community corrections

in romania

Narrative Summary

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ABOUT COMMUNITY CORRECTIONS IN ROMANIA

The modern Romanian state reached its full formation in the aftermath of World War I, with the Great Union of December 1, 1918. This pivotal moment arose from the dissolution of the Austro-Hungarian Empire, leading to the incorporation of several provinces previously under Austro-Hungarian control into the existing Kingdom of Romania.

This significant event triggered a comprehensive process of legislative revision and adaptation to align with the new geopolitical reality. Within the realm of criminal law, the adoption of a new penal code in 1937 stands out. This code notably regulated the conditional suspension of prison sentences. While the concept of "community sanctions" as we understand it today emerged later, several practices that would fall under this umbrella were already in place before 1937. For instance, in Transylvania, which remained under Austro-Hungarian rule until 1918, conditional sentencing was implemented through a normative act adopted in 1908, essentially codifying the Franco-Belgian system of conditional suspension of sentence execution. Moreover, before 1937, various laws about labour disputes and trade union activities included provisions for the conditional suspension of prison sentences.

The end of World War II brought Romania under the sphere of influence of the Soviet Union. From the perspective of the criminal justice system, the initial decades were characterised by the establishment of a totalitarian regime in which the system was instrumentalised to suppress dissent and those opposing the new regime. Concerns regarding community sanctions were, understandably, non-existent during this period. A new penal code was drafted in 1968, but the prevailing totalitarian ideology heavily influenced it. This code maintained the provision for the conditional suspension of prison sentences in a form like the regulations established in 1937.

A series of profound changes were set in motion after 1989, following the collapse of the Soviet Union and the initiation of wide-ranging reforms aimed at transitioning to a market economy and a democratic political regime founded on the principles of human rights and the rule of law. In the specific context of Romania, these challenges were compounded by a crisis within the penitentiary system, stemming from an increase in criminal activity and the system's limited capacity to effectively manage a substantial number of convicted individuals.

Considering these circumstances, the legislative framework underwent revisions, leading to the introduction of provisions for labour-based punishment and suspension under supervision of prison sentences within the penal code. This period also witnessed the emergence of the term "community sanctions," particularly in the context of Romania's ratification of relevant European legal instruments in this domain. In the specific case of labour-based punishment, this sanction was soon abandoned as the labour market transitioned towards a private sector model, rendering this form of punishment anachronistic.

Concerning the institution of suspended under supervision, this represents a measure aimed at individualizing the execution of prison sentences. In the period between the incorporation of this institution into criminal legislation (1992) and the entry into force of the new Criminal Code (2014), the regulation of suspension under supervision underwent a series of modifications. These changes pertained to the individuals or institutions in charge of supervising the convicted person's compliance with the imposed measures and obligations, as well as the exclusion of certain offenses from eligibility for suspension under supervision. Initially, supervision was to be carried out by a designated supervising judge or other bodies designated by the court. Subsequently, with the establishment of the probation system (starting in 2001), the involvement of the probation system in the supervisory process gradually increased.

It is worth noting that the initial regulation of supervised sentence suspension did not explicitly exclude any offense from the possibility of benefiting from the suspension of prison sentence execution. The conditions for application were primarily the length of the imposed prison sentence and the judge's conviction that the conviction itself constituted a sufficiently serious warning for the offender, rendering the actual execution of the sentence unnecessary. However, subsequent legal amendments stipulated that certain offenses (e.g., rape, robbery) could not be subject to suspension.

The year 2014 marked the entry into force of the new Criminal Code, which introduced several changes in the way community sanctions are regulated. While the suspension of prison sentence execution under supervision was retained, the conditional suspension of the sentence was abandoned and replaced with the deferred sentence. The fundamental principle underlying both institutions is that their application is contingent upon the sentenced person's adherence to certain measures and obligations, with the probation system bearing the sole responsibility for supervising compliance.

The probation system in Romania was established in 2001, following a period during which a series of experimental probation centres operated within the framework of projects involving courts, penitentiaries, and non-governmental organizations. The system has undergone significant transformations, both in terms of the activities it undertakes and its organizational structure and operational procedures. The most recent significant change occurred in 2014 with the establishment of the National Probation Directorate under the aegis of the Ministry of Justice. This structure, endowed with its own budget and legal personality, oversees 42 probation services operating under its authority. Funding for these services is provided from the state budget. Currently, these services employ over 700 individuals (heads of services and probation counsellors). To become a probation counsellor, candidates must possess a university degree in one of the following fields: law, social work, psychology, psychology-pedagogy, or sociology, and must successfully pass a competitive examination organized by the National Probation Directorate. Naturally, there is a degree of variation among these services concerning staffing levels, workload, and caseload.

Thus, according to the activity report for the year 2023 ([https://probatiune.just.ro/wp-content/uploads/2024/08/Raportul-statistic-al-Directiei-Nationale-de-Probatiune-pentru-anul-2023.pdf](https://www.google.com/url?sa=E&source=gmail&q=https://probatiune.just.ro/wp-content/uploads/2024/08/Raportul-statistic-al-Directiei-Nationale-de-Probatiune-pentru-anul-2023.pdf)), in terms of the number of individuals under supervision, the Bucharest Probation Service had the highest number of supervised persons (5,122), while the Ialomita Probation Service had the lowest (731). From the perspective of the average number of supervised persons under the responsibility of a single counsellor, as of December 31, 2023, this figure stood at 91 individuals. 92.69% of supervised individuals complete their supervision period upon its expiration, whereas 0.83% of supervised individuals have their supervision terminated as a result of a court-ordered revocation following violations of the imposed supervision measures and obligations.

The regulatory framework governing the activities carried out by the probation system, encompassing aspects related to the competence of the services, their organizational structure and operational procedures, as well as a series of regulations concerning how activities are conducted, is found in the Criminal Code and the Code of Criminal Procedure, as well as in specific legislation (for example, Law no. 252/2013 on the organization and functioning of the probation system). The provisions of these laws are further elaborated upon through Government Decisions that provide technical and procedural details to facilitate the practical implementation of the law (e.g., Decision No. 1.079/2013 approving the Regulation on the implementation of the provisions of Law No. 252/2013). Furthermore, the activities of community partners collaborating with probation services in the implementation of community service work obligations or social reintegration programs are regulated through Minimum Working Standards for community institutions. Simultaneously, some guidelines and clarifications on practical aspects of probation work are disseminated through decisions issued by the Director General of the National Probation Directorate.

Regarding the dynamics of the population under the supervision of the probation system, there has been a consistent upward trend. While in 2002, there were 735 individuals under the supervision of the probation system, this number has steadily increased over time, reaching 20,446 individuals by the end of 2013, shortly before the entry into force of the new Criminal Code. As of December 31, 2023, the number of individuals under the supervision of the probation system in Romania stood at 66,980. The factors contributing to this increased volume of activity over time include the growing confidence of judges in the system's capacity to effectively manage the supervision of convicted persons and a series of legislative changes that have served to strengthen the role of probation services. Consequently, the involvement of probation services is explicitly mentioned in the regulations governing all community sanctions provided for in the Criminal Code that entered into force in 2014.

COMPOSITION OF OFFENDERS SUPERVISED IN THE COMMUNITY

The statistical data collected by the National Probation Directorate, while comprehensive in certain aspects, do not fully encapsulate the intricate composition of individuals under the probation system. For instance, the activity reports compiled for the year 2023, despite their thoroughness, notably omit any specific reference to the gender composition of the supervised persons, leaving a gap in the demographic understanding of those within the system.

Concerning the specific types of offenses for which these individuals were sanctioned, a significant 54% were sanctioned for the commission of traffic offenses, 16% for offenses perpetrated against the person, 14% for offenses related to property, and 4% for offenses involving drugs. The substantial proportion of individuals sanctioned for traffic offenses is readily justified by the fact that, as previously mentioned, the new Penal Code has departed from the practice of individualizing the execution of sentences through conditional suspended sentences and has instead introduced the deferment of the execution of the sentence.

In stark contrast to the former system of conditional suspension, in the case of the deferred sentence, it is expressly stipulated that the supervised person must adhere to certain specified measures and obligations throughout the duration of the supervision period. Another consequential outcome of this approach is the noteworthy proportion of individuals who were assessed as presenting a low risk (41.91%) or a low-medium risk (30.32%), indicating a focus on lower-level offenses within the probation system.

If we turn our attention to the occupational status of the individuals surveyed, a significant majority, exceeding 50%, were engaged in a formalized form of professional employment, demonstrating a degree of stability within this population. Conversely, 12.33% of those surveyed were classified as unemployed, highlighting a segment of the population facing economic challenges, while 8.18% were engaged in casual gainful activities, indicating a more precarious form of employment.

From the perspective of school education, a substantial 39.11% of the surveyed persons had completed 11 grades or more, demonstrating a relatively high level of formal education. Additionally, 14.09% had completed between 9-10 grades, representing a significant portion of the population with secondary education. Furthermore, graduates or individuals currently enrolled in higher education accounted for 10.07%, indicating a segment of the population pursuing advanced educational qualifications.

In terms of criminal record, a significant 79.38% of the persons under probation were experiencing their first encounter with the criminal justice system, indicating that the majority of those under supervision are first-time offenders.

FORMS OF COMMUNITY CORRECTIONS

Suspension under supervision

Suspension of the execution of the prison sentence under supervision can be ordered by the court when the penalty set is imprisonment of up to 3 years. The court imposes, for a period between 2 and 4 years a range of mandatory measures and optional obligations for the offender, for which the probation service is in charge.

The mandatory measures are:

* to attend the meetings established by the Probation Service;
* to allow the person in charge with the supervision to make visits (at his/her residence, home, work or other places);
* to report in advance any change of address and any travel exceeding 5 days;
* to inform the probation service about any change of employment;
* to give information and documents to allow the control of his/her livelihood

Also, judges must impose at least one of the following obligations:

* to undertake an educational course or to acquire a qualification;
* to attend one/more social rehabilitation program/s implemented by the probation service or by other community institutions;
* to comply with the imposed control, treatment and medical care;
* not to leave the territory of Romania without an agreement from court

During this sanction is mandatory as well to perform community service for 60 to 120 days.

The supervised person has to fulfil as well the civil obligations established by the court (e.g. compensate the victim, pay the trial costs etc.).

Deferred sentence

This measure can be ordered by the court when the penalty actually set is a fine or imprisonment of up to two years. The court imposes for a period of two years a range of mandatory and optional conditions for the offender, for which the Probation Service is in charge. The mandatory conditions are:

* to attend the meetings established by the Probation Service;
* to allow the person in charge with the supervision to make visits (at his/her residence, home, work or other places);
* to report in advance any change of address and any travel exceeding 5 days;
* to inform the probation service about any change of employment;
* to give information and documents in order to allow the control of his/her livelihood

There is a range of optional conditions from which the court may impose one or several ones, if consider suitable for the respective case. These obligations are:

* to undertake an educational course or to acquire a qualification;
* to serve community work between 30 and 60 days;
* to attend one/more social rehabilitation program/s implemented by the Probation Service or by other community institutions;
* to comply with the imposed control, treatment and medical care;
* not to contact the victims, the relatives of the victims, the offenders with which committed the crime or with other persons;
* not to go near certain places, certain sportive, cultural or public events, indicated by court;
* not to drive any vehicle or specified vehicles;
* not to detain, not to use and not to wear weapons;
* not to leave the territory of Romania without an agreement from court;
* not to exercise the function, profession or activity that has been used for committing the crime

Conditional release

The parolee is to be registered with the probation service if the remainder left to be executed from the prison sentence is more than two years. The conditional release is possible for all detainees if they execute a fraction of their sentence, their punishment is served in an open or semi-open regime, and if they fulfilled completely all civil obligations established by the court and the judge have the reasons to believe that he/she can reintegrate into society.

The court imposes during the parole period a range of mandatory measures and optional obligations for the released persons, for which the Probation Service is in charge. The mandatory measures are similar to the ones described above, while the optional obligations are:

- to undertake an educational course or to acquire a vocational qualification;

- to attend one/more social rehabilitation program/s implemented by the probation service or by other community institutions;

- not to leave the Romanian territory;

- not to go near certain places, certain sportive, cultural or public events, indicated by court;

- not to contact the victims, the relatives of the victims, the offenders with which committed the crime or with other persons;

- not to drive certain vehicles established by the court;

- not to hold, use and carry any type of weapons.

The probation counsellors are also members of the parole committees who are making proposals to the court regarding conditional release.

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