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An Examination of The Romanian Prison System During The COVID-19 pandemic. Are “Zero Cases” Possible?

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ABSTRACT

In spite of all the measures taken during the past decades, the Romanian prison system is still considered overcrowded by European standards (111% above rated capacity in June 2020). However, very much against the trend set by other European jurisdictions, Romania did not opt for an early release scheme to fight COVID-19. Instead, the government took steps to strengthen its internal mechanisms to ensure safe interactions between staff and inmates, between inmates themselves, and between inmates and the outside world.

This paper explains why that was the only option on the table for the Romanian authorities and then provides a preliminary assessment of the consequences of this strategic decision. Overall, with no known case of infected prisoners, while serving their sentence inside the penitentiary system, it seems that the route taken by the Romanian prison authorities was an effective one, at least in terms of minimizing the outbreak of Covid-19 in the prison system. At least so far ... However, the legal, psychological, and experiential consequences of these strict medico-carceral measures for the prisoners and their families remain to be explored.

KEYWORDS

Prisons; prison resources; prison experience; COVID-19; socio-medical measures; Romania; pandemic; alternatives to incarceration; early release mechanisms; prison reform

The European context of the COVID-19 outbreak

Wuhan Municipal Health Commission in China reported the first COVID-19 cases in December 2019. On the 1st of January 2020, the World Health Organization (WHO) created the Incident Management Support Team placing the organization on an emergency footing for addressing the outbreak.¹ By February 2020, the virus had spread across most of China, and outbreaks were reported in 28 other countries. The first three cases detected in Europe were in France on the 24th of January 2020, but the situation had developed rapidly with a large outbreak identified in Northern Italy, with the transmission in several municipalities (e.g., Lombardy, Veneto and Emilia Romagna). The reports of these Covid-19 outbreaks continued, and by March 2020, there were already 4,250 cases and 113 deaths in Europe (Spiteri et al., 2020). Due to the steep increase in the number of infections and the wide number of countries and territories affected, WHO declared a global pandemic, COVID-19, on the 11th of March 2020.²

As the spread of the virus in detention centers is facilitated by prison overcrowding and poor sanitary conditions, the UN High Commissioner for Human Rights, Michelle Bachelet, urged the governments in March 2020 “not to forget” individuals behind bars.

In her speech, she recited that under the international human rights law, the States (i.e. countries) have an obligation to prevent threats to public health and protect those under its care. In this respect, she suggested that governments should work quickly to reduce the number of prisoners in custody, especially those particularly vulnerable to COVID-19 (e.g., older prisoners, those who are at risk due to underlying health problems, etc.) and also “low-risk” offenders who could be released without threatening community safety. She also cautioned that any restrictions on visits should be introduced in a transparent way and communicated clearly. These restrictions should be accompanied by alternative methods of communication, such as extending videoconferencing, more phone calls with family members and permitting e-mail. Most of these key recommendations were included in a joint document adopted by the Office of the UN High Commissioner for Human Rights and World Health Organization, titled: *Interim Guidance. COVID-19: Focus on persons deprived of their liberty* (2020).

It should come as no surprise that prison overcrowding has exacerbated the problem in many countries. According to a review by Aebi and Tiago (2020) for the Council of Europe, eleven European countries were facing some degree of prison overcrowding in April 2020, with rates higher than 100 inmates per 100 places: Slovenia, Austria, Czech Republic, Serbia, France, Italy, Cyprus, Hungary, Greece, Romania, and Turkey. Some countries moved quickly in the early stages of the pandemic to address the overcrowding problem. For example, in the case of Slovenia, although the prison system was overcrowded at the beginning of 2020, the level of crowding was reduced significantly by April 2020. This was possible due to the fact that Slovenia released 16% of its inmates as a preventive measure related to COVID-19.

Other countries appeared to move in the opposite direction during this initial review period. Sweden, for example, took a different route and passed from 99 to 102 inmates per 100 places. It is important to mention here that Sweden is the only country in EU that did not introduce a lockdown.

Apart from Slovenia, there were also several other countries that released some demographic of inmates as a preventive measure related to COVID-19, including Monaco, Iceland, Norway, Andorra, Denmark, Cyprus, UK, Ireland, Luxembourg, Italy, Armenia, France, Spain, Portugal, Serbia, Albania, Azerbaijan and Turkey. According to Aebi and Tiago (2020), a total of about 128,000 inmates were released in 20 European countries as a preventive measure to reduce the spread of COVID-19. By far the largest number of prisoners was released from Turkey (N = 102,944 or 35.3% of the prison population). A significant proportion of prisoners were also released in Spain (Catalonia) – 17%, Cyprus – 15.9%, Slovenia – 15.9%, Portugal – 14.8%, France – 14.4%, Norway – 13.3%, Italy – 9.4%, and the UK – 7.8%. Different penal vehicles or prison modalities were used to ensure the release of prisoners, including: (1) reducing the sentences of certain categories of inmates (France), (2) temporary release and transferring pre-trial inmates to alternative locations (UK), (3) early release with electronic monitoring for those with less than 18 months to serve, and deferral of the sentence for health reasons or semi-freedom (Italy) (AGENFOR, 2020).

Countries have used different measures to avoid or postpone new entries into prisons, such as postponement in commencing prison sentences (Czech Republic, Sweden, Finland, and Norway) or suspended entries into the prison system (Denmark). As highlighted in the AGENFOR (2020) report and by Aebi and Tiago

(2020), in many European jurisdictions, the prison population has decreased or remained stable due to a confluence of front-end and back-end factors, including a decrease in crime rates and criminal justice activity due to the pandemic, and the release of prisoners as a preventive measure to reduce the spread of COVID-19. An example that illustrates the effects of both front-end and back-end factors in Italy reporting 146,762 crimes nationwide in March of 2019, while only reporting 52,596 crimes in March of 2020, which translates to a 66.6% decrease in crime at the national level over the course of 1 year (AGENFOR, 2020).

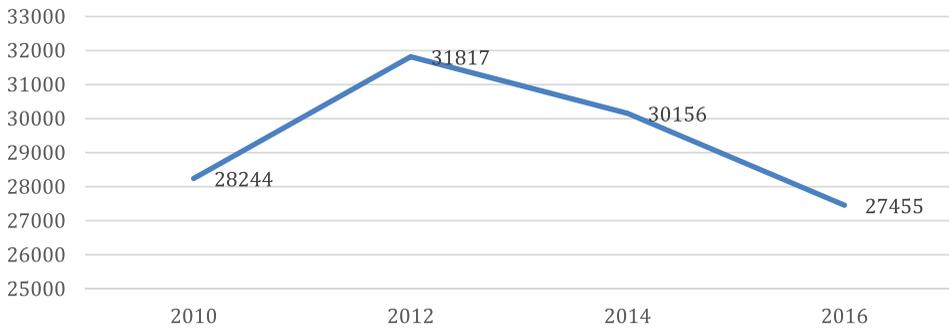
The Romanian context of the COVID-19 crisis

With almost 110 inmates per 100 spaces, Romania was one of the eleven countries with a prison population exceeding its capacity at the beginning of 2020. Due to overcrowding and responses from other countries in similar situations, one might expect that Romania, too, would release inmates prematurely; however, this was not the case. Instead, due to internal factors, Romania relied on other health and safety measures that decreased direct contact between inmates and the outside world. Although it may be difficult to believe, there have been zero cases of COVID-19 inside Romania's penitentiary system, apart from seven inmates who were transferred from the police preventive detention centers. This reality may seem overly positive in a context in which the number of COVID-19 cases in Romania's general population continues to rise every day, and the penitentiary system is overcrowded and in poor material condition. However, in the next sections, we will describe the context, measures, and outcomes of the Romanian approach toward fighting the spread of COVID-19 inside its penitentiary system.

Romania's prison system has been the subject of international review and criticism for over a decade. As it was mentioned in several SPACE I reports (Council of Europe), reports published by the Committee for Prevention of Torture (CPT reports, hereinafter) and, as of late, in a pilot decision of the European Court of Human Rights (ECHR)³ against Romania, the penitentiary system was affected by structural dysfunction due to severe overcrowding and poor material conditions of detention. Consequently, ECHR recommended that the Romanian Government reduce overcrowding, improve material conditions within detention centers, and introduce effective preventative and compensatory remedies, such as allowing a judge to respond either prior to, or after, the rights of a prisoner were breached.

In order to respond to these international pressures, the Romanian Government together with the Parliament adopted several measures in the last decade. Two of the most significant measures affecting the prison population, specifically, include a new Penal Code and an introduction of the compensatory remedy law. The new Penal Code was adopted in 2009 (Law no. 286/2009) and instituted on the 1st of February 2014. The main changes brought forth by this new regulation were an expansion of the community sanctions and measures (alternatives to detention), different minimum and maximum sentences for some offenses, and a different approach to juvenile offenders (providing educational, rather than punitive measures). The application of this new Penal Code has led to a significant decrease in the prison population since 2012 (see [Graph 1](#)).

Theoretically, reducing overcrowding should lead to improvement of material conditions within detention centers. The process of reducing the prison population was sustained by several other administrative measures, such as the creation of new



Graph 1. “Number of inmates in Romanian prisons between 2010–2016. Source: World Prison Brief (<https://www.prisonstudies.org/country/romania>)

detention facilities (i.e., 672 new detention centers were created in 2016 and 170 in 2017). Significant steps were also made toward building two new prisons – P47 Berceni and P48 Unguriu. It was hoped that by reducing crowding and improving the quality/capacity of the prison system, better outcomes would be reported. In 2017 Parliament also adopted Law no. 169/2017 on the compensatory remedy, which codified that for every 30 days served in sub-standard conditions, the prisoners were entitled to a reduction of 6 days from their sentences. Although there are no rigorous studies on this matter, official data from the National Administration of Penitentiaries states that 23,518 inmates benefitted from this measure between 2017 and 2019. This was not the intention of the law – to release inmates prematurely – but emerged as a main effect of implementing such a law (see [Graph 2](#)).

It can be inferred that the decrease in the prison population was a cumulative effect of the New Penal Code, the compensatory remedy law, and other measures such as discouragement of the use of pre-trial detention, a more predictable practice around conditional release, and more. Another practice worth mentioning here is the Credit system,⁴ which ensures that inmates participate in rehabilitative activities and provides a clear, transparent, and motivational system of appraisal (Morar, 2019; Morar et al., 2019). Following a few tragic incidents in 2018, where heinous crimes were committed by inmates released prematurely,⁵ on the basis of the compensatory remedy law, the Romanian Parliament enacted a cancellation law – Law no. 240/2019 on the abrogation/repeal of the compensatory remedy law. Pressure from the public was so strong that public protests were organized in opposition of this law.



Graph 2. Change in the number of prisoners in Romanian prisons after adopting the compensatory remedy law. Source: World Prison Brief (<https://www.prisonstudies.org/country/romania>)

Prison administration's response during the first months of the pandemic

Preparatory measures

At the beginning of the COVID-19 crisis (at the end of February 2020), the National Administration of Penitentiaries developed and implemented a strategic plan for mitigating the problem in Romania's prison system: *Planned measures to prevent the spread of COVID-19 among staff and inmates* the plan included: (1) general prevention measures, (2) intervention measures – specific to inmates extradited from areas with high epidemiological risk of COVID-19, and (3) crisis intervention measures.

To implement the plan, a technical-medical support group was established within the National Administration of Penitentiaries (NAP hereinafter), in charge of monitoring and enforcing measures to prevent and counter the epidemic. As a first measure to protect the health of staff and inmates, contact between the prison population and potential sources of infection were limited. Two types of prisoners were targeted for these measures: the general prison population and those transferred from prison systems abroad. One of the first measures for the general prison population was to reduce or suspend some of the activities taking place outside the detention areas. For those extradited to Romania from other European states (e.g., Italy, Spain, and the UK), the accommodation of medical monitoring for a span of 14 days was implemented. Certain penitentiary units were specially designated for implementing quarantine in such circumstances. At the same time, measures were taken in the detention areas to carefully monitor the health condition of all inmates who had returned from prison furlough, within a 14-day follow-up period. Moreover, the administration identified possible new capacities for quarantine, monitoring, or isolating of those inmates who, after an epidemiological screening, would turn out to have symptoms specific to the new coronavirus infection. In order to ensure careful monitoring of the persons in medical isolation, [technological] solutions through [the PMSweb application, or prisoner information system,] were established to [designate] detention rooms for the sole purpose of isolation.

In order to reduce the movement of inmates, the administration requested the High Court of Cassation and Justice, the Appeal Courts, Regional Courts and First Instance Courts to analyze the possibility of hearing the inmates through videoconferencing or rescheduling upcoming hearings. At the very beginning of the emergency state, as an additional measure to maintain continuity of activities and to prevent the spread of Coronavirus, it had been decided that 30% of staff was to remain home while accomplishing professional tasks. Those from operative, medical, or psychosocial intervention sectors were exceptions to this rule. This measure was in place only during the emergency state, and other organizational measures regarding the schedule of the staff were put in place progressively (e.g., programming and partition scheduling).

During the state of emergency

On the 16th of March 2020, the *Presidential Decree no. 195/16.03.2020 declaring a state of emergency in Romania* was published in the Official Gazette of Romania. Annex 1 of this document included the first emergency measures to be applied within the criminal justice system, having a direct impact on the execution of sentences and of measures involving deprivation of liberty. Following the emergency state, the *Measures plan for the penitentiary*

system upon the declaration of the state of emergency in Romania was established and applied to the entire prison system. In this document, instructions were provided for the implementation of social distancing measures, limiting of contact between prison officers and inmates, and granting online communications. All inmate-involved activities, including sports, were reconfigured to ensure that large groupings and interactions of inmates were limited. Moreover, access to the detention portions of penitentiaries was limited to staff members that were responsible for surveilling, monitoring, and protecting the units. Additional, protective measures were adopted to ensure that inmates were safe while in contact with treatment providers and administrative staff (National Administration of Penitentiaries [NAP], 2020a).

Treatment measures in Romanian prisons

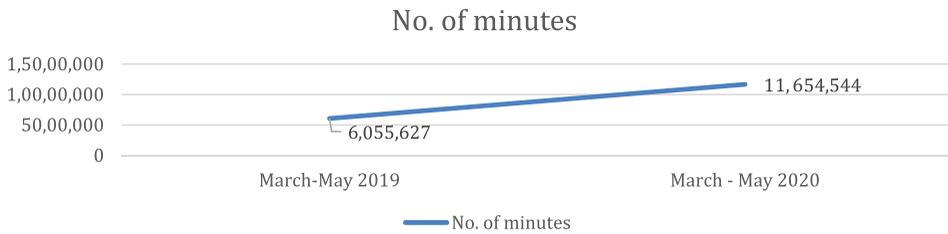
From a treatment point of view, greater attention was paid toward informing inmates about the need to prevent the spread of COVID-19 and to understand the specific and necessary measures being implemented. Thus, information campaigns for inmates were carried out in penitentiary units, with distribution of informational materials (flyers and posters) and periodically producing and broadcasting announcements through the prisons' closed-circuit radio and TV systems. Individual counseling (educational, social, and psychological) activities were carried out in order to raise awareness and acceptance of strict hygiene measures, while also sanitizing and disinfecting accommodation spaces and other areas where transmission of the virus was more likely, including social reintegration spaces, all with the universal goal of limiting the spread of the virus in mind. In terms of social reintegration initiatives, the following activities were conducted with priority:

- schooling
- professional/vocational
- volunteering
- radio-TV studios were used intensively to broadcast information of interest and importance to inmates
- psychological assistance was only provided in risk circumstances (NAP, 2020a)

Inmate contact between prisons was temporarily halted, as well as group-based activities among inmates. When possible, group-based activities were replaced with individual activities.

Inmates were thoroughly informed about the measures ordered as a result of the state of emergency declared in Romania. In particular, treatment staff members were instructed to carry out individual sessions with certain categories of inmates, in order to monitor their states of mind. To comply with the right of inmates to be informed, the penitentiary units took measures to ensure inmates had access to public TV programs and were allowed to produce and broadcast from the internal radio-TV studio. Most of the educational, moral, and religious-based activities were transferred online to compensate for the lack of direct contact activities (NAP, 2020a).

In accordance with the provisions of Article 47 of the *Presidential Decree no. 195/16.03.2020 declaring the state of emergency in Romania*, inmates' rights to receive visits, conjugal visits,⁶ goods through the visiting sector, or prison furlough were temporarily



Graph 3. Romanian prisoners telephone usage (in minutes) in 2019 and 2020 (between the months of March & May).

suspended. However, in order to maintain a connection with the outside world, both the duration and number of telephone conversations for inmates within the maximum-security regime were increased from 3 to 5 calls per day and to a maximum duration of 45 minutes per day. The duration and number of telephone conversations for inmates in closed, semi-open, open, and temporary regimes or for those who had not yet been included in a certain regime, were increased to a maximum of 75 minutes per day. Between the periods of March and May of 2019 and 2020, Romanian prisons experienced a near 100% increase in the total number of minutes spent making calls (see [Graph 3](#)). Regarding online communications, inmates increased their usage by 98% during this same time period.

During the state of emergency, NAP requested for the operators providing voice services to temporarily reduce the price of phone calls, in addition to assistance in developing this infrastructure. Depending on their priorities and characteristics of each penitentiary unit, each service provider operated under different discounts. While it is difficult to place a specific number on the discount amounts inmates are receiving to make calls, a significant difference can be inferred because of the vast increase in minutes inmates have spent making phone calls. Moreover, the right of inmates to have online conversations, regardless of their disciplinary status or frequency of contact with family, was allocated according to each prison regime's guidelines (Decree no. 195/16.03.2020; NAP, 2020a). Inmates also have the opportunity to communicate with the prison administration daily, in order to inform them about any potential breaches of their rights or abuses. The same applies to contact with the judge supervising the deprivation of liberty.⁷

Health and economic measures in Romanian prisons

The National Administration of Penitentiaries has ensured the necessary, additional funds for purchasing medical supplies and disinfectants. Moreover, with assistance from different institutions and business sectors (e.g., the Ministry of Health, Ministry of Home Affairs – Department for Emergency Situations, Unifarm National Company, and other providers), NAP obtained materials in order to ensure there were stocks of masks, gloves, disposable protective equipment, medical supplies, and disinfectants. A special system of monitoring the stock of essential medical supplies was put into place. Three times per week medical supplies (respiratory protective masks, medical gloves, impermeable suits, shoe covers, coats, medical face shields, and others) and disinfectants (for hands, floors, other surfaces, nebulizers, and others) are numbered and allocated at the national level, according to need. Guidelines were established for supplying the medical materials and disinfectants to prison officers. According to these guidelines, the supplies were allocated to prison staff based on

their role and functions and also on the frequency of contact with the prisoners. All prison staff workers were informed of these guidelines (NAP, 2020a).

Steps have been taken with all business operators serving inside the prison to ensure adequate supplies and maintain realistic, and even discounted, prices for products like fruits, vegetables, and hygiene products. Special arrangements were made for the rental of spaces within the prison system in order to ensure significant discounts for inmates.

Medical measures in Romanian prisons

Considering the need to play an active role in combatting the spread of COVID-9, the penitentiary administration established certain isolation areas in five units, intended for inmates considered to be infected with COVID-19. Thus, the following spaces within the prison system have been temporarily converted to quarantining, monitoring, and isolation areas for potentially infected inmates:

- Bucuresti-Jilava Penitentiary-Hospital: 35 beds for isolation
- Aiud Penitentiary: 20 beds
- Poarta Albă Penitentiary-Hospital: 30 beds
- Drobeta Turnu Severin Penitentiary: 40 beds
- Baia Mare Penitentiary: 42 beds

Moreover, under the Order of the Minister of Health,⁸ the Hospital Penitentiary of Bucharest – Jilava was designated as a medical unit to carry out special assessment procedures for COVID-19, housing 31 beds for patients that tested positive for COVID-19. At the same time, two hospital penitentiaries were provided with anesthesia and intensive care divisions/departments (ro. ATI). As there were only seven imported COVID-19 cases within correctional settings over the course of the pandemic, these capacities were not overcrowded.

To ensure that units acquired enough medical supplies and protective equipment, the hospital penitentiaries were tasked with planning and purchasing all supplies and equipment necessary for their own use, but also for penitentiaries under their medical coordination. Special guidelines were adopted to instruct the hospital penitentiaries on how to perform these extra duties. Instituted on the 14th of May, 2020, inmates leaving detention areas were required to wear personal protective equipment in the form of a face mask or face shield.⁹ Since the beginning of the pandemic in Romania, there have been measures taken to enhance the epidemiological triage of both staff and inmates, physical distancing protocol, and disinfection practices.¹⁰ Equipment has been provided by the penitentiary administration free of charge.

Specialized medical staff were responsible for tending to inmates that were suspected of having COVID-19. Two doctors specializing in anesthesia and intensive care and one doctor specializing in infectious diseases were appointed to oversee the medical situation among inmates. Special protocols were established to ensure an effective cooperation with public health authorities. All suspected cases of COVID-19 were to be reported to county public health departments, and depending on the nature and severity of the situation, the National Single Service for Emergency Calls may be contacted via 112.

In alignment with guidelines from the Ministry of Health and National Committee for Special Emergency Situations, NAP has adopted special practices regarding the optimal (and efficient) use and rationing of protective equipment. Training on how to properly use protective equipment, how to put on, wear, remove, and replace masks, and more was offered to non-medical staff as well. In this respect, informational materials (e.g., videos) regarding effective health and hygiene measures were also created and provided.

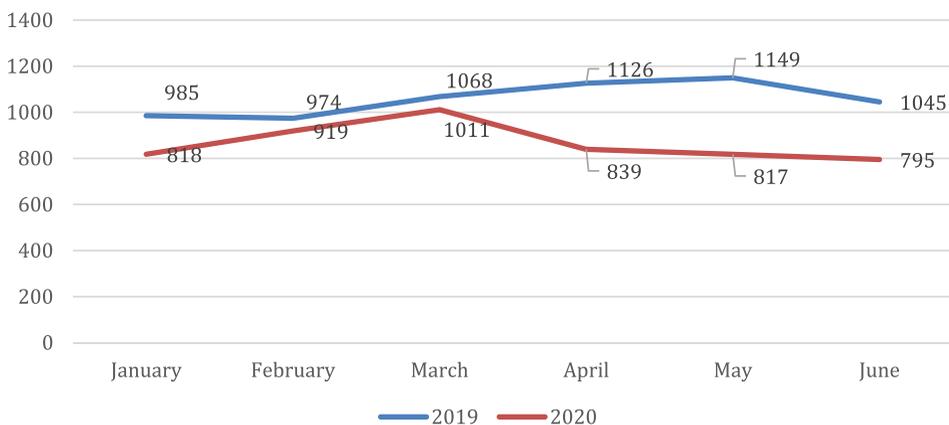
On the 14th of April, 2020 Presidential Decree no. 240 was issued ordering an *extension of the state of emergency in Romania*; thus, all transfers¹¹ between penitentiary units must be approved by the Medical Supervisory Directorate (NAP, 2020b). Moreover, from an operative point of view, some hospital penitentiaries were prioritized over others and therefore a transfer of material resources was essential. The Hospital Penitentiary of Bucharest-Jilava is now deemed as the medical unit responsible for carrying out priority actions for monitoring, treatment, and care of critical patients, with emerging and reemerging infections (AP-IER/RE), according to the Ministry of Health.¹²

In designing these measures, the National Administration of Penitentiaries was guided by the regulations strongly suggested by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) for managing inmates in the current epidemiological context. The 10 principles recommended by CPT (2020a)¹³ were translated and communicated to all prison staff throughout the country.

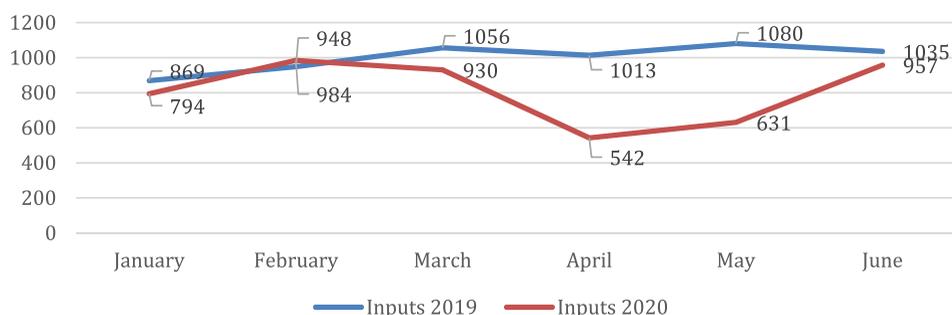
Number of prisoners during the pandemic

Graph 4 further illustrates that Romania's strategy to manage the pandemic in prisons was not to release prisoners, but rather to contain them in safer conditions by ensuring that the virus did not infiltrate in the first place. During the first half of 2019 and 2020, released inmate totals were comparable.

While a closer look at Graph 4 may demonstrate a slightly lower number of inmates being released in 2020 as compared to 2019, a viable explanation can be offered: the total number of prisoners existing within Romania's prisons was smaller in 2020 than 2019, thus less prisoners were released.



Graph 4. Number of prisoners released in the first 6 months – outputs 2019–2020.



Graph 5. Number of new prisoners in the first six months 2019–2020.

A different dynamic can be observed in terms of inmates entering Romanian prisons in 2020. [Graph 5](#) demonstrates that the number of newly-admitted prisoners in March and April of 2020 was significantly lower than during the same time period in 2019. Potential explanations for this difference are: (1) Romania experiencing a decrease in crime rates due to the pandemic as well as (2) slowing of the Romanian judicial system, which was also under emergency regulations. Unfortunately, official data regarding crime rates and sentencing are not yet available, but will likely be available nearer the end of 2020. However, it can be safely assumed that as the courts were experiencing lockdowns, less people were convicted and sentenced during this period of time.

Outcomes of Romanian strategies to combat COVID-19

The first COVID-19 case in Romania was reported on the 26th of February, 2020 in a 20-year-old in Gorj County after having had contact with an Italian man. In spite of all the measures taken by Ministry of Health and Ministry of Home Affairs, within 2 months, at least 10,000 people were reported as infected with COVID-19. The number of deaths within this same time period, an N of 601, was also alarming. According to the Strategic Communication Group,¹⁴ by the 31st of August, 2020 as many as 87,540 people were infected with COVID-19 in Romania, of which 37,869 were declared as having recovered and 3,621 deaths were reported. The remaining cases were considered asymptomatic, and 7,447 persons were still in hospitals (506 of them in intensive care units). The death rate during this time was estimated to be 4.8%.

To date, 1,802,946 tests have been administered within the general population of about 19 million people. Testing is usually conducted when symptoms are reported or upon the request of individuals. In the latter case, testing comes at a cost. In the former, tests are covered by social and health insurance. Depending on the number of tests run each day, the proportion of positive cases falls near 10%. In other words, if on a given day 1,000 tests were administered, approximately 100 cases would be COVID-19 positive.

According to official data provided by the Romanian National Administration of Penitentiaries, since the beginning of the pandemic through the 31st of August, there have been 148 confirmed cases of COVID-19 among prison staff workers in Romanian penitentiaries. Of these confirmed cases, 147 were hospitalized for at least 24–48 hours. While writing this paper, a prison staff worker came into contact with the virus outside the penitentiary system, was reported as testing positive, and has since died.

Due to the restrictive preventive measures taken by the penitentiary administration described above during this same period, none of the prisoners have tested positive for COVID-19 while serving their sentence in the Romanian penitentiary system. However, as noted above, it is important to mention that during this period, seven cases of COVID-19 were confirmed before being transferred from the Pre-Trial Arrest and Detention Centers of the Ministry of Home Affairs. These individuals were promptly placed in the Penitentiary Hospital of Bucuresti-Jilava until recovered.

Testing for both staff and inmates are performed based on the case definitions and testing methodologies elaborated by the National Institute of Public Health for all Romanian citizens. Therefore, the tests are performed by authorized institutions based on symptoms and/or contact with infected persons.¹⁵ No mass testing has been performed either inside or outside the penitentiary system. Based on the criteria mentioned above – symptoms and contact – 529 tests were administered for inmates in the first eight months of 2020. These tests were performed on those inmates who presented some symptoms or were in contact with people known to be infected by COVID-19. All of the tests performed on the prisoners yielded negative results. Some tested individuals underwent a second round of testing to better account for and exclude false-positive, false-negative, or inconclusive test results. There are no detailed data currently available on how many inmates yielded false-positive, false-negative, or inconclusive test results. Tests and testing procedures for inmates and prison staff emulate the national health authorities' real-time polymerase chain reaction (PCR).

The death rates confirmed in the Romanian penitentiary system for the first eight months of 2020 similarly reflected those recorded in the first 8 months in previous years: 65 in 2017, 73 in 2018, 47 in 2019 and 65 in 2020. The 27% increase in deaths from 2019 to 2020 require further investigation. Upon initial review, most of these deaths were attributed to different illnesses (51 in the first eight months of 2020, 40 in the same period of 2019). For instance, eight prisoners died in the first eight months of 2020 due to respiratory-related illnesses (compared to six in 2017). It is worth noting that a consequence of a lack of mass testing may allow for some infected prisoners to go undetected. In cases as such, it is likely that they may contribute to the increase in prisoner deaths reported in 2020, hence further investigation is required.

Discussion

As demonstrated consistently across the literature, prison population sizes are often a direct product of political decision-making (Boone et al., 2019; Hough et al., 2003). In Romania, when the political decision was made to decrease the prison population total, the Government and the Parliament together employed the most effective tool to do so – changing the Penal Code. The same end result was achieved when initially adopting the compensatory remedy law, though a decrease in this case can be more aptly described as a side effect or unintended consequence. The primary objective of that law was to provide a form of compensation to those serving their sentence in sub-standard conditions. However, due to the commission of heinous crimes by the hands of those benefiting from this law (e.g., rape, homicide, etc.), the public actively

demanding that this law be abrogated. Due to the recency of abrogation (occurring in the second half of 2019), the moral climate in Romania was not conducive to a solution such as preventive release, despite the presence of a global pandemic and prisons still battling overcrowding. It is very likely that the public reaction to such a plan would have been aggressively opposed. Small declines in the number of prisoners can be mainly attributed to the overall decrease in crime rates and limited judicial activity during the state of emergency in Romania.

Instead of preventive release, Romanian authorities focused on socio-medical measures that drastically reduced the interaction between inmates and the outside world. To compensate for the lack of visits, prison leaves, work release and so on, the penitentiary administration put into action technologies that facilitated remote and online meetings and access to information. Considering the fact that there have been no infections among inmates through August 2020 (except in the seven imported cases), it can be assumed that, from a health-oriented point of view, the administration plan was an effective one. Thus, in response to the title's question, the answer is "yes."

We are aware that this picture may look overly positive. This was the reason we have tried to provide the reader with as many details as possible about the social and medical measures included in the Romanian penitentiary plan to fight the spread of COVID-19. It is worth mentioning here that the medical protocols applied in the penitentiary system are the same as the ones applied to the general public. The testing methodologies elaborated by the National Institute of Public Health has informed the testing process for all Romanian citizens and include the same two criteria: previous contact with an infected person and/or the presence of symptoms. The only difference is that the penitentiary administration has no capacity to organize testing upon personal demand of inmates, which is the case for non-incarcerated citizens. However, the situation is closely monitored by state agencies (e.g., national health agencies, penitentiary inspections, etc.), non-governmental organizations (e.g., Apador-CH¹⁶) and the National Preventive Mechanisms established within the Ombudsman Office. Therefore, it is an impressive feat for the penitentiary system to keep the prison population COVID-19 free, despite that reported cases in the general public has been rising continuously for the last four weeks¹⁷ and the penitentiary system is still overcrowded (111% as of June 2020).

What seems to have had a great influence on this somewhat surprising outcome of zero COVID-19 cases among inmates, is the dramatic reduction in direct interactions between inmates and the outside world from very early on in Romania's response to the pandemic, while also considering the context of multidisciplinary measures taken by the prison administration. As noted above, all prisoners' transfers, visits, leaves, external work activities, and so on were drastically reduced during the state of emergency. They were compensated with increased online communication, more phone calls, and counseling. However, considering the legal, psychological, and experiential costs of these strict medico-carceral measures for both the inmates and their families will be important to investigate moving forward. For instance, working plays an important role in the conditional release mechanism in Romanian prisons. Thus, it will be important to assess to what extent the lack of work opportunities

impacted the length of prison sentences. We hope that future research will shed more light on how penitentiaries have adapted to extreme crises, the intended and unintended consequences of implementing specific mitigations strategies, and how these adaptations affect prisoners and their families.

Notes

1. WHO Timeline – COVID-19. <https://www.who.int/news-room/detail/27-04-2020-who-timeline—covid-19>.
2. WHO announces COVID-19 outbreak a pandemic. <https://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-covid-19/news/news/2020/3/who-announces-covid-19-outbreak-a-pandemic>.
3. Rezmives and others v. Romania (25th of April, 2017). <http://hudoc.echr.coe.int/eng?i=001-173351>.
4. Decision no. 443/2016 of the General Director of the National Administration of Penitentiaries on the approval of the Working procedure for giving rewards based on the Credit system for the participation in educational programs and activities, psychological and social assistance programs and activities, lucrative activities, as well as participation in the prevention of risk situations, published in the Romanian Official Gazette no. 427 from 07 June 2016.
5. See summary: <https://www.nineoclock.ro/2019/01/16/compensatory-remedy-law-and-its-effects-theme-of-tough-debate-in-society-president-demands-from-govt-in-depth-analysis-solutions-jusmin-toader-we-are-analyzing-the-consequences-of-deeds-committ/>.
6. Also known as an “intimate visit,” is a visit that allows partners to spend a few hours together in a special cell.
7. According to the law, a special judge (a supervising judge of the deprivation of liberty) is appointed in every prison to observe the prisoner’s rights. S/he is independent from the prison administration and his/her decisions regarding prisoner’s rights are compulsory for the prison administration.
8. Order of the Minister of Health no. 489/2020 from March 23, 2020 *on the approval of the administration, financing and implementation of priority actions for monitoring, treatment and care of the critical patients, with emerging and reemerging infections (AP-IE/RE)*.
9. According to the *Measures plan for the penitentiary system, at the cessation of the state of emergency*, approved by the decision of the general director of the National Administration of Penitentiaries no. 446/14.05.2020.
10. *Measures plan for the penitentiary system at the establishment of the state of emergency in the territory of Romania*, approved by decision of the general director of the National Administration of Penitentiaries.
11. According to the *Measures plan for the penitentiary system, upon the extension of the state of emergency in Romania*, approved by decision of the general director of the National Administration of Penitentiaries.
12. Order of the Minister of Health no. 489 from March 23, 2020 *on the approval of the administration, financing and implementation of priority actions for monitoring, treatment and care of the critical patients, with emerging and reemerging infections (AP-IER/RE)*.
13. <https://rm.coe.int/16809cfa4b> Statement of principles relating to the treatment of persons deprived of their liberty in the context of the Coronavirus disease (COVID-19) pandemic.
See also: <https://rm.coe.int/16809ef566> for a follow-up statement regarding the situation of persons deprived of their liberty in the context of the ongoing COVID-19 pandemic.
14. Group for Strategic Communication is an official body established within the Ministry of Home Affairs to communicate the official data regarding the pandemic in Romania. More can

be found at <https://www.mai.gov.ro/informare-covid-19-grupul-de-comunicare-strategica-1-septembrie-ora-13-00/>.

15. Appointed according to the Order no. 377/2017 from March 30, 2017 from the Ministry of Health *on the approval of the technical standards for the achievement of the national public health programs for 2017 and 2018*, with subsequent amendments and additions.
16. Apador-CH made an inquiry on the COVID-19 situation in the Romanian prisons for the first three months of the pandemic and come up with the same conclusions. The report will be briefly available on the organization website: <https://www.apador.org/en/>.
17. A number of 1,298 new persons tested positive on the 2nd of September, compared with 1,053 new positive cases on the 1st of September. The number of positive tests depends on the total of tests performed but the overall trend now has been increasing. Source: <https://stirioficiala.ro/informatii>.

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