and compensation for victims.”(p.10).

Regarding the **Administration of juvenile justice** in Romania, in 2009, the Committee suggests the following recommendations (p.24-25):

- (a) There is a lack of a uniform national policy on prevention;
- (b) Procedural rights of children are violated during the investigation stage, including access to a lawyer, coercion to extract statement or confession;
- (c) While some judges have been trained particularly to deal with children, this is not always taken into account in the assigning of cases between the judiciary;
- (d) Children are often deprived of liberty in adult detention facilities and while they are kept separately from adults, they do not benefit from special programmes;
- (e) There are very few rehabilitation centers and penitentiaries for children in conflict with the law, and there are no measures for or institutions charged with assisting such children with re-integration in the society;
- (f) Children deprived of liberty have seldom access to appropriate education services, while there are no provisions for education of children in pre-trial detention;
- (g) The legislation regulating the activity of re-education centers (Decree No. 545/1972) has been considered by the Ombudsman to be obsolete and no longer adequate to ensure the child's best interests, and the child's physical, psychological, medical, and educational development.

92. The Committee recommends that the State party continue its efforts to improve the system of juvenile justice in line with the Convention, in particular articles 37, 39, and 40, and other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their

Liberty and the Guidelines for Action on Children in the Criminal Justice System. It also recommends that:

- (a) Preventive measures be taken, such as supporting the role of families and communities in order to help eliminate the social conditions leading children to enter in contact with the criminal justice system, as well as all possible measures to avoid stigmatization;
- (b) The right to a fair trial is respected at all stages of the proceedings, including at the investigative stage;
- (c) Children in conflict with the law be always dealt with within the juvenile justice system and never tried as adults in ordinary courts;
- (d) The institution of specialized judges for children be introduced in all the regions and that such specialized judges receive appropriate education and training and stability;
- (e) Detention is applied as a measure of last resort and for the shortest possible period of time and be reviewed on a regular basis with a view of withdrawing it;
- (f) Until such time that the establishment of juvenile courts becomes possible, all measures be taken to ensure that the review of criminal cases concerning children is conducted with respect to the child's right to privacy and by judges, legal and psychological councils trained accordingly;
- (g) Children deprived of liberty have access to education, including in pre-trial detention
- (h) Legislation on regulating the activity of re-education centers (Decree No 545) be reviewed.

III. THE NATIONAL FRAMEWORK

Legal and regulatory framework for the detention of children

1. Penal responsibility of children in the old and the present regulation

The interdisciplinary approach to juvenile criminality, in view of evaluating and ensuring the best interests of the child in the criminal proceedings in which he is involved was the main goal of the development of Title V of the general part of the New Criminal Code, entitled *Minority*, whose structure greatly enlarged as opposed to the old Criminal Code and constitutes one of the central points of the penal reform¹.

The 22 articles composing Title V of the general part of the New Criminal Code are grouped into 4 chapters and concern: the minor's criminal liability regime (art. 113-116), the non-custodial educational measures regime (art. 117-123), the custodial educational measures

¹ Pascu, I., Buneci, P. (2011). *Noul Cod penal, Partea generală și Codul penal, Partea generală în vigoare. Prezentare comparativă*. Ediția a II-a, revăzută și adăugită. București: Editura Universul Juridic, p. 158.

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regime (art. 124-127) and common provisions concerning minors in the general part of the new Criminal Code, relating to the effects of mitigating/aggravating causes (art. 128), to the plurality of offenses (art. 129) and the peculiarities of the minors' sanctioning regime (art. 130-134). The changes brought to this chapter are radical; the legal practice to which we must relate is inexistent.

The 15 articles composing Title V of the general part of the old Criminal Code contain provisions regarding both the limits and consequences of the criminal liability of minors, educational measures (art. 99-108) and the penalties that may be imposed on such categories of subjects (art. 109-110 ind. 1)².

A first difference between the two codes can be illustrated in terms of the consequences of criminal liability. Thus, while the old Criminal Code provided that an educational measure or a punishment may be imposed on the criminally liable child, the new Criminal Code only contains provisions relating to educational, custodial and non-custodial measures³.

2. Limits of the criminal responsibility of children

In terms of the age at which a person can be held criminally responsible, no differences from the old Criminal Code exist (art. 99); according to art. 113 of the new Criminal Code, children under the age of 14 are not criminally liable.

The child aged between 14 and 16 years is criminally responsible only if it is proved that he committed the act with discernment, and the child who has reached the age of 16 is criminally liable under the law. The new regulation is identical, the discernment of the child aged between 14 and 16 being established, as before, based on a forensic-psychiatric expertise.

Regarding the child who has reached the age of 16, he is presumed to have discernment. As this presumption is not absolute, its overthrow can occur in cases provided by law (eg., when the criminal prosecution body or the court doubts the discernment of the child at the time the offense was committed).

3. Consequences of the criminal responsibility of children (and of adults who, at the time the offence was committed were aged between 14 and 18 years)

The sanctioning regime of children, through the new Criminal Code, is amended in its entirety, being based solely on educational measures (art. 114 of the new Criminal Code), unlike the old Criminal Code, which, for children who are criminally responsible, provided a special sanctioning system consisting of educational measures and punishments, both categories of sanctions having the character of criminal law sanctions⁴. Thus, art. 100 of the old Criminal Code provided in par. (1) that an educational measure or a punishment can be

² Antoniu, G. (coord.), Boroi, Al., Bulai, B.-N., Bulai, C., Daneș, Șt., Duvac, C., Guiu, M.-K., Mitrache, C., Mitrache, Cr., Molnar, I., Ristea, I., Sima, C., Teodorescu, V., Vasiu, I., Vlășceanu, A. (2011). *Explicații preliminare ale noului Cod penal, Vol. II (art. 53-187)*. București: Editura Universul Juridic, p. 327.

³ Idem, p. 327-328.

⁴ Boroi, Al. (2000). *Drept penal. Partea generală*. Ediția a II-a. București: Editura All Beck, p. 293.

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taken against the criminally liable child. When choosing the appropriate sanction, the social danger of the act committed, the physical status, the intellectual and moral development, the behavior, the conditions in which the child was raised lived and any other elements in measure to characterize the person of the child were taken into account. Paragraph. (2) of the same article provided that the penalty is only applied if it was believed that an educational measure was not sufficient for the rehabilitation of the child.

The new regulation sought to change the center of gravity from custodial sanctions to alternatives to detention. The changes made to the sanctioning regime in this field are in full accordance with the provisions of international documents on justice for children, with regards to the latter, the new regulations excluding the penalty of imprisonment or fine.

Exceptions to this rule are set out in par. 2 of the article. Thus, against the child who at the time of committing the offense was aged between 14 and 18 years, a custodial educational measure can also be decided, but only in the following cases:

- If he has committed another crime for which an educational measure was applied, measure which was executed or whose execution began before the committing of the offense for which he is tried;
- When the punishment provided by law for the offense committed is imprisonment for 7 or more years, or life imprisonment.

The criteria to be taken into account in determining the educational measure, custodial or non-custodial, are provided by art. 74 of the new Criminal Code, being much more detailed than in the old regulation, but at the same time, common for all categories of offenders, children and adults:

- The circumstances and manner of commission of the offense, as well as the means used;
- The state of danger created for the protected value;
- The nature and seriousness of the produced outcome or of other consequences of the offense;
- The reason and purpose of the offense;
- The nature and prevalence of offences, which constitute the offender's criminal history;
- The conduct after committing the offence and during the criminal trial;
- The level of education, age, health status, family and social situation.

Concerning the *custodial educational measures*, inserted in art. 115 par. 1 section 1 of the new Criminal Code, the order of their listing is not random, but it represents a scale of measures increasingly harsher in content, corresponding to the concrete social danger of the offence committed and the level of risk of repetition of the criminal behavior⁵.

The *civic training stage* educational measure (art. 117, new Criminal Code) consists of compelling the child to participate in a program lasting four months at most, in order to help him understand the legal and social consequences he exposes himself to when committing crimes and to make him accountable for his future behavior. The organization, ensuring participation and the supervision of the child during the civic training stage are done under

⁵ Dascăl, T. (2011). *Minoritatea în dreptul penal român*. București: Editura C.H. Beck, p. 302-303.
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the supervision of the probation service, without this affecting the child's educational or vocational schedule.

Custodial educational measures are provided in art. 115 par. 1 section 2 of the new Criminal Code: internment in an educational center, internment in a detention center. Article 141 of Law no. 254/2013 on the execution of custodial sentences and measures ordered by judicial bodies during criminal proceedings⁶ states that these educational and detention centers are institutions specializing in the social rehabilitation of interned persons, where they attend educational and vocational training programs in accordance with their skills, as well as other activities and programs aimed at their social reintegration. The difference between the two institutions is given by the existence of a security and surveillance regime in detention centers.

Concerning custodial educational measures, crucial are the conditions provided by art. 114 par. 2 of the new Criminal Code, both for opting in favor of this group of measures, as well as for opting for one of the two measures provided by law, following that upon the individualization of the measure chosen, the general criteria of individuation be used mainly. Custodial educational measures constitute in fact an exception to the execution of educational measures without removing the child from the family environment, warranted either by the repetition of the criminal behavior, or by the seriousness of the offense committed.

The educational measure of internment in an educational center consists of remanding a child to an institution specializing in the rehabilitation of children, where they will attend a scholastic and vocational training program according to their abilities, as well as social reintegration programs (art. 124 par. 1). Although custodial, the measure of internment in an educational center is an educational measure, in which prevalent is the formative and educational program, aimed at the re-socialization of the child⁷. The duration of this educational measure is determined by the court, based on the general individualization criteria provided in art. 74 of the new Criminal Code, between 1 and 3 years and is not influenced by the child reaching the age of 18.

The lawmaker has considered multiple possibilities concerning the child's behavior and provided the decisions that can adopted by the court⁸. Thus, if during the internment period, the child commits a new offence or is tried for a concurrent offence committed prior, the court can maintain the measure of internment in a reeducation center, prolonging its duration, without exceeding the maximum provided by law, or it can replace it with the measure of internment in a detention center (art. 124 par. 3, new Criminal Code).

The educational measure of internment in a detention center consists of remanding the child to an institution specialized in the rehabilitation of children, with a security and surveillance

⁶ Publicată în M. Of. nr. 514 din 14 august 2013, cu modificările aduse prin O.U.G. nr. 3/2014 pentru luarea unor măsuri de implementare necesare aplicării Legii nr. 135/2010 privind Codul de procedură penală și pentru implementarea altor acte normative, publicată în M. Of. nr. 98 din 7 februarie 2014.

⁷ Antoniu, G. (coord.), Boroi, Al., Bulai, B.-N., Bulai, C., Daneș, Șt., Duvac, C., Guiu, M.-K., Mitrache, C., Mitrache, Cr., Molnar, I., Ristea, I., Sima, C., Teodorescu, V., Vasiliu, I., Vlășceanu, A. (2011). *Explicații preliminare ale noului Cod penal, Vol. II (art. 53-187)*. București: Editura Universul Juridic, p. 351.

⁸ Pascu, I., Buneci, P. (2011). *Noul Cod penal, Partea generală și Codul penal, Partea generală în vigoare. Prezentare comparativă*. Ediția a II-a, revăzută și adăugită. București: Editura Universul Juridic, p. 677.

regime, where he will attend intensive social reintegration programs, as well as scholastic and vocational training programs according to his skills (art. 125 par. 1, new Criminal Code).

The distinction between an education and a detention center consists of the fact that in the detention center, the child's rehabilitation process takes place in conditions of security and surveillance⁹. Internment is disposed over a period between 2 and 5 years, unless the punishment provided by law for the respective offense is imprisonment for 20 years or more or life imprisonment, when internment is taken over a period between 5 and 15 years (art. 125 par. 2, new Criminal Code).

If during internment the child commits a new offence or is tried for a concurring offense committed prior, the court extends the measure of internment, without exceeding the maximum of 15 years, determined in relation to the harshest punishment provided by law for the offences committed.

In police custody, according to the special report on respecting the rights of children deprived of liberty in Romania, conducted by the Ombudsman with the support of UNICEF, Bucharest 2014, there were reported two violations of children's rights, such as: physical and psychological pressures during the investigation and inadequate legal assistance. The report also shows that more than half of the interviewed children (57%) said they were communicated their rights, at the time of arrest, and 63% of them said they were not told they can make complaints.

4. Other relevant provisions

The new Criminal Code does not contain judicial aggravating circumstances.

Also, Title V contains provisions relating to the plurality of offenses, the discovery of an offense committed during minority and to prescription, both that of the criminal liability of children and that of the execution of educational measures. Moreover, as in the old regulation, offences committed during minority do not attract interdictions, revoking or incapacitations.

The Child's Ombudsman is the name of the deputy specializing in children's rights, according to a legislative proposal for amending and completing Law no. 35/1997 on the organization and functioning of the Ombudsman, republished, with subsequent amendments and completions.

(6) The Child's Ombudsman also develops actions provided by law on his own initiative, cooperating, to this end, with citizens, NGOs or public institutions and authorities activating in this field, which indicate violations of the rights or interests of the child.

The most recent study realized by the Ombudsman (Report on the rights of children deprived of their liberty in Romania, Bucharest, 2014) was an initiative of the Ombudsman's Office of Romania and has been conducted with the technical support of UNICEF Romania.

At the official launch of the report, the Ombudsman and UNICEF Romania signed a Memorandum of understanding for the period 2014-2017, in order to contribute to the expansion and strengthening of the child rights in Romania. Through this Memorandum, UNICEF will support the growth of the Ombudsman institution ability in order to function as an effective mechanism for independent monitoring of child rights, namely to identify,

⁹ Pașca, V. (2011). *Drept penal. Partea generală*. București: Editura Universul Juridic, p. 449
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analyze and report violations of these rights, and to follow the steps that are taken in response to these demarches.

During February-March 2014, lot of re-organizations has occurred within the juridical system in Romania. The re-organizations brought:

1. A new type of education centers for delinquent children deprived of liberty, starting with 14 years old and having court's sentence or being still in trial. These centers accommodate children who committed a criminal offense, for whom an educative measure was decided by the Court.
There are 2 such centers in Romania: 1. Buzias and 2. Targu Ocna. The center in Buzias receives delinquent children, both genders, from 22 departments of Romania, while Targu Ocna receives only boys.
2. A new detention centers for minors and youth. There are 3 specialized centers: 1. T-gu Mures, 2. Craiova and 3. Tichilesti.

Both types of centers (education and detention) has specialized personnel in working with children deprived of liberty, doing education and rehabilitation.

The children are entering the education center or the detention center according with the Court Sentences; these sentences are focused on the severity of the crime and the age of the child. Both types of units accommodate Minors (14-18 years old) and Youth (18-21 years old). (see the dynamic of children on 31 of May 2014).

A minor in CMT Craiova expressed the difference between two types of units: "in CRB Buzias there are more activities...here are more rules."

IV. FROM THEORY TO PRACTICE: Analysis

1. MONITORING MECHANISM

The centers for education benefit of two types of visits:

***'external' visits** = done by NGO-s representatives, politicians, parents (occasional and unpredictable)

* regular **'internal' visits** = by different departments in the ANP + their officers according to a timetable established by the Director (predictable)

*draft law amending the Law no. 35/1997 : Ombudsman is to take over the duties of the National Mechanism for the Prevention of Torture in detention.

Through the Memorandum signed by Ombudsman and UNICEF Romania for the period 2014-2017, UNICEF will support the growth of the Ombudsman institution ability in order to function as an effective mechanism for independent monitoring of child rights.

a). Good practices

* The children are aware about these visitors and about the focus of these visits on the quality of their life in institutions. They feel free to talk to the visitors.

* Always Reports will follow the inspections. Sometimes verbal comments will be also passed to the staff. Always, in each unit, a plan for changing the critical aspects is build-up / All controls end up with a written document sent back to institution and asking for solutions to the signaled problems.

- * Despite the uncomfortable feelings during the controls the positive and developmental sides of the controls are highlighted by all the Directors.
- * the openness of the units to receive visitors from outside

b). Difficulties/Obstacles

- * Apparently all the children have access to the inspectors or visitors but some children are selected by the staff for talking with the visitors ("the bad children" are more or less excluded from such meetings)
- * Visits and inspections are perceived in an ambivalent way. There is a direct proportion between the quality of life conditions in the unit and the positive perception of the visits and inspection. In CRB where the conditions are the best the perception of the inspections is mostly positive. In CMT Targu Mures where the conditions are very restrictive the inspections are perceived in a most frustrating way.
- * each external visit is recorded ...
- * The most important obstacle is the lack of funds.
- * The lack of specialist is also mentioned as well as the insufficient legal framework.
- * The attitude of the community towards the prisons and the detainees is also identified as an obstacle.

Comments to focus groups and interviews:

The children are aware about these visitors and about the focus of these visits on the quality of their life in institutions. They feel free to talk to the visitors. Within CRB the visits have larger diversity and do not concern just the material conditions but have also educative objectives. CRB is obviously more open to visitors comparing with CMT.

Apparently all the children have access to the inspectors or visitors but some children are selected by the staff for talking with the visitors. "the bad children" are more or less excluded from such meetings.

The visits are perceived in an ambivalent way. The stress of the visits is created by the limitations brought to what they perceive as being their 'rights'. Probably some of these limitations have good reasons (forbidding the smoke) but the way in which is impose the new rule is bringing lot of stress to the children already traumatized in their previous life. Other rules are probably not necessary (the bedding) and especially when this is bringing a bit comfort to children in detention.

Internal visits are done by different departments in the ANP. But they also have internal visits done by their officers according with a timetable established by the Director. These visits bring and ask for transparency and accountability in all the aspects regarding the life of children in the center. Usually but not always the visits end-up with a feed-back (Report). Being monitored supposes the registration of every aspect of the daily life in the unit which increases the bureaucratic aspects of the work in the units. There are clear procedures for the internal monitories and visits. In Romania there is a national electronic system for monitories and report. The reports in the system are done daily by each unit in the ANP, all over the country. This concerns the number of detainees as well as special events.

Always Reports will follow the inspections. Sometimes verbal comments will be also passed to the staff. Always, in each unit, a plan for changing the critical aspects is build-up.

Visits and inspections are perceived in an ambivalent way. There is a direct proportion between the quality of life conditions in the unit and the positive perception of the visits and inspection. In CRB where the conditions are the best the perception of the inspections is mostly positive. In CMT Targu Mures where the conditions are very restrictive the inspections are perceived in a most frustrating way.

Analyzing the obstacles is a reflection exercise. Where the conditions in the unit are better the reflection capacity of the staff and their disposal to reflect is higher.

Each “external” visit, including the visit of the family’s members, is carefully recorded.

The most important obstacle is the lack of funds. The lack of specialist is also mentioned as well as the insufficient legal framework. The attitude of the community towards the prisons and the detainees is also identified as an obstacle.

Despite the uncomfortable feelings during the controls the positive and developmental sides of the controls are highlighted by all the Directors.

Despite the good understanding of children rights, apparently this is not a topic on the agenda of the management team. The way to improve the implementation of children rights is seen as being to higher more supervisors. This can be right but the selection and training of these employees is probably even more important for the implementation of children rights.

The representatives of non-governmental organizations, which carry on activities in the field of human rights, may visit the penitentiaries and may contact the sentenced persons, with the consent of the Director General of the National Administration of Penitentiaries.

The meetings of the representatives of the non-governmental and the sentenced persons shall be carried on in terms of confidentiality, under visual surveillance.

2. COMPLAINT MECHANISM

The children can complaint verbally or in a written form. They will receive an answer which will be written if their request is in written form. If they do not agree with the solution taken following the investigations they can go further with the complaint. The content of the complaints regards the daily life in institution, conflicts and violence in the group, and the possibilities to be released earlier

Individual complaints :

* **delagate judge** = According to Law no. 254 of 19 July 2013 on the execution of sentences and deprivation of liberty measures ordered by the court during the criminal trial, as amended by the Government Emergency Ordinance no. 3/2014, article 8 shows that the surveillance of imprisonment judge is appointed by the president of the appeal court in whose jurisdiction runs an educational center or a detention center. This designation is based on its prior written consent, especially of the judges who previously had the same quality or have exercised powers under the criminal enforcement department of the court.

In Article 9 there is regulated the activity of the surveillance of deprivation of liberty judge that controls the lawfulness of sentence execution and deprivation of liberty measures, exercising it under the present law. It is responsible for resolving complaints of detainees on the exercise of rights provided by the law, of those regarding establishing and changing those arrangements for enforcement of penalties and custodial educational measures and those concerning disciplinary sanctions application.

Also, he is the president of the Commission for parole.

Under article 101, the application of disciplinary sanctions to convicted persons may not restrict the right of defense, the right to petition, the right to vote, the right to correspondence, the right to medical assistance, the right to food, clothing, bedding and minimum conditions of accommodation, daily walk right and the right to rest. Article 102 specifies that misbehavior is found, ex officio or at the request of any person, by the administration staff of the detention and shall be recorded in an incident report that will be reviewed by the Disciplinary Commission that will determine the disciplinary sanction considering the nature and manner of commission of the offense, the person and the health of the convict, the disciplinary offenses committed before, the attitude of the convicted person after committing the irregularity and during disciplinary proceedings. This committee is made up of the deputy director for detention and penitentiary regime security as president, the deputy director for education and psychosocial assistance and an officer appointed by the penitentiary director, as members. The decision of the disciplinary committee is communicated to the convicted person immediately, signed, by the secretary of the discipline committee, showing the existing appeal way and time of its exercise.

According to article 104, the appeal against the disciplinary committee decision, through which there has been applied a disciplinary sanction, may be made to the supervisory of deprivation of liberty judge within 3 days after the communication of decision, and this complaint suspends the execution of disciplinary measures until resolution. Against the surveillance of imprisonment judge's conclusion, the convicted person and the administration of the detention place may enter objection to the court in whose district the prison is located, within 5 days after the notification of the conclusion. The court decision is final.

*** the Director or Disciplinary commission =**

Collective complaints are done in a specific way developed within the environment. Collective complaints are based on a common interest but there is not regulation for officially rise such complaints.

a). Good practices

*** the delegated judge** = during his work in institution (1-2 days/week) the judge will registries all the complaints in special book where he will also shortly mentions the decision taken to the complaint / The conclusions of the judge in charge of the supervision of deprivation of liberty became enforcement,

* The detainees are informed on the written documents when complaining to the Court or even to the delegated Judge.

* The internal rules are communicated to the detainees from the very beginning. The rules and procedures are very similar in all these institutions. They have access to addresses and facilities for internal and external complaints.

- * There are clear and transparent procedures in use for recording, solving, providing the feed-back to the child
- * The minors remanded to an educational or detention center are entitled to formulate written requests, using the standardized form put at their disposal by center staff.
- * To ensure the exercise of the right to petition and the right to correspondence, within educational and detention centers are installed mailboxes.
- * Correspondance is confidential

b). Difficulties/Obstacles

- * There is a fear and lack of confidence among children for making complaints because very often the feed-back on the complaint concerns both parts refraining their rights. In the same time, the uncomfortable consequences can come from mates // one reason for not complaining is the possibility to acquire following the complaint a report on incident. The report on incident will bring some disadvantages or punishments for the child.
- * For detainees having low level of education to organize their thoughts and to structure a complaint is probably a difficult and disappointing endeavor. Probably lot of children will give-up and resign from complaining
- * In each institution there are specific/cultural ways of complaining, different of those advertised by the inside regulations (The self mutilation is pervasive strategy to complaint (CRB, CMT-both))
- * superficial understanding of the complaint mechanisms and roles by the staff / but not enough understanding of the role of this child's right by the staff

COMMENTS

Mostly the complaints are related to the conflicts and violence in the group. Very often being afraid of the follow-up of complaints, the children try to solve out the conflict by them self. They developed a technique to stop the violence between 2 children using the chair to stop them to attack each other.

The daily life conditions and the access to some facilities (going to work outside the institutions) are the most frequent and motivating complaints.

The dysfunctions in making requests, complaints, and petitions are because of lack of education of children. Staff also has to be train in being aware about the importance of these complaints for child development and rehabilitation and the need to pay full attentions to it. There are clear and transparent procedures in use for recording, solving, providing the feed-back to the child but not enough understanding of the role of this child's right.

John Bowlby developed the attachment theory starting with delinquent children in an institution. Half a century following this knowledge the attachment theory and its role in the healthy development of the child is still ignored by the staff working with delinquent children. Another important piece of information often missing among the staff in these units is the specificity and importance of the adolescence in changing the pattern of development of an individual. As child psychologist I consider that having such knowledge and implementing

this in their rehabilitation work with the children deprived of liberty the recidivism would be much more diminished.

The letters with complaints are placed by children them self in the post-box which is in the yard of the administration of institution. The post-box has a key which is with the postman and nobody in institution has another key. The children buy from their pocket the envelopes and stamps but if they do not have money the personnel in the center will provide them envelopes. APADOR-CH suggested to place another post-box in the yard, near the football playground, where children spend most of the time.

In CMT Craiova they have 3 post-boxes for letters or complaint.

There is a fear and lack of confidence among children for making complaints. This is because very often the feed-back on the complaint concerns both parts and it is refraining the accesses to some facilities. For instance the children who got the right to work outside the center, following the complaint both parts active in the conflict will be retain in the center and not permit to go out of institution. In the same time, the uncomfortable consequences can come from mates.

In each institution there are specific/cultural ways of complaining different of those advertised by the inside regulations. These 'techniques' are quickly learned by the newly arrived children. Usually these are used because the lack of capacity of children to control themselves but also because they want to show-up and because they do not trust the efficacy of the regular way to complaint. The self mutilation is pervasive strategy to complaint (CRB, CMT-both).

There is a period of 3 weeks in the beginning when children learn the official way of functioning within the institution, rights and obligations, including the way to complaint.

In each institution there is a judge delegated to be and to work in the institution once or twice by week. The decision taken by this judge is stronger comparing with the decision taken by the Director or Disciplinary commission. All the children know the procedure when doing a complaint. But one reason for not complaining is the possibility to acquire following the complaint a report on incident. The report on incident will bring some disadvantages or punishments for the child. As mostly of the reports are on self mutilations and violence among children, or conditions in the institution (food, access to television, for instance) probably most of complaints are based on the same kind of 'incidents'. Collective complaints are done in a specific way developed within the environment. Collective complaints are based on a common interest (for instance, access to television) but there is not regulation for officially rise such complaints.

The detainees are informed on the written documents when complaining to the Court or even to the delegated Judge. But they will not keep the documents; instead the document is included and kept in the juridical Record of the child. The children met in all 3 places visited by our research team are not unsatisfied with the speed of feed-back. But somehow they are resigned having the feeling that the authorities 'don't care about us!' This is pity because very often the staff is very concern about these children. It is a lack of communication between staff and children in detention. This situation is partially due to the strict rules and regulations in the centers as well as to lack of training of the staff regarding the importance of efficient communication with the detainees.

For detainees having low level of education to organize their thoughts and to structure a complaint is probably a difficult and disappointing endeavor. Probably lot of children will give-up and resign from complaining due to this reason.

The internal rules are communicated to the detainees from the very beginning. The rules and procedures are very similar in all these institutions. They have access to facilities for internal and external complaints. The opinion of the staff regarding the percent of the truth of these complaints shows a superficial understanding of the complaint mechanisms and roles.

The dysfunctions in making requests, complaints, and petitions are because of lack of education of children, fear for consequences, the attitude of staff and the technical arrangements at disposal of children.

There are clear and transparent procedures in use for recording, solving, providing the feedback to the child but not enough understanding of the role of this child's right.

There are clear procedures and rules to make known by the child the disagreement with the decision on his complaint.

The children can complaint verbally or in a written form. They will receive an answer which will be written if their request is in written form. If they do not agree with the solution taken following the investigations they can go further with the complaint. The content of the complaints mostly regards the daily life in institution, conflicts and violence in the group, and the possibilities to be released earlier.

Regarding the possibilities of children to complaint all the procedure are clear and well known by children. All the complaints (verbally or written) are registries and solutions are communicated to children in a short delay.

The Child's Ombudsman decides on petitions regarding the violation of children's rights or freedoms, verifies the activity carried out to legally resolve complaints received and calls on the authorities or government officials concerned to terminate the infringement of rights and freedoms, to reinstate rights and liberties and to repair damages".

In the Ombudsman Institution, a plan for implementing the legislative proposal on the Child's Ombudsman will be developed after the adoption of the draft, plan which will include, among others, a hearings schedule, as well as a special telephone number where the Child's Ombudsman can be notified in view of fulfilling his role.

The minors remanded to an educational or detention center are entitled to formulate written requests, using the standardized form put at their disposal by center staff.

The educator agent, the ward officer or other persons authorized by the director have the responsibility of receiving requests, confirming registration and distributing the mentioned requests to the departments and activity sectors that, through the nature of their duties, make suggestions or give rulings in relation to the subject of the request. Also, these persons will communicate the resolutions for these requests

In case of dissatisfaction on how requests are handled, they can be addressed to the National Penitentiary Administration or to any other institution within right.

The right to petition is guaranteed. Petitions and responses to these petitions are of confidential character and cannot be opened or retained. The term petition includes any request or notice addressed to public authorities, public institutions, judicial bodies, courts or international organizations.

This right is closely linked to the right of minors, throughout their internment, to unlimitedly receive and send correspondence. The correspondence is of confidential character and can not be opened or retained only within the limits and under the conditions provided by law (in particular to prevent the introduction into the unit via correspondence of drugs, toxic substances, explosives or other such objects whose possession is prohibited, correspondence can be opened, without being read, in the presence of the person remanded in the unit).

To ensure the exercise of the right to petition and the right to correspondence, within educational and detention centers are installed mailboxes.

The expenses occasioned by the exercise of the right to petition and the right to correspondence shall be usually incurred by sentenced persons. In case these persons do not have the necessary financial means, the expenses for the exercise of the right to petition by applications and referrals to the judicial authorities, courts or international organizations whose jurisdiction is accepted or recognized by Romania and for the exercise of the right to correspondence with the family, the counsel for the defence and the non-governmental organisations operating in the field of human rights shall be covered by the administration of the penitentiary.

Against the measures taken regarding the exercise of rights by the prison administration, the children can make a complaint to **the judge in charge of the supervision of deprivation of liberty**.

If dissatisfied with the solution, the detained person may submit a complaint to the local court, whose decision is final.

The judge in charge of the supervision of deprivation of liberty shall exercise the following duties:

- a) solves the complaints of the detainees concerning the exercise of the rights provided by the law;
- b) solves the complaints about establishing and changing the regimes of enforcement of custodial sentences and educational measures involving deprivation of liberty;
- c) solves the complaints of the detainees concerning disciplinary sanctions;

In the exercise of its duties, the judge in charge of the supervision of deprivation of liberty may hear any person, may request information or documents from the administration of the place of detention, may conduct checks on the spot and has access to the individual file of detainees, to the records and any other documents or recordings necessary for the exercise of the duties provided by the law.

The conclusions of the judge in charge of the supervision of deprivation of liberty became enforcement, as well as the written orders given by the administrators of the place of detention in the food refusal procedure, according to the law, shall be mandatory.

V. CONCLUSIONS

1. *Monitoring mechanism*

Recommendations:

The staff should have training in how to train the social skills of the children and their capacity to talk about conflicts, bad emotions and well as about desires. How to talk with children in detention is a basic aspect which could be address within training. Doing this, more complaints will be formulated but we can expect that the rate of recidivism will be diminished.

The most recent study realized by the Ombudsman, Report on the rights of children deprived of their liberty in Romania, Bucharest, 2014, shows also several recommendations that public authorities and other organizations should implement to improve the realization of the rights of children deprived of liberty in Romania: increase the budgetary allotment to detention units; establish a rights-based prioritization of spending within detention units; adopt the Law on the National Mechanism for Preventing Torture in Detention Facilities; establish and put in practice a “0 Tolerance” policy to prevent violence against children under custody, including the implementation of a methodology for identifying vulnerable children and taking preventative measures to increase their safety while in custody; establish protocols for and actively support safe reporting by children of rights violations, as well as ensure protection from maltreatment in case of reporting; improve and standardize the recruitment, training, supervision and professional testing of staff; plan and budget for multiplying and diversifying social learning opportunities for children while in custody; and, identify and put in place measures for ensuring access to special in-house or external counseling services to children.

Special sections for children within the penitentiary’s hospitals, especially within the mental health units, would help the health care of children in detention and their right to be healthy. Regarding psychiatric hospitals, there were not identified studies, researches or official reports on children in custodial status.

2. *Complaint mechanisms*

Recommendations:

A training of staff to support the children in structuring their complaints (a suggestion could be to have special training in the school about setting-up a complaint) could be useful to children even in a larger way. Another suggestion to support the children’s complaint is to make easier and friendlier the procedure of complaining.

Staff also has to be train in being aware about the importance of these complaints for child development and rehabilitation and the need to pay full attentions to it

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- <http://www.defenceforchildren.org> - CHILDREN'S RIGHTS BEHIND BARS
- www.dci-au.org/kids.pdf - CHILDREN'S RIGHTS BEHIND BARS - National Reports
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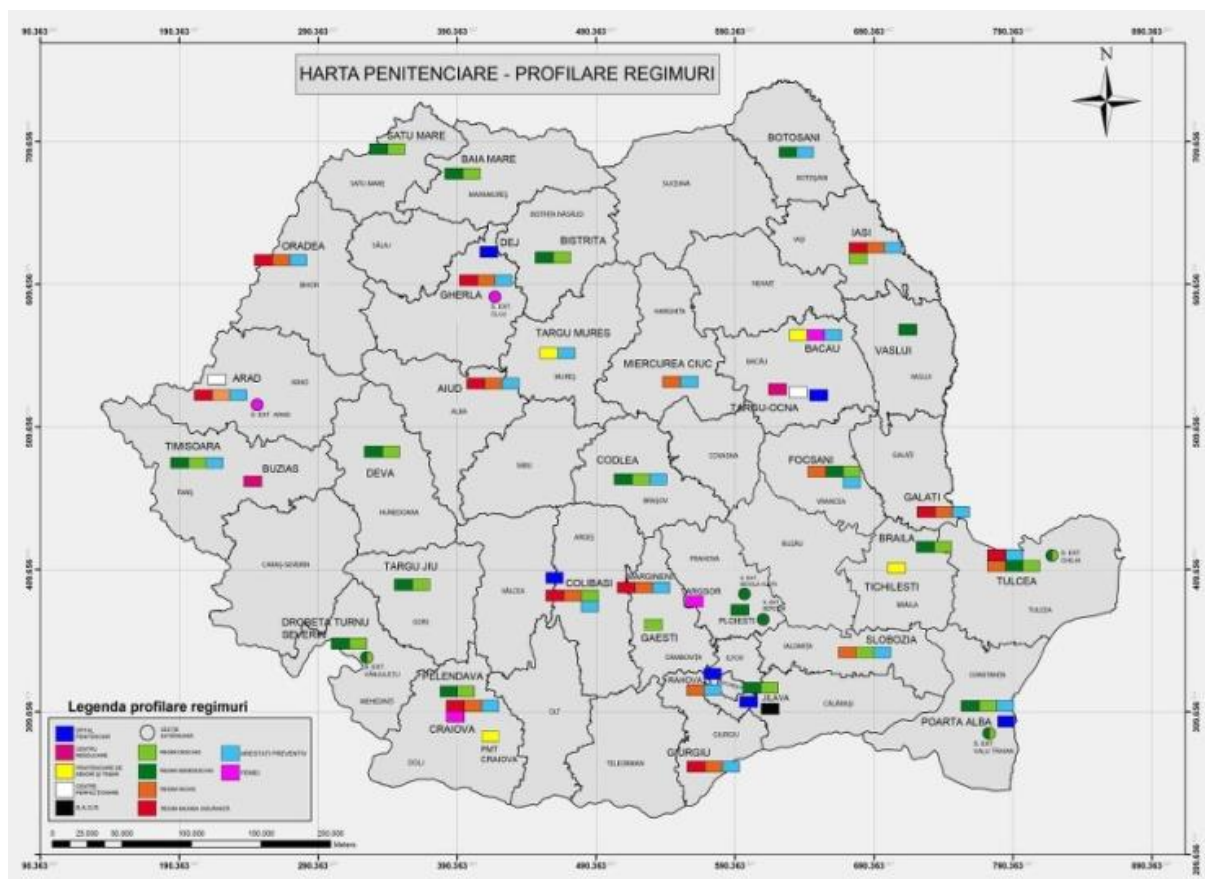
VII. ANNEXES

Annex 1: Classification of collected information

Nr crt	Date	Documents	Responsabil	Language
1	July, 2014	Report on the visit done within the Center for detention for minors in Targu-Mures	APADOR-CH	RO
2	June, 2014	Report on the monitoring visit	Romanian National Administration for Penitentiaries	RO
3	June, 2014	Report on the visit done within the Center for detention for minors in Taichilesti/Braila	APADOR-CH	RO
4	June, 2014	Report on the visit done within the Educative Center Buzias	APADOR-CH	RO
5	May, 2014	Document regarding the dynamic and the structure of the persons deprived of liberty in Romania	Romanian National Administration for Penitentiaries	RO
6	20 May, 2014	Address regarding the children rights implementation within the education centers and centers for detentions for juveniles in Romania	Romanian National Administration for Penitentiaries	RO
7	14 March, 2014	Report on the visit done within the Center for detention for minors in Craiova	APADOR-CH	RO/EN
8	2014	Romania and the European Social Charter, factsheet-Romania	European Social Charter, Council of Europe	EN
9	2014	Report done by CRJ as a part of the FRANET Annual Report: Fundamental rights: challenges and achievements in 2013 (www.fra.europa.eu)	CRJ	EN
10	2014	Report of Ombudsman in Romania, in 2013	Avocatul Poporului	RO
11	December, 2013	National human Rights institutions as National Preventive Mechanisms: Opportunities and challenges	Association for Prevention of Torture	EN
12	2013	Monitoring Police Custody. A practical Guide	Association for Prevention of Torture	EN
13	2013	CPT standards	European Committee for the Prevention of Torture and Inhuman or Degrading Treatments or Punishment (CPT)	EN
14	2013	Strategic Plan of Action, 2012-2016	Defense des Enfants, International (DEI),	EN
15	2012	Fatally flawed: Has the state learned lessons from the deaths of children and young people in prison	Prison Reform Trust and INQUEST	EN
16	2012	Les droits de l'enfant et le Comité européen pour la prévention de la torture	Association for Prevention of Torture	FR

17	November, 2011	Measures of deprivation of Liberty for young offenders: how to enrich International Standards in Juvenile Justice and promote alternatives to detention in Europe?	IJJO Green paper on Child-Friendly justice	EN
18	2011	Rapport relatif à la visite effectuée en Roumanie par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) du 5 au 16 septembre 2010	Gouvernement de la Roumanie	FR
19	2010	CPT Report within penitentiaries; recommendations to Romanian government	CPT	EN
20	2009	Consideration of reports submitted by states parties under article 44 of the Convention. Concluding observations of the Committee on the Rights of the Child: Romania	Committee on the Rights of the Child: Romania	RO
21	2009	Committee on the Rights of the Child: Fifty-first session, CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION	Committee on the Rights of the Child: Romania	EN
22	October, 2009	Issue paper : Children and Juvenile Justice : Proposals for Improvements	Commissioner for Human Rights	EN
23	2005	Practices and standards in the system of juvenile justice in Romania	UNICEF, Ministry of Justice	EN
24	2004	Monitoring places of detention. A practical guide	Association for Prevention of Torture	EN
25	1999	9 th General Report on the CPT's activities covering the period 1 January to 31 December 1998	European Committee for the Prevention of Torture and Inhuman or Degrading Treatments or Punishment (CPT)	EN

Annex 2: Map of the penitentiaries' system in Romania (Source: ANP annual Report, 2013)¹⁰



¹⁰ Surse: www.anp.gov.ro
www.childrensrighsbehindbars.eu

Annex 3: Preliminary work for preparing the visits

This work was done during May-June 2014.

The List of contacted persons

Nr crt	Name	Position	Institution	The contact	Results
1	Ioan Bala	Director (ex-national coordinator of ANP)	Penitentiary in Timisoara	telephone and meeting in the penitentiary	Information regarding the system applied to children; contacts on ANP level; contacts on the units to be visited.
2	Catalin Claudiu Bejan	Director	ANP	addresses sent through e-mail	document 2 in the list of collected data
3	Florin Serpe	Director	Educative Centre Buzias	preliminary meeting in the university	official requests for having the approval of the visits
4	Marina Simonetti	Social Worker/ chief of the educative service	Educative Centre Buzias	preliminary meeting within the university	establishing the practical details of the visit
5	Gabriela Alexandrescu	Director	Save the children	an e-mail sent for asking the Repost done by Save the children in the end of 2013, on children detained in the penitentiaries for adults	no answer
6	Voica Pop	Program Director	UNICEF Romania	an e-mail sent with the question regarding UNICEF investigation done on children deprived of liberty in Romania	no answer
7	Georgiana Iorgulescu	President	Center for Juridical Resources	for an e-mail was sent asking more details about their work	no answer; found on their

www.childrensrightrbehindbars.eu

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			Romania	regarding children in prison	website: the Report done for FRA annual report (pages 43-45, deal with friendly justice for children in Romania)
8	Astrid Podsiadlow ski	Responsabil proiect	European Union Agency for Fundamental Rights (FRA)	communication through e-mail	Children and justice The project looks at the treatment of children in the justice systems of the European Union (EU), which is an important issue of concern for EU institutions and Member States.
9	Frédéric Teillet	Magistrat de liaison pour la Roumanie et la Moldavie	Ambassade de France en Roumanie	communication by e-mail	no results
10	Cristina Andreica	Vice Director	Detention Center in Targu Mures	telephones, e-mails, official request approved, visits	set-up the practical details for the visits

Annex 4: The field's visits and the work done during the visits

Nr. crt	When	Where	Who	The work done
1.	3th of June	CRB	AM RU	focus group with 6 children in the center (see the list in annex)
2.	17 of June	CRB	AM RU	interview with the Director focus group with multidisciplinary team Focus group with 10 children in the center
3.	24 of June	CMT Tgu Mures	AM RU	Focus group with 7 children (see the list in annex) Interview with the Director of the Center Interview with the psychologist
4.	25 of June	CMT Tgu Mures	AM RU	Interview with the vice Director Interview with psychologist
5.	4 of July	CMT Craiova	MT	Interview with the Director Focus Group with 10 children (see the annex) Interview with the psychologist Interview with the educator Interview with the supervisor

Annex 5: Current statistics in children deprived of liberty in Romania

Based on a document of ANP, issued on 31 of May 2014, the dynamic of the group of minors (14-18 years old) and youth (18-21 years old) deprived of liberty is the following:

1. Within the two education centers:

- 125 minors
- 123 youth

2. Within the detention centers:

- 193 minors
- 1324 youth

Total youth and minors deprived of liberty: 1447 (1398 boys+49 girls)

Tabel 1. *The number and the juridical situation of minors within the two education*

Centers/ CE (1. Buzias; 2.Tg. Ocna)

The minors in the centers	Buzias	Tg. Ocna	TOTAL
Total	70	40	110
Definitively sanctioned with the educational measure of internment in the Educational Center	70	40	110

Tabel 2. *214 minors and their juridical situation within the three centers for detention /CD*

(1,. Craiova; 2. Tg. Mures; 3. Tichilesti) :

Minors within CD	Craiova	Tg. Mures	Tichilesti	TOTAL
Total	71	48	95	214
Definitively sanctioned with the educational measure of internment in the Educational Center	0	0	1	1
Definitively sanctioned with the educational measure of internment in the Detention Center	63	36	71	170
Sanctioned, in the first instance, with the measure of internment in Educational Center	0	1	0	1
Sanctioned, in the first instance, with the measure of internment in Detention Center	0	1	5	6
Definitively sentenced with imprisonment	3	0	1	4
definitively sentenced, in the first instance, with imprisonment	0	0	0	0
Under preventive arrest	5	10	17	32

Annex 6: Table with children and youth attending the focus group

1. Children and youth attending the focus group in CRB Buzias

Nr crt	Name	Date of birth	Class in the school (level of education)	Place of origins	The year when they arrived in CRB	The crime	When did they abandon the school?		Duration of deprivation of liberty	When do they expect to be released	Type of family	Siblings	Previous experience of deprivation of liberty
							age	class					
1	ST	20.04.1998	6	Lugoj	2013	Theft	15	6	2,5 years	23.01.2015	institution/child protection system	1	No
2	SA	21.01.1997	7	Cluj	2013	Theft	13	6	1,3 years	10.09.2014	Bi- parental	0	No
3	LL	28.01.1998	6	Lugoj	2013	Theft	13	6	2,4 years	30.11.2014	Bi-parental	4	No
4	AP	18.06.1997	8	Mîrta	2014	Robbery	16	6	2 years	25.09.2014	Single parent	10	Yes
5	AG	29.11.1997	5	Arad	2014	Robbery	16	9	1,10 years	26.12.2014	Bi-parental	5	No
6	CA	26.06.1998	7	Medias	2013	Robbery	15	7	2,8 years	13.02.2015	Single parent	8	No
7	SOA	11.09.1994	12	Plopșoru	2014	Theft	-	-	1 years	15.09.2014	Bi -parental	2	No
8	MA	25.07.1994	8	Cășeu	2014	Striking	19	9	1 years	10.09.2014	Bi-parental	0	Yes
9	CG	14.06.1997	6	Agnita	2013	Theft		5	1,1 years	28.06.2014	Bi-parental	5	Yes
10	DN	05.01.1997	9	Bujoru	2013	Theft	14	8	1,3 years	16.05.2014	Bi-parental	7	No
11	CB	04.06.1996	10	Argetoia	2014	Robbery	17	11	1 years	09.11.2014	Bi-parental	3	Yes

2. Children and youth attending the focus group in CMT Tg. Mures

Nr crt	Name	Date of birth	Class	Place of origins	the year when they arrived in CRB	the crime	When did they abandon the school?	Duration of deprivation of liberty	When do they expect to be released	Type of family	Siblings	Previous experience of deprivation of liberty
1	P.S.V	22.08.1996	9	Baia Mare	2011	Murder	15 years	2,6 years	July 2014	single parent	-	No
2	V.A.A.	25.11.1996	10	Magesti/BH	2013	Robbery	16 years	1 years	September 2014	within the extended family	1	No
3	M.D.G	8.11.1996	10	Cluj Napoca	2013	Rape	16 years	2,5 years	August 2015	institution/child protection system	4	No
4	V.G	20.11.1996	4	Odorheiu Secuiesc	2013	Theft	10 years	1,4 years	July 2014	grand-parents	2	No
5	F.G.A	15.03.1997	7	Osorhei/BH	2013	Robbery	15 years	1,5 years	October 2014	Bi-parental	2	Yes
6	A.O	24.10.1996	5	Campia Turzii	2013	Robbery	15 years	1,8 years	November 2014	grand-parents	5	Yes
7	N.M	22.10.1997	8	Satu Mare	2013	Robbery	15 years	1,6 years	March 2015	Bi-parental	2	Yes

3. Children and youth attending the focus group in CMT Craiova

Nr crt	Name	Date of birth	Class	Place of origins	the year when they arrived in CRB	the crime	When did they abandon the school?		Duration of deprivation of liberty	When do they expect to be released	Type of family	Siblings	Previous experience of deprivation of liberty
							age	class					
1	V.C.	22.07.1998	5	Misca	2013	Robbery	9 years	3	3 years	13.01.2015	Disorganized family, the grandmother brought him up	1	No
2	O.F.	02.08.1998	0	Craiova	2013	Theft	-	0	3 years	13.03.2015	Single parent/Mather	2	Yes
3	N.V.	01.04.1998	0	Caracal	2013	Robbery	-	0	4 years	09.01.2015	Disorganized family with criminal records in the family	9	No
4	B.V.	29.06.1997	8	Malu Mare	2013	Theft	13 years	6	2 years	31.08.2015	Abandoned by mother and brought up by the father	6	Yes
5	R.L.	07.10.1996	3	Arad	2012	Robbery	8 years	2	5 years	13.06.2015	Bi-parental	4	No
6	I.E.	26.06.1998	3	Chisineu Cris	2013	Robbery	8 years	2	3 years	24.09.2014	Disorganized family, the grandmother brought him up	5	No
7	A.I.	06.10.1997	1	Craiova	2013	Theft	-	-	2 years	01.07.2014	Disorganized family, brought up by a sister; parents are in jail	6	No
8	B.M.	04.04.1997	8	Orodel	2014	Robbery	13 years	7	3 years	04.07.2015	not legally formed	2	No
9	B.A.	24.08.1998	6	Craiova	2013	Theft	12 years	5	3 years	20.07.2014	parents migrated and he was left with grandmother who left him in institution	0	No

10	C.S.	14.09.1996	6	Arad	2013	Theft	11 years	5	2 years	21.11.2014	Disorganized family, brought up by father, institutionalized after words	2	No
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