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Veröffentlichungsversion / Published Version
Zeitschriftenartikel / journal article

(Re)defining the complementary institution of Conditional release in Romania (2000-2019)

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Abstract
This article aims to investigate the legal and political evolution of the institution of Conditional release in Romania between 2000 and 2019 with a special focus on the abrupt changes during the mentioned period. The aim of this research consists in bringing together the redefining of the regulatory framework of Conditional release in relation to the dynamic political context and personal strategies used by the right-holder of individual liberation. Two important episodes need to be recalled for the redefinition of this concept: the establishment of the National Anticorruption Directorate; and the reform of criminal legislation, after Romania's accession to the European Union. The general objective is to explain and understand the different stages in which liberation committees and courts of law have made use of the prerogative of dispensing conditional release, given the social role that the complementary institution of Conditional release within the institutional, territorial and functional scheme of the rule of law. I will show that amendments to criminal law, along with changes in court practice, have led to a reduction in the level of consistency between the decisions of the liberation committees and courts of law. Different legitimating strategies used by right holders are the main unexpected result of this research, as restrictive legal provisions apply to both decision levels.

Keywords: Conditional release, redefining, criminal legislation, overcrowding, Romania.

Introduction

Conditional release has been defined in penal law doctrine and precedents as being at the same time a way of individualizing punishment and an alternative to imprisonment.[1] Early release is based on the principles of humanism, which lay the foundation of criminal law and criminal procedure

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1 See Norval Morris and Michael Tonry, *Between Prison and Probation. Intermediate Punishments in a Rational Sentencing System* (New York and Oxford: Oxford University Press, 1990).

law,[2] which derives from the assumption that during his/her incarceration, the convicted person has been rehabilitated and has the possibility of reintegrating into society.[3] Concentrating exclusively on the imprisoned person, penal and penal procedure laws have neglected the role of those who wield the right of granting early release. Viewing the issue of the evolution of conditional release through the lenses of political science contributes to explaining the changes which have occurred independently of the situation of prisoners, thereby identifying the wide paradigm shifts which occur in criminal policy.

The nuance which I identify indicates the reincarnation of the figure of the "undesirable" and, simultaneously, the political significance attributed to the institution of Conditional Release, which in itself gains political significance as the institutional capacity of the State to recover the damages, with the sentence also serving this function. Therefore, partially serving one's sentence is a useful indicator for the understanding of the very nature of the political regime with regards to the coercive dimension of the state's institutions. Taking this further, one could state that the dynamics of Conditional Release illustrate the evolutionary trajectories of the nature of the political regime. The "undesirable" is a benchmark which serves to explain the way in which state institutions function as well as to identify possible deficiencies in criminal legislation. At the same time, I point out particular political legitimation strategies employed by right holders, by bringing to the forefront the political relations which underpin the articulation of the political regime.

The main objective of this research is to explain and understand the evolution of the complementary institution of conditional release in Romania between 2000 and 2019 with regards to the position of the right-holder. In this article, I attempt to explain the different ways in which prison release committees and courts have dealt with the prerogative of granting early release.

I justify the choice of subject as a result of the social role which the complementary institution of conditional release exercises on the institutional, territorial and functional scheme of the rule of law. The complexity of the early release procedure allows us to understand how the committees and the courts have addressed the issue of granting conditional release. The option for this period resides in the modifications identified to have been performed on criminal legislation as well as the intense public echo generated by the granting of early release by the right holders. My aim is to identify the way in which the reform of the prison system in the 2000-2019 period has *de facto* diminished the prerogatives of right holders of granting conditional release. Simultaneously,

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[2] See James Michael Weiss, "Humanism," in *The Oxford Encyclopedia of the Reformation*, Vol. 2, edited by Hans J. Hillerbrand (New York and Oxford: Oxford University Press, 1996), 264-272.

[3] See James Bonta and Donald Arthur Andrews, *The Psychology of Criminal Conduct* (New York: Routledge, 2017).

the subject has occupied an important place in the public agenda, generating strong political and social polarization. I must point out that for the 1990-1999 period, the Ministry of Justice and the National Administration of Penitentiaries do not have a centralized overview regarding the frequency of granting conditional release. Furthermore, the study shows how the reformation of criminal law between 2000 and 2019 has entailed a *de facto* mitigation of the right-holders' ability of granting conditional release.

Most studies on conditional release use an exclusively legal perspective, referring to the explanation and interpretation of the cumulative conditions to be met by the convicted person.[4] I identify a dominant trend throughout European research to focus on the definition of conditional release as a stage in the individualization of punishment, in which the focus is on the behavior and situation of the convicted person. This research does not take into account the evolution of the complementary institution of conditional release in relation to the political and social context. The decision of right-holders to grant such measures is influenced by the wide-ranging paradigm shifts which arise from the pressure exerted by the evolving legal framework and the political context.

So far, studies in the Romanian context have addressed conditional release primarily from a legal perspective, using the model of analysis employed in the European and American context, where the activity of the right-holders of granting conditional release is seen as autonomous with regards to the socio-political conditions in which it is exercised. Ioan Chiș and Alexandru Bogdan Chiș, in research dedicated to the establishment and execution of criminal sanctions,[5] consider that the remodeling of the institution of conditional release is dependent upon the fulfillment of the initial purpose of the custodial sentence. The two authors use the definition established in Romanian legal parlance by Costică Bulai,[6] Alexandru Boroi,[7] Dan Lupașcu[8] and Traian Dima,[9] professors of criminal law, according to whom conditional

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4 See Morris and Michael Tonry, *Between Prison and Probation*.

5 Ioan Chiș and Alexandru Bogdan Chiș, *Executarea sancțiunilor penale (Serving criminal sanctions)* (Bucharest: Universul Juridic, 2015), 39-241.

6 See Costică Bulai and Bogdan Nicolae Bulai, *Manual de drept penal. Partea generală (Criminal Law manual. General part)* (Bucharest: Universul Juridic, 2007).

7 Alexandru Boroi, *Drept penal și drept procesual penal, Curs selectiv pentru examenul de licență (Criminal Law and Criminal procedure law, Selective class for bachelor studies)* (Bucharest: C.H. Beck, 2006), 198.

8 Dan Lupașcu, "Liberarea condiționată" ("Conditional release"), in *Dreptul*, no. 3 (2002): 87.

9 Traian Dima, *Drept penal. Partea generală*, ed. a III-a revăzută și adăugită (*Criminal Law. General part.* 3rd edition, revised and supplemented) (Bucharest: Ed. Hamangiu, 2014), 625.

release highlights "a form of the individualization of punishment during its execution."[10]

Unlike the legal approaches, this article analyzes the evolution of the institution of conditional release in Romania between 2000 and 2019 with regards to the decisions of the liberation committees and the courts. The study traces back the evolution of the complementary institution of conditional release in relation to the exogenous factors represented by the pressure of the evolving legal framework and the political context. These factors induce modifications to the strategy of political legitimacy employed by detention facility release committees and the courts.

In order to explain the evolution of conditional release in the first section, I will illustrate the change of paradigm which has occurred in criminal doctrine and practice with regards to defining the punishment and its functions (literature review). In the second part, I shall focus on the analysis of the mechanism for solving early release requests, referring to the rulings of release committees and courts. The conclusions will emphasize a strong correlation between the evolving legal framework of the institution of conditional release, the political context and the legitimizing strategies used by the committees and courts, which have diversified the nature and the functioning of the complementary institution of conditional release between 2000 and 2019.

Literature Review

The analysis of conditional liberation has focused primarily on two principles, which I identify as recurrent in our literature review. On the one hand, modernity has contributed to the internalization of the humanization process,[11] the sensibility of modern man, gradually reducing the intensity of coercion applied to convicted persons. On the other hand, the utilitarian paradigm[12] and neo-liberalism[13] have increased the need for a rationalization of constraint and reeducation, in order to efficiently manage the resources allocated to the prison system.

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[10] Dima, *Drept penal* (*Criminal Law)*, 625-626., apud. Chiş and Chiş, *Executarea sancţiunilor penale (Serving criminal sanctions)*, 239.

[11] See Weiss, "Humanism," in *The Oxford Encyclopedia of the Reformation*, 264-272.

[12] See Huei-Chun Su, *Economic Justice and Liberty: The Social Philosophy in John Stuart Mill's Utilitarianism* (London and New York: Routledge, 2013).

[13] See John L. Campbell and Ove K. Pedersen (eds.), *The Rise of Neoliberalism and Institutional Analysis* (Princeton, New Jersey: Princeton University Press, 2001).

The nature of conditional release has not been questioned ab abrupto (abruptly), being initially defined in the doctrine of classical law.[14] Later, through the development of "positivist criminology",[15] custodial sentences have been considered, per se, responsible for the failure of the moral transformation of convicted persons. Starting with the end of the XIXth century, the process of corrigenda a corpus delicti (atonement for the crime) in extra muros (behind the walls of the detention center) has no longer been perceived as a contradictie in adiecto (intrinsically contradictory) or a cadit ouestio (false dilemma). In genere (as a rule), most reflection processes in the field of political science have started by questioning the purpose of the detention institution, addressing the stringent need for the reintegration into society of convicted persons.[16] Isolating delinquents is no longer presented as a necessary measure, rather, their behavior needed to be addressed.[17] De facto, the main transformation has been represented by the exclusion of the leper and the inclusion of the plague bearer,[18] therefore bringing to the forefront the necessity of supervising convicted persons, prison representing a "regime of the world rather than a stone edifice."[19]

At a conceptual level, political science research has imposed a major paradigm shift: the offender has stopped being represented as an enemy, but as a patient which society must treat (within society).[20] The novelty of the critical approach resides in the treatment of convicted persons in their local

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[14] See Jean Pradel, *Droit penale comparé*, ediţia Dalloz (Paris, 1995); Charles-Louis de Secondat, baron de La Brède et de Montesquieu, *De l'esprit des lois* (Genève, 1748); Cesare Beccaria, *Dei deliti e delle pense*, Marco Coltellini (Livorno, 1764); Pellegrino Rossi, *Traite de droit penal*, Vol. III (1829): 169.

[15] The most important representatives of "positivist criminology" were the italians Cesare Lombroso, Enrico Feri and Raffaele Garofalo, as well as belgian Lambert Adolphe Jaeques Quetelet, frenchman André-Michel Guerry and englishman Henry Mayhew. See Cesare Lombroso, *Crime, Its Causes and Remedies* (Boston: Little, Brown, 1918); Enrico Feri, *Criminal Sociology*, edited by W. Douglass Morrison (New York: D. Appleton & Co., 1896); Raffaele Garofalo, *Criminology*, translated by Robert Wyness Millar (Michigan: Little, Brown, 1914); Lambert Adolphe Jaeques Quetelet, *A Treatise on Man and the Development of his Faculties*, translated by R. Knox, (London: Cambridge University Press, 2013); André-Michel Guerry, *Essay on the moral statistics of France: A sociological report to the French Academy of Science*, (New York: Edwin Mellen Press, 1883); Henry Mayhew, *The Criminal Prisons of London: And Scenes of Prison Life* (London: Cambridge University Press, 1968).

[16] Morris and Tonry, *Between Prison and Probation*, 4.

[17] Ibid.

[18] Michel Foucault, *Anormalii, Cursuri ţinute la Collège de France 1974-1975 (Abnormal: Lectures at the Collège de France, 1974-1975)*, translation by Dan Radu Stănescu, afterword by Bogdan Ghiu (Bucharest: Univers, 1999), 54-55.

[19] Gilles Deleuze, *Foucault*, translation and afterword by Bogdan Ghiu (Cluj: Ideea Design & Print, 2002), 34.

[20] Morris and Tonry, *Between Prison and Probation*, 4-7.

communities, which is why the punishment does not exclusively focus on restricting the freedom of movement of the offenders, but includes their supervision for the purpose of education and reintegration into society.[21] The nuances and interpretations given to the process of restoring social order[22] have generated two major changes. First, addressing the establishment of an optimal level of coercion has highlighted the need to redefine the dimension of custodial sentences.[23] Secondly, the reduction of costs associated with incarceration was pursued through the creation of institutions which would allow the fulfillment of penitentiary functions externally, focusing on the dimension of (re)education, supervision and reintegration of the convicted person.

From a scientific and cultural point of view, the 20th century was characterized by the profound changes brought about by the theory of relativity and technological progress. The progress of knowledge required a pragmatic approach, including in criminal practice, Hazel Kemshall and Jason Wood[24] mentioned that the 20th century saw the development of a new penology of risk and of assessment of the impact of the use of alternative types of punishment on public protection.[25] Research in the field has started from the multilevel risk grading,[26] mainly used in marketing analysis. Predicting risk has become the main concern of research in the new penology.[27] The application of SMART (Specific, Measurable, Achievable, Realistic, Targeted) indicators has led to the individualization of the decision to grant alternative enforcement measures based on the behavior and socio-demographic profile of the convicted person in the context of redefining values and humanizing criminal systems.[28] These

21 Morris and Tonry, *Between Prison and Probation*.
22 Ibid., 10-11.
23 Ibid.
24 Hazel Kemshall and Jason Wood, "High-risk offenders and public protection," in Loraine Gelsthorpe and Rod Morgan (editors), *Handbook of Probation*, Chapter 13 (Portland: Willan Publishing, 2007), 381-397.
25 See Anthony Bottoms, "Reflections on the renaissance of dangerousness," *Howard Journal of Criminal Justice*, no. 16 (1977): 70–96; Donald A. Andrews, James Bonta and Robert D. Hoge, "Classification for effective rehabilitation," *Criminal Justice and Behaviour*, no. 17 (1990): 19–51; John Ditchfield, "Actuarial prediction and risk assessment," *Prison Service Journal*, no. 113 (1997): 8–13; Barbara Hudson, *Justice in the Risk Society* (London: Sage, 2004); Hazel Kemshall, *Risk in Probation Practice* (Aldershot: Avebury, 1998); Hazel Kemshall, *Risk Assessment and Management of Known Sexual and Violent Offenders: A Review of Current Issues* (London: Home Office, 2001); Hazel Kemshall, *Understanding Risk in Criminal Justice* (Buckingham: Open University Press, 2003); Mike Nash, *Public Protection and the Criminal Justice Process* (Oxford: Oxford University Press, 2006); Nigel Walker, *Dangerous People* (London: Blackstone Press, 1996).
26 Kemshall and Wood, "High-risk offenders," 387.
27 Ibid, 388.
28 Ibid, 390.

processes have led both the redefinition of punishment and the relativization of the deprivation of liberty.[29]

Another important moment was the gradual replacement of custodial sentences with a new type of "contract" between judge and offender. Starting with the second half of the 20th century, representatives of the theory of "social defense"[30] advocated the adoption of alternative punishments in lieu of imprisonment. On the one hand, alternative measures have been used to resolve the pressing problem of prison overcrowding, as well as to reduce the perverse effects of deprivation of liberty. On the other hand, the conditional release of convicted persons and their placement under supervision was aimed at preventing, as far as possible, the commission of new crimes.

The granting of conditional release is a necessary measure for capitalizing on the process of individualizing one's sentence, an essential component of criminal doctrine and practice. The granting of these measures according to the behavior and conduct of prisoners offers a high level of predictability to the complementary institution of conditional release, the convicted person being at the center of the decision-making process. Otherwise, the institution of conditional release runs the risk of politicization.

In the Romanian context, conditional release was defined as an alternative way of individualizing the execution of punishment, the main characteristic being represented by the establishment of probation control and of measures and imposed obligations, in the absence of the deprivation of liberty.[31] The paradigm centered on a regime of progressive liberty deprivation has defined conditional release as a measure undertaken in order to "motivate and empower individuals deprived of freedom",[32] both during their detention as well as afterwards, during their term of probation.[33] Although contributing to the partial removal of the execution of the punishment, conditional release is distinguished from clemency through its optional nature and the judiciary assessment[34] of the fulfillment of certain conditions. Being always dispensed

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29 Morris and Tonry, *Between Prison and Probation*, 4.

30 See Filipo Gramatica, *Principes de défense sociale* (Paris : Cujas, 1963); Marc ANCEL, *La défense sociale nouvelle* (Paris : Cujas, 1981).

31 Aurel Ciobanu and Teodor Manea, Elena Lazăr, Dragoș Pârgaru, *Legea nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal. Comentată și adnotată (Law 254/2013 regarding the execution of punishments and custodial sentences passed by judicial bodies during criminal proceedings. Commented and annotated)* (Bucahrest: Hamangiu, 2017), 315.

32 Ibid.

33 Ibid.

34 Iancu Mândru, *Amnistia şi Graţierea (Amnesty and Pardon)* (Bucharest: All Educaţional, 1998), 499-500.

post judiciarum,[35] the nature of conditional release is defined both through its general and individual application. Regardless of the nature or severity of the offense,[36] convicted persons have the right to conditional release with regards to their behavior during incarceration.[37] Conditional release enshrines the act of justice as being based on the principle of granting "another chance" to the convicted persons, which is why the length of incarceration is not based solely on the ruling of the court at the time of sentencing, but also on the accountability and responsibility of the convicted person.[38]

Another important feature of conditional release is the recognition, by the court, of the "confidence that the convict has been rehabilitated, following the fulfillment of conditions imposed on his behavior while serving the compulsory part of the sentence."[39] The rewarding dimension also aims to re-socialize the convicted person, with the post-release probation period serving as both supervision and societal reintegration of the individual.[40] The significance of conditional release is closely related to the trust which state institutions afford the convicted person.

Research Hypothesis

My main argument thus sets out to underlines the limitations to the absolute power of conditional release boards, which are under pressure from a series of exogenous factors. I aim to highlight how the endorsement, postponement or denial of early release proposals are dependent upon sudden changes of the evolving legal framework. I must also take into consideration the part played by the wider political context as well as the various political legitimacy strategies used by the holders of the right of conditional release between 2000 and 2019.

The gradual establishment in the post-communist Romanian context of the paradigm centered on the necessity of individualizing the punishment of convicted persons has contributed to the redefinition of the legal framework,

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35 Maximilian Bălășescu, *Liberarea condiționată în reglementarea noului Cod penal și a Legii nr. 254/2013 (Conditional release as regulated by the New Penal Code and Law 254/2013)* (Bucharest: Hamangiu, 2015), 2.

36 Ibid, 41.

37 Ibid, 43.

38 Alina Sanda Vasile (Bălan), *Terapia ocupațională pentru persoanele private de libertate sau aflate în probațiune (Occupational therapy for convicted persons in prison or on probation)* (Bucharest: Pro Universitaria, 2017), 116.

39 Chiş and Chiş, *Executarea sancţiunilor penale (Serving criminal sanctions)*, 239.

40 Ibid.

thereby achieving the shift from retributive justice to restorative justice.[41] The main concern for the legislator was the identification of mechanisms to tailor the nature and length of the punishment not only to the severity of the offense, but rather to the behavior of the convicted person throughout his incarceration. The stringent need to streamline resource allocation, given the high costs of imprisonment, has led to the reformation of criminal law on two levels, namely: a) the periodic redefining of the length of compulsory incarceration, the sentence having established the maximum length of it; b) redefining the nature of deprivation of freedom, in the sense of identifying ways of serving the sentence outside of penitentiaries.

The secondary argument regards the representation of conditional early release as a main policy of reform through which the legislator has aimed at individualizing punishment both inside and outside of the prison system. The rhetoric based on the fact that punishment involving the deprivation of liberty no longer corresponds with the purpose pursued through the sentences ordered by the court was de facto complemented by the need to relieve the penitentiary system, given the high costs generated by the prison population. Specifically, the issue regarding the individual's capacity to reintegrate into society was overtaken by the more pressing matters regarding penitentiary costs and crowding. The necessity for the deprivation of freedom was therefore defined primarily with regards to the reduction of costs per inmate, the decision of the right holders regarding conditional release being circumscribed by the restrictive amendments adopted by the legislator.

The essence of the political regime can, thus, be observed when the prisoner whose conditional release request is being processed bears "a name" and an important political status. The rest of the sentence to be served explains the level of personalization and politicization of the complementary institution of conditional release. Here I refer to the reparation of moral and material damages caused to society and state institutions, the high frequency for granting conditional release to prisoners who have had past political experience representing an indicator of the state's efficiency in combating the criminal phenomenon among them. The activity reports of the National Anticorruption Directorate / National Anticorruption Prosecutor's Office (DNA/PNA) are dampened by the limited effect which the sentence exerts on the convict. The reduction of the significance of the sentence is superimposed on the institutional and political pursuits in the fight against corruption at all levels (but especially at high level).

Another particularity which I identify concerns the nature of the crimes for which persons with prior political experience have been convicted. One

[41] Howard Zehr, *Changing lenses: a new focus for crime and justice Christian peace shelf selection* (Scottdale: Herald Press, 1990), 211.

observes that most crimes fall within the sphere of corruption offenses, acts committed while holding a public office or with the aim of obtaining undue benefits through political influence. The damage done has negatively impacted the nature of the political regime itself, which is why by imposing prison sentences, courts have aimed one the one side to sanction and (re)educate the perpetrators of the crimes and on the other, to (re)consolidate the institutions of the state, with the aim of reinforcing the rule of law. For this reason, the state is an ever-present entity for the convicted person until the end of the criminal report. Thus, the decision to grant conditional release is not just about the behavior and conduct of the convicted person, but also about the nature of the political regime. Conditional release "cuts the cord" abruptly, (sometimes) prematurely, before the criminal report is extinguished.

Research Methodology

In this research, I will use as a case study the construction of the complementary institution of conditional release in the period 2000-2019 by examining the decisions issued by the liberation committees and the courts. To this end, I use information provided by the National Administration of Penitentiaries (ANP) regarding the penitentiary occupancy rate and the dynamics of exit from incarceration before having served the whole sentence. I place the evolution of conditional release in relation to the frequency of granting early liberation and the steps taken to reform penal legislation. In order to obtain a macro image, I employ quantitative data analysis,[42] which serves in identifying the main stages of the dynamics of conditional release. At a micro level, qualitative content analysis[43] aids in underlining the relationship between the individualization of punishment and the fight against corruption by referencing 36 public and political figures which have been granted conditional release.

Chronologically, I analyze three distinct stages of the evolution of conditional release, framed by the wide-ranging paradigm change in the political context, determined by the stage of joining the European Union and the fight against corruption's gradual seizure of the public agenda. In the first stage, I analyze the dynamics of conditional liberation in the period 2000-2003, when I identify the first attempts at reforming penal law and articulating an institutional framework that is compatible with accession to the European Union. At the same time, however, the need to free up the courts and reduce

[42] See Todd D. Little (Ed.), *The Oxford Handbook of Quantitative Methods*, Vol. 2 Statistical Analysis (Oxford AND New York: Oxford University Press, 2013).

[43] See Anselm L. Strauss, *Qualitative analysis for social scientists* (Cambridge: University Press, 1987); Roberto Franzosi, *From words to numbers. Narrative, data, and social science* (New York: Cambridge University Press, 2004).

prison occupancy rates has led to the imposition of a permissive criminal policy with regards to the reduction of the length of execution of custodial sentences. In the second stage, I explain the paradigm shift which occurs in the 2004-2008 period, in the context of stepping up the efforts for EU accession and the gradual seizure of the public agenda by the issue of the fight against corruption. In the third stage, I analyze the evolution of conditional release after 2009, given the new restrictive changes made to criminal law, the practice of courts being defined in relation of the recovery of damages.

For each stage, I compare the level of concordance between the decisions of liberation committees and the decisions of the courts regarding early release requests, both at the first term and at the appeal. This analysis is useful in identifying the macro-level dynamics for the invalidation of Liberation Committees' decisions of granting conditional release by the courts, an issue which illustrates the migration of the central influence on the matter towards the courts, which have a de facto veto in the process. I analyze the decisions of granting early release in relation to the DNA's (National Anticorruption Directorate) activity summary, in order to test the impact of the criminal law reforms (primarily the component regarding the fight against corruption) on the decisions of the right holders of conditional release. According to the Ministry of Justice, in the module of judicial statistics of the ECRIS system used by the courts, "there is no metadata or statistical attributes that particularize cases of conditional release requests with regards to the criminal act or infraction which has brought on the conviction of the person."[44] The difficulty in obtaining a centralized list of every convicted person (in the case in which such a database existed – The N.A.P. and the Ministry of Justice have not provided the requested information), meant that I had to rely exclusively on "open source" information available online. By applying this methodology, I have been able to identify just part of the persons which have been granted conditional release, those who have attracted the attention of the media. Only the persons who have served in a public capacity or have had a public image have been identified, thus their conditional release was publicized by mass media. With few exceptions, the (incomplete) profile of the beneficiaries of conditional release has an eminently political dimension, as the persons in question have served, prior to their conviction, in a public capacity or were members of a political party. These two criteria place them in a certain sphere of political influence, which is why their conditional release echoes loudly in the public and political space.

This approach helps us distinguish three different legitimizing strategies used by liberation committees and the courts in three distinct stages, on the basis of which I prove that the complementary institution of conditional release

[44] See Ministry of Justice, "Answer no. 71837/2019 to the request for statistical data regarding cases of conditional release requests for the period 2000-2018," 26 august 2019.

has evolved with regards to the changes of penal legislation and the political context, the convicted person's behavior having passed in the background.

Results

The absolute power of the right-holders of granting conditional release has been limited by the action of exogenous factors such as the pressure of the evolving legal framework and the political context. Various political legitimacy strategies used by the right-holders of conditional release are determined by the widespread paradigm shift which occurred in criminal law reform and prison realities. A fundamental institution of the rule of law, conditional release has known, de facto, three distinct stages of interpretation and application of the principle of humanism underlying criminal law and criminal enforcement legislation.

The first stage presents a high number of conditional release requests granted by the courts on the recommendations of parole committees in the period 2000-2003. Granting conditional release for a number of 98.022 beneficiaries (with an average frequency of 24.505 persons released per year, see Table no. 3) occurs in the context of an extremely high rate of prison occupancy (the average annual occupancy degree with regards to the 4 m^2 per inmate standard was 197.97%, see Table no. 1), which is why although the courts' decisions led to the reduction of overcrowding, this phenomenon was still extremely high. During this stage, courts admit over 83% of liberation committee proposals and postpone the rest (see Table no. 3). At appeal, more than three quarters of requests formulated by convicted persons were admitted by the court and there were no outright denials (see Table no. 3). At this stage, the necessity of reforming criminal legislation is brought into discussion,[45] an issue stemming from the need for political legitimacy following the fall of communism[46] and embracing, at the same time, the principle of humanism in reforming criminal law. Nonetheless, the interference of politics in justice activities,[47] together with "procedural constraints, political disinterest and chaotic activism"[48] have pointed out "the fragility of the [institutions of the] rule of law in the face of momentary political interests."[49]

[45] Raluca Grosescu and Raluca Ursachi, *Justiția penală de tranziție. De la Nürnberg la postcomunismul românesc (Transitional criminal justice. From Nürnberg to Romanian post-communism),* Institute for the Investigation of Communist Crimes in Romania (Iași: Polirom, 2009), 18.
[46] Ibid., 208-210.
[47] Ibid., 149-155.
[48] Ibid., 182.
[49] Ibid., 201.

The second stage is characterized by the increased reluctance of committees and courts, after the formation of the National Anticorruption Directorate, which started scrutinizing the activity of judges and correctional facility personnel. During the period 2004-2008, the number of beneficiaries of conditional release is much smaller (73.285 persons released pre-term, with an average frequency of 11.256 beneficiaries per year, see Table no. 3), while at the same time seeing a decrease in prison occupancy rates down to 133.70% (average annual value with regards to the 4 m^2 standard, see Table no. 1). In this stage, the level of concordance regarding the admission by the courts of conditional release requests formulated by the committees' drops from 86.25% to 72.30%, as a result of an increase in the number of postponed and rejected requests (see Table no. 3). Appeals saw the admission of two thirds of requests by the courts (see Table no. 3). An increase of the level of confidence granted to justice activities (situated around 26%, see Table no. 2), together with the results of the National Anticorruption Prosecutor's office (PNA) with regards to the struggle against corruption, have influenced the activities of the courts, this being the stage where proposals for conditional release were denied for the first time.

The process of accession to the European Union was "an important break point in the functioning of the Romanian judiciary",[50] the main objective being "to reproduce an institutional model of the independence of the justice system."[51] By establishing a Cooperation and Verification Mechanism (MCV) in the field of judicial reform and the fight against corruption,[52] the Commission of the European Communities (now the European Commission) has pursued, in the case of Romania, the "empowerment and efficiency of the judiciary and law enforcement."[53] Since 2007, the MCV reports have been the main milestone which has highlighted both the progress and slippages made by Romania in meeting the specific objectives set at the time of EU accession.[54] This

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50 Ramona Coman, *Réformer la justice dans un pays post-communiste. Le cas de la Roumanie* (Bruxelles: Editions de l'Université de Bruxelles, 2009), 13.

51 Ibid., 31.

52 Commission of the European Communities, *Decision of 13 December 2006 establishing a mechanism for cooperation and verification of progress in Romania to address specific benchmarks in the areas of judicial reform and the fight against corruption* [notified under document number C(2006) 6569], 2006/928/CE, published in the Official Journal of the European Union, L354/56 from 14.12.2006, accessed April 3, 2020, https://eur-lex.europa.eu/legalcontent/RO/TXT/PDF/?uri=CELEX:32006D0928&from=RO, accessed 7th December 2018.

53 Ibid.

54 See Commission of the European Communities, *Report from the Commission to the European Parliament and the Council on Romania's progress on accompanying measures following Accession*, Brussels, 27.6.2007, COM(2007) 378 final; as well as *General and technical reports regarding Romania's progress in the Mechanism for Cooperation and Verification*, published by the European Commission (Commission of

mechanism reflected the *status quo* in Romania in the areas of judicial reform and anti-corruption struggle, both of them existing at the time of accession and post-accession, on the basis of which the EU institutions recommended the adoption of "specific accompanying measures", established to prevent or remedy "identified deficiencies".[55]

During this period, the construction of the public agenda focused on the issue of corruption[56] – which was perceived as being a "widespread problem in Romania"[57] – this becoming the main dimension of the cleavage present in Romanian society.[58] In the context of the transition to democracy and the steps taken for accession to the European Union, the issue of corruption had already become a concern for Romanian society,[59] marked by political instability and socio-economic disparities.[60] Referring to the corruption perception index, one notices that Romania was, at the end of 2004, on the same level as Turkey,

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the European Communities) between 2007-2019, available on the website of the Ministry of Justice, accessed April 3, 2020, http://www.just.ro/mcv/.

55 See Commission of the European Communities, *COM (2007) 378 final*.

56 See Alexandra Iancu, "Questioning Anticorruption in Postcommunist Contexts. Romanian MPs from Commitment to Contestation," *Südosteuropa*, vol. 66, no. 3 (2018), 392-417; Roxana Bratu, *Corruption, Informality and Entrepreneurship in Romania* (London: Palgrave Macmillan, 2018); Mihaela Ristei Gugiu, "EU Enlargement and Anticorruption. Lessons Learned from Romania," *Journal of European Integration*, vol. 34, no 5 (2012): 429-446; Ramona Coman, "Quo Vadis Judicial Reforms? The Quest for Judicial Independence in Central and Eastern Europe," *Europe-Asia Studies*, vol. 66, no. 6 (2014): 892-924.

57 "According to the special Eurobarometer of 2013 regarding corruption, 93% of Romanian respondents agreed that corruption was a widespread problem in their country (EU average: 76%), while 42% claim that they have personally been affected by corruption in their day to day life (EU Average: 26%)," in European Commission, *Annex no. 23 – Annex Romania to the EU Anti-Corruption Report*, Brussels, 3.2.2014, COM(2014)38 final, 3; See also European Commission, *EU Anti-Corruption Report*, Brussels, 3.2.2014, COM(2014)38 final.

58 See Peter Flora and Stein Kuhnle, Derek Urwin (eds.), *State Formation, Nation-Building, and Mass Politics in Europe. The Theory of Stein Rokkan* (Oxford: Oxford University Press, 1999).

59 This aspect was pointed out explicitly by President Traian Băsescu on 12 January 2005, when participating at the first meeting of the Supreme Magistrates' Council, according to whom "Romania can be still hampered in its accession process by two issues: corruption and the poor functioning of the justice system". See Press Release of the Presidential Administration on 12 January 2005, accessed December 9, 2018, http://old.presidency.ro/index.php?_RID=det&tb=date_arhiva&id=6493&_PRID=arh.

60 Statistics on the distribution of "Work resources by development regions" (1990-2013), "Gross Domestic Product (GDP) per capita by region" (1995-2008), "Registered unemployment benefits beneficiaries, by age group" (1993-2013), "Legally commenced strikes, by types of strikes" (1992-2009) can be found in the study "The economic and social situation in Romania" by Enache Steluţa Georgeta, published by the European Economic and Social Committee, 2015, accessed March 21, 2019, https://www.eesc.europa.eu/sites/default/files/resources/docs/qe-01-15-435-ro-n.pdf.

Bulgaria and Macedonia, according to Transparency International's Global Corruption Barometer.[61] On a scale of 1 to 5 (where 5 corresponds to "extremely corrupt"), the perception indexes for the justice and political systems were recorded at similar very high values (4.1 and 4.2 respectively).[62]

Following the accession of Romania to the European Union in the context of the reform of criminal legislation (by the adoption of the New Criminal Code[63] and the New Criminal Procedure Code[64]), I identify the third stage, consisting in redefining the normative framework, necessary in order to reestablish consensus between the nature and utility of the punishment. By repealing provisions from the Penal Code of 1969 and of Law no. 275/2006, the nature of conditional release was redefined through the provisions of articles 100-106 of the New Criminal Code, which were complemented by those of art. 95-97 of Law no. 254/2013,[65] together with the substantial provisions of art. 587-588 of the New Criminal Procedure Code.[66] The novelty introduced in penal legislation with regards to conditional release has considerably narrowed the profile of potential beneficiaries, as they must now serve their sentence in open or semi-open detention regimes (art. 100. (1), b) of the New Criminal Code) and must now have a-priori integrally fulfilled the civil obligations ordered by the court in their sentence (including having repaid damages), with the exception of situations in which they can prove that "they had no possibility of fulfilling them."[67] The pre-term release of 89.223 persons in the period 2009-2017 (with an average frequency of 9.913 persons conditionally released per year, see Table no. 3) occurs in the context of the low rate of penitentiary occupation (an average annual value of 129.21% with regards to the 4 m^2 standard, see Table no. 1). The level of consistency between the proposals of

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61 See Transparency International, *Global Corruption Barometer 2004*, London, Pluto Press, 2004, accessed December 7, 2018, https://www.transparency.org/whatwedo/ publication/ global_corruption_report_2004_political_corruption.

62 Ibid.

63 Romanian Parliament, *Law no. 286/2009 regarding the Criminal Code,* published in the *Official Monitor of Romania,* Part I, no. 510, 24 July 2009, with subsequent amendments, in force since February 1st 2014.

64 Romanian Parliament, *Law no. 135/2010 regarding the New Criminal Procedure Code,* published in the *Official Monitor of Romania*, Part I, no. 486, 15 July 2010, in force since February 1st 2014.

65 Romanian Parliament, *Law no. 254/2013 regarding the serving of punishments and custodial sentences ordered by judicial bodies during criminal proceedings*, published in the *Official Monitor of Romania*, Part I, no. 514, 14.08.2013.

66 Gabriela-Nicoleta Chihaia, "Liberarea condiţionată din pedeapsa închisorii – consideraţii asupra condiţiilor de acordare din perspectiva evoluţiei acestora" ("Conditional release from prison – considerations on the conditions for its granting from the perspective of their evolution"), in *Dreptul românesc la 100 de ani de la Marea Unire. Dimensiuni şi tendinţe*, edited by the Romanian Academy, Institute of Legal Research "Acad. Andrei Rădulescu" (Bucharest, 20 April 2018), 485-491.

67 Ibid., 490.

liberation committees and court decisions regarding the granting of early release registers a considerable decrease, from 64.93% in 2009 to 44.11% in 2017. Less than half of the proposals of the conditional release committees are admitted by the courts, while the number of delayed and rejected proposals rises from 2.282 to 5.945 (see Table no. 3).

The paradigm shift is emphasized by the overlapping of the themes of the fight against corruption with criminal policy, in a context of an increase in public confidence for the activity of the justice system (it increases from 25% to 36% in 2018, its highest recorded value having been 46% in 2014, see Table no. 2). The intensification of the judicial reform process[68] resulted in the application of cumulative conditions necessary to obtain the right to early release. The prosecution and definitive conviction of high ranking dignitaries who were accused of corruption (including ministers and former members of the Government, senators and members of the European Parliament) sent a shockwave through the public perception that underlined the fleeting omphalos of immunity before the law.[69] In the period 2009-2017, the National Anticorruption Directorate dealt with 33.837 cases of corruption-related offenses, which led to the trial of 9.730 defendants and definitive prison sentences for 6.661 of them.[70] Through the activity of the DNA (PNA), the reform of justice focused on combating corruption at all levels, as among those sent to trial (and subsequently convicted) were ministers, secretaries of state, former members of the Cabinet, members of the Chamber of Deputies, senators, members of the European Parliament, mayors, directors of public institutions and state-owned companies as well as judges and prosecutors (see Table no. 2). The complete overtaking of the public agenda with the issue of anti-corruption emphasized the reluctance of the right-holders of conditional release, having stressed the issue of recovering damages and discouraging corruption.

Prima facie (at first sight), the occupancy rate of penitentiaries was not a basis for conditional release. Indirectly, however, a high degree of occupancy let to a large number of requests from inmates being analyzed by conditional release committees and subsequently by the courts. The individualization of punishment and periodic evaluation of inmates have influenced the activity of both committees and courts, their activity relating to the workload. As the committees and courts were relieved, one can notice an increase in the

[68] Coman, *Réformer la justice*, 31.

[69] *Lato sensu*, through this concept I extend the sphere of immunity from the Constitutional provisions applied to a specific category of dignitaries (the basis being the limited term when that person holds office, with explicit mechanisms for withdrawing immunity being in place) to the perception of the impunity these political figures had (due to their influence and political status), which put them above the law.

[70] Statistics drawn up by parsing the data presented in *Synthesis of activity reports of the National Anticorruption Prosecutor's Office and National Anticorruption Directorate in the period 2002-2018.*

reluctance to grant conditional release, thereby underlining the tendency to postpone requests. Even if the reform of the criminal justice system aimed at involving convicted persons in various activities throughout their sentence,[71] the number of beneficiaries of conditional release decreased, even if the percentage of repeat offenders among the prison population started gradually declining from 2007 to 2016 from 47% to 38%.[72] A high rate of detention unit occupancy (determined primarily by the size of the prison population) contributed to the overloading of committees and courts, which therefore had to solve a large number of requests. Conversely, a reduction in the occupancy rate (and by default of the prison population) led to a relief of committees and courts, who then had fewer requests to address. The year 2000 saw the largest number of early release requests submitted by inmates (34.964 requests), a period when the penitentiary system was confronted with an extremely high rate of occupancy (48.267 inmates for 22.407 accommodations, taking into account a standard of 4 m^2 of space per inmate with an occupancy index of 215.40%, see Table no. 1), while 2010 saw the lowest number of requests (13.850), during a time when the rate of prison occupancy had dropped to 123.90% (28.244 inmates for 22.794 accommodations at a 4 m^2/inmate standard, see Table no. 1).

Changes to the legal framework and the seizure of the public agenda by the fight against corruption have, simultaneously, led to a repositioning of the right-holders of conditional release with regards to the nature of punishment. I identify different positions of the right-holders on principles around which the doctrine on the subject had been established. On the one hand, the humanization and sensitizing processes of the right-holders had evolved with regards to the changes to the legal framework. On the other hand, the evolution of conditional

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[71] See National Administration of Penitentiaries, "Available educational activities and programs, as well as psychological and social assistance," 2018, accessed March 29, 2019, http://anp.gov.ro/wp-content/uploads/2017/04/oferta-de-programe-%C8%99i-activit % C4%83%C8%9Bi-educative-de- asisten%C8%9B%C4%83-psihologic%C4%83-%C8%99i-....pdf.

[72] Data on repeat offenses was obtained from the National Administration of Penitentiaries' annual activity reports from 2008 to 2016. See National Administration of Penitentiaries, *Annual activity reports for 2012-2017*, accessed April 3, 2018, http://anp.gov.ro/despre–anp/rapoarte–si–studii/. For an in-depth analysis, see Cristina Dâmboeanu, "Fenomenul recidivei în România" ("The phenomenon of repeat offense"), *Calitatea Vieţii*, XXII, no. 3 (2011): 295–312; Cristina Dâmboeanu, "Cercetarea fenomenului de recidivă din perspectiva 'carierei infracţionale'" ("Researching the phenomenon of repeat offense from the perspective of a 'career of crime'"), *Revista Română de Sociologie*, new series, Year XIX, no. 5–6 (2008): 395–404; Ciprian Sebastian Sabău, "Reducerea ratei de recidivă a persoanelor care au executat pedepse privative de libertate din perspectiva unui lucrător în penitenciar" ("Reducing the rate of repeat offense for people who have served custodial sentences from the perspective of a penitentiary employee"), *Revista de Practică Penitenciară*, no. 1 (2019): 19-23.

release bent to the utilitarian paradigm of efficient and economic management of the resources allocated to the prison system.

In order to test the relationship between the individualization of the punishment and the fight against corruption, I have selected 36 public and political figures which have been granted conditional release, but I must mention that this list is not exhaustive. It is notable that the majority of these persons have served at least 1/3 of their sentence and only in 10 cases has conditional release been granted prior to the serving of that fraction of the sentence. Cumulating sentences, one can observe that from 170 years in prison which were sentenced, in total a number of 73 were actually served, an aspect which emphasizes the courts' and conditional release committees' tendencies of finally granting conditional release after the prisoner has served one third of their sentence. What draws attention, however, is the high level of damages, estimated at over 280 million euros, as taking bribes, trafficking in influence, abuse of office and money laundering are the primary crimes which explain the high level of material damages. In genere, these crimes were committed while serving in a public capacity or while holding a position in a political party. The sentencing and serving of jail time has thus obtained the symbolic role of combatting high level corruption. Among those convicted, one can find Adrian Năstase, Dan Voiculescu, Adrian Severin, Miron Mitrea, Relu Fenechiu, Codruț Sereș, Zsolt Nagy, Gabriel Berca, Ionel Manțog, Cătălin Voicu, Nati Meir, Gheorghe Ștefan, Antonie Solomon, Romeo Stavarache, etc.

This list, however, does not contain Miron Cozma, who was sentenced, on the 28th of September 2005, to 10 years in prison for the events of Costești of 1999. Between December 2005 and November 2007, the Conditional Release Committees (of both Timișoara and Rahova Penitentiaries) have issued three favorable opinions on the requests for conditional release submitted by the former miner leader.[73] The first two opinions were initially approved by the magistrates of the Timișoara Court and the Bucharest Sector 5 Court respectively, but ultimately the requests for conditional release were denied after the courts admitted the appeals submitted by the Prosecutor's Office. The exception was the sending of the case to the Constitutional Court by the magistrates of the Sector 5 Court, which led to Miron Cozma serving his sentence in full.[74]

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[73] See Ovidiu Ciutescu, "The conditional release of Miron Cozma is being discussed," *Jurnalul Național*, 15 November 2007, accessed August 28, 2019, https://jurnalul.antena3.ro/fun/se-discuta-eliberarea-conditionata-a-lui-miron-cozma-109005.html.

[74] The exception of unconstitutionality was denied by the judges of the Constitutional Court through the *Decision no. 454 of 22 April 2008 regarding the exception of unconstitutionality of the provisions of art. 59 para. (1) of the Criminal Code, art. 75 of Law no. 275/2006 regarding the serving of punishments and measures imposed by judicial organs throughout the criminal proceedings and art. 460, para. (1) of the Criminal Procedure Code*, published in the *Official Monitor* no. 435 of June 10 2008.

Table no. 4 contains convicted persons who originate from within the circle of power or have important ties to right holders, being perceived by those outside of the political entourage as "undesirable". The reincarnation of the figure of Miron Cozma incites debate on the issue of reducing the sentence, the individualization of punishment being relegated to the background. The conditional release of "undesirables" is often perceived as an abatement of the fight against corruption. Moreover, the reduction of sentences of persons like Sandu Anghel (alias Bercea Mondial), Ion Balint (alias Nuțu Cămătaru) or Gregorian Bivolaru raises serious questions regarding the state's capacity to discourage criminality while at the same time ensuring public order.

Conclusion

In this article, I have demonstrated that the decisions of the right-holders of conditional release were influenced by the dynamics of the evolving legal framework and the evolution of the political landscape. The need for political legitimacy determined right-holders to become reluctant in granting these measures, thereby slowly abandoning the paradigm centered on individualizing punishment. The paradigm which did prevail was one based on the economic management of limited prison system resources. The results of this research have therefore validated the arguments which underpinned our approach.

Overall, the main stages of the articulation of the complementary institution of conditional release reflect the timing of release in relation to the pressure exerted on right-holders by the situation inside penitentiaries and the gradual seizure of the public agenda by the fight against corruption. The worthiness of obtaining early release was slowly voided of substance, the focus having been set on the recovery of damages and not on the behavior of the convicted person.

Chronologically, I have identified three distinct stages of the evolution of conditional release, each stage having been framed by extensive paradigm shifts for criminal law and political context. Accession to the European Union and the reformation of criminal legislation while focusing on the goal of fighting against corruption have imposed a new outlook from right-holders to the prerogative of granting early release. Therefore, in the period of 2000-2003, the complementary institution of conditional release aimed at relieving the courts, becoming, simultaneously, a tool which enabled a decrease in the occupancy rates of penitentiaries. The high frequency of granting early release which I notice in this period has been explained in the context of a weak articulation of the legal framework, the only basis being the principle of humanism. Later, in the period 2004-2008, the intensifying efforts of accession to the European Union and the gradual seizure of the public agenda by the fight against corruption had created a

new paradigm, centered on the need to efficiently manage the resources allocated to the prison system. The utilitarian paradigm evolved, in the third stage, to underpin the recovery of damages as paramount. This meant the intertwining of criminal proceedings with the convicted person's repair of the damages leading, from 2009 onwards, to reluctance in the granting of conditional release, as a result of restrictive changes brought to the legal framework.

Amendments to criminal legislation, together with the changes brought about in the practice of the courts, led to a reduction in the degree of consistency between the decisions of penitentiary conditional release committees and the decisions of the courts. The different legitimizing strategies employed by right-holders were the main unexpected result of this research, given that the changes to the legal framework apply to both decision levels. I have explained this discrepancy as a result of an increase in postponements and refusals issued by the courts, in a context where the court workload was relieved and prison occupancy rates were reduced. Solving conditional release requests was therefore no longer a priority in court activity.

Table no. 1. Statistics on the occupancy rates of penitentiaries in Romania in the period 1989-2019

Year	**Crime rate ‰ (number of persons with definitive convictions per 100000 inhabitants)**	**Number of inmates**	**Number of accomodations (relative to a standard of 4m^2/inmate)**	**Occupancy index % (for 4m^2)**
15.12.1989	-	33.432	19.213	174
1990	160	26.010	19.477	133,53
1991	263	39.609	20.657	191,74
1992	303	44.011	21.025	209,32
1993	366	44.521	20.572	216,41
1994	421	43.990	20.498	214,59
1995	448	45.309	20.796	217,87
1996	460	42.445	20.560	206,44
1997	496	45.121	21.014	214,71
1998	472	52.149	22.235	234,53

1999	390	49.790	21.963	226,69
2000	336	48.267	22.407	215,40
2001	370	49.840	23.074	215,99
2002	375	48.075	25.484	188,64
2003	353	42.815	24.908	171,88
2004	320	39.031	25.737	151,65
2005	304	36.700	24.916	147,29
2006	263	34.038	25.283	134,62
2007	214	29.390	24.421	120,34
2008	171	26.212	22.866	114,63
2009	159	26.698	22.640	117,92
2010	195	28.244	22.794	123,90
05.04.2011	223	28.963	23.690	122,25
2012	245	23.991	18.029	133,06
2013	236	25.991	19.267	134,89
2014	205	26.192	19.212	136,33
2015	213	25.137	18.778	133,86

2016	166	25.431	18.970	134,05
2017	181	23.450	19.121	126,67
2018	165	20.792	17.037	113,73
2019	-	19.241	17.146	112,21

Source: Data parsed from statistical information provided by the National Administration of Penitentiaries and the National Institute of Statistics. See National Administration of Penitentiaries, *Public policy document regarding the improvement of detention conditions*, April 2011, p. 6-7; National Administration of Penitentiaries, *The dynamics of prison population: The state of prison accommodations and inmate population on December 24, 2018*, accessed April 15, 2020, http://anp.gov.ro/informatii/dinamica-efectivelor/; National Institute of Statistics: *Rate of crime by macro-regions, development regions and counties 1990-2018*, accessed April 3, 2019, http://statistici.insse.ro/, National Administration of Penitentiaries, answer to the request filed under no. 500151/08.10.2018.

Table no. 2. Results of the fight against high and mid-level corruption with regards to the dynamics of confidence in justice activities in Romania in the period 2003-2019

Year	Corruption cases solved	No. of defendants sent to trial	No. of persons with definitive convictions	Confidence in justice activities (%)
2003	951	548	22	-
2004	1.366	1.067	414	26%
2005	1.633	744	73	35%
2006	1.509	360	80	25%
2007	2.070	451	63	25%
2008	2.302	683	63	26%
2009	2.642	552	131	28%
2010	2.957	937	154	23%
2011	3.313	1.091	298	-
2012	3.578	828	743	-

2013	3.785	1.073	1.051	44%
2014	4.125	1.167	1.138	46%
2015	2.656	1.258	970	41%
2016	3.341	1.271	879	40%
2017	3.893	997	713	36%
2018	3.547	556	584	36%
2019	2.694	501	422	-

Source: *Synthesis of activity reports for the National Anticorruption Prosecutor's office and the National Anticorruption Directorate in the period 2002-2019*, accessed April 3, 2020, http://www.pna.ro/results.xhtml and European Commission, *Annexes to the Standard Eurobarometers no. 60-90, Chapter on confidence in the justice system for the period 2004-2017*, accessed April 3, 2020, http://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/General/index.

***Table no. 3. Situation* on solving requests for conditional release in the period 2000-2018**

Year	Inmates evaluated by the conditional release committees	Inmates proposed for early release by the committees	Proposals admitted by the courts	Proposals rejected by the courts	Proposals postponed by the courts	Concordance between committee proposals and court decisions (Admission of requests) (%)	Inmates who have appealed the decisions of conditional release committees	Appeals admitted by the courts	Appeals rejected by the courts	Appeals postponed by the courts	Concordance between committee proposals and court decisions (Rejection and postponement of appeals) (%)	Total number of persons conditionally released	No. of requests made to the courts	Requests admitted by the courts
2000	34.964	20.999	18.370	0	2.069	**87,48**	13.965	10.400	0	2.789	**25,53**	**28.663**	*	*

2001	30.849	18.239	15.634	0	2.188	**85,72**	12.610	9,450	0	2.585	**25,06**	**25.512**	*	428
2002	27.553	15.098	12.946	0	1.882	**85,75**	12.455	9.544	0	2.568	**23,37**	**22.822**	*	404
2003	25.752	13.174	11.036	0	1.871	**83,77**	12.578	9.671	0	2.574	**23,11**	**21.025**	*	318
2004	22.518	10.688	9.218	177	1.312	**86,25**	11.815	9.111	245	2.463	**22,89**	**18.647**	2.667	306
2005	18.807	9.046	7.630	196	1.220	**84,35**	9.961	7.732	287	1.951	**22,38**	**15.587**	2.176	387
2006	17.813	8.634	7.147	222	1.265	**82,78**	9.179	6.902	280	1.997	**24,81**	**14.451**	2.398	490
2007	17.724	8.353	6.470	197	1.686	**77,46**	9.371	6.497	215	2.659	**30,67**	**13.344**	2.613	499
2008	15.819	7.154	5.172	199	1.783	**72,30**	8.665	5.580	347	2.738	**35,60**	**11.256**	2.774	501
2009	14.269	6.507	4.225	337	1.945	**64,93**	7.762	4.285	438	3.039	**44,80**	**8.914**	3.459	510
2010	13.850	6.197	3.871	285	2.041	**62,47**	7.653	3.726	396	3.531	**51,31**	**8.420**	3.666	444
2011	15.404	6.986	4.139	477	2.370	**59,25**	8.418	3.911	479	4.028	**53,54**	**9.212**	3.995	677
2012	17.969	8.046	4.766	681	2.599	**59,23**	9.923	4.367	777	4.779	**55,99**	**10.229**	4.736	469
2013	19.794	8.874	4.808	872	3.194	**54,18**	10.920	4.343	915	5.662	**60,23**	**10.362**	5.648	665
2014	22.566	10.962	5.687	1.107	4.168	**51,88**	11.604	4.716	895	5.993	**59,36**	**11.392**	6.839	740
2015	21.462	10.593	5.155	1.124	4.314	**48,66**	10.869	3.970	1.102	5.797	**63,47**	**10.920**	6.550	789
2016	20.028	108.637	4.692	1.440	4.505	**44,11**	9.391	3.289	1.138	4.964	**64,98**	**9.216**	5.931	955
2017	23.969	12.640	-	-	-	**-**	-	-	-	-	**-**	**10.554**	-	-
2018	20.394	9.610	-	-	-	**-**	-	-	-	-	**-**	**8.859**	-	-

Source: Statistics parsed from data received from the National Administration of Penitentiaries in answer to requests no. 200254/27.10.2017 and 500025/29.01.2019.

Table no. 4. The situation of inmates on conditional release in the period 2000-2019

No.	Name of paroled offender	Professional or political situation	Nature of the offense	Sentence	Sentence served	Amount of prejudice in EURO	Fraction of the sentence served
1	Adrian Nastase	Prime Minister, President of the Chamber of Deputies, Minister of Foreign Affairs, president of the PSD/PDSR	Abuse of authority, bribery, blackmail,	2 years 4 years and 6 months	8 months 1 year and 6 months	1.750.000 630.000	1/3 1/3
2.	Dan Voiculescu	Member of the Senate, businessman, founder of the Intact Media group, president of PUR/PC	Money laundering	10 years	2 years and 11 months	60.000.000	< 1/3
3.	Adrian Severin	Member of the European Parliament, Minister of Foreign Affairs, Member of the Chamber of Deputies (FSN/PD/PSD)	Bribery, influence peddling	4 years	1 year and 3 months	430.000	< 1/3
4.	Miron Mitrea	Transport Minister, Member of Parliament (PDSR/PSD)	Bribery	2 years	1 year and 3 months	73.000	> 1/3

5.	Gabriel Sandu	Minister of communications and information technology, Member of the Chamber of Deputies (PNL)	Bribery, money laundering	3 years	1 year and 1 month	51.400.000	> 1/3
6.	Relu Fenechiu	Transportation and Infrastructure Minister, Member of the Chamber of Deputies (PNL)	Complicity in aggravated abuse of power, repeated influence peddling and money laundering	5 years and 6 months	3 years and 6 months	1.300.000	> 1/3
7.	Stelian Fuia	Minister for Agriculture and Rural Development, Member of the Chamber of Deputies, President of the PNL Călărași branch	Abuse of power	3 years	1 year and 7 months	360.000	> 1/3
8.	Codruț Sereș	Economy Minister, Member of the Senate, member of the PC	Joint transnational criminal enterprise, treason by divulging information of confidential nature	6 years	2 years and 9 months	147.700.000	> 1/3

9.	Zsolt Nagy	Minister of communications and information technology, UDMR member	Joint transnational criminal enterprise, treason by divulging information of confidential nature	4 years	2 years and 9 months	-	> 1/3
10.	Sorin Pantiș	Minister of Communications, Member of the Chamber of Deputies, managing director Grivco SA București, PNL member	The deliberate establishing of a reduces value, compared to the real market value, of assets belonging to economic agents in which the state is a shareholder, committed during privatization activity, forgery of documents under private signature	7 years	4 years	60.000.000	> 1/3
11.	Gabriel Berca	Minister of Foreign Affairs, head of the General Secretariat of the Government, prefect of Bacau county, PNL/PSD member	Influence peddling	2 years	1 year	92.500	> 1/3

12.	George Copos	Vice-Prime Minister, businessman, Member of the Senate, member of the PC	Partaking in illegal transactions	4 years	1 year and 1 month	900.000	< 1/3
13.	Ionel Manțog	Secretary of State within the Ministry of Economy, county counselor, general director of the Turceni Energy Complex, PDL member	Abuse of power pertaining to the misuse of sensitive information	5 years	3 years	92.000	> 1/3
14.	Nicolae Mischie	Member of Parliament, head of the Gorj County Council, PSD member	Bribery, influence peddling	4 years	1 year and 2 months	72.000	< 1/3
15.	Cătălin Voicu	Member of Parliament, PSD member	Influence peddling	7 years	2 years and 7 months	225.000	> 1/3
16.	Mihai Banu	Member of the Chamber of Deputies, PNL/PDL member	Influence peddling	3 years and 6 months	1 year and 2 months	92.500	1/3
17.	George Becali	Member of the European Parliament, Member of the Chamber of Deputies, businessman, member of PNG-CD, PRM, PNL	Bribery, forgery, unlawful deprivation of liberty	3 years and 6 months	1 year and 10 months	1.700.000	> 1/3

18.	Nati Meir	Member of the Chamber of Deputies, PRM member	Fraud, influence peddling Fraud	10 years 4 years	5 years 1 year and 1 month	1.600.000 115.000	> 1/3 < 1/3
19.	Alin Trășculescu	Member of the Chamber of Deputies, PDL member	Influence peddling, embezzelement, use of false, instigation to use of forged documents under private signature, instigation to money laundering	3 years	1 year and 8 months	200.000	> 1/3
20.	Florin Popescu	Member of the Chamber of Deputies, President of the Dâmbovița County Council, PNL/PDL/PMP member	Official misconduct in a position of auhtority, with the aim of securing undue benefits	2 years	1 year and 4 months	110.000	> 1/3
21.	Ion Stan	Member of the Chamber of Deputies, Secretary of the Control Commission of the SRI, PSD member	Influence peddling	2 years	10 months	30.000	> 1/3
22.	Dan Păsat	Member of the Chamber of Deputies, PDL/PNL member	Violent blackmail	3 years	1 year and 7 months	-	> 1/3
23.	Nicolae Vasilescu	Member of the Chamber of Deputies, PRM/PSD member	Influence peddling	2 years	1 year and 6 months	450.000	> 1/3

24.	Gheorghe Ștefan	Piata Neamt mayor, PDL member	Bribery (Microsoft corruption scandal), money laundering, carrying out financial operations incompatible with the position held	3 years and 6 months 3 years and 9 months	1 year and 2 months 4 months	3.000.000 226.000	1/3 < 1/3
25.	Antonie Solomon	Craiova mayor, Member of the Senate, PSD/PDL member	Bribery	3 years	1 year and 3 months	50.000	> 1/3
26.	Romeo Stavarache	Bacau mayor, PUR/PNL member	Bribery	4 years	2 years and 3 months	500.000	> 1/3
27.	Dan Diaconescu	TV anchor, founder of the OTV and DDTV channels, founder president of the PP-DD party	Blackmail	5 years and 6 months	2 years and 8 months	-	> 1/3
28.	Sorin Roșca Stănescu	Journalist, director of the *Ziua* newspaper, PNL member	Utilisation of inside information that are not meant for publicity and setting up an organized criminal group	2 years and 4months	9 months	-	1/3
29.	Nicolae Popa	Businessman	FNI scam	10 years and 4 months	3 years and 2 months	1.200.000	< 1/3
30.	Mircea Băsescu	Businessman, brother to former President of Romania Traian Băsescu	Influence peddling	4 years	1 year and 3 months	265.000	< 1/3

31.	Ioan Niculae	Businessman	Forgery of documents under private signature	2 years and 7 months	1 year and 3 months	150.000	> 1/3
32.	Dorin Cocoș	Businessman, ex-husband to politician Elena Udrea, in close relation with the former President of Romania Traian Băsescu	Influence peddling and money laundering	2 years and 4 months	1 years	9.000.000	> 1/3
33.	Sorin Ovidiu Vîntu	Businessman, owner of media conglomerate Realitatea-Cațavencu,	Aiding and abetting	2 years	10 months	-	> 1/3
34.	Sandu Anghel (also known as Bercea Mondialul)	Mob boss	Aggravated attempted murder, tax evasion, money laundering	8 years and 9 months	6 years and 2 months	800.000	> 1/3
35.	Ion Balint (also known as Nuțu Cămătaru)	Mob boss	Racketeering, loan sharking, unlawful ownership or port of weapons, homicide	5 years and 11 months	1 year and 4 months	-	< 1/3
36.	Gregorian Bivolaru	Spiritual teacher, founder of the Movement for Spiritual Integration into the Absolute (MISA)	Statutory rape and sexual acts with a minor	6 years	1 year and 7 months	-	< 1/3
	Total			**170 years**	**73 years and one month**	**284.513.000**	**> 1/3**

Source: Data centralized according to information available in the media.