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PhD THESIS

THE RESTORATION OF THE POSITIVE PERSONALITY BY ENFORCING CRIMINAL PENALTIES

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The Summary of the PhD Thesis

The PhD thesis on the restoration of the positive personality of the persons who are in the process of executing criminal penalties, which is divided into chapters and paragraphs, focuses on the actual methods employed by the government, the society, the institutions, the family of the person in question, considering the historical context, as well as the fact that various political systems have existed in Romania.

The policies characterizing criminal justice are in close connection with the geopolitical situation of a country, the historical moment when the laws were laid down, the alliances the country had when major world wars took place, the great power games that make the world 'iron curtains' rise or fall.

Criminal justice legislation lays down the type of behaviour that is to be criminally, contraventionally or administratively sanctioned, considering the regional, local or national interests, the political regime and the form of government, the frequency and the intensity of the opposition movements, the number and the severity of the crimes committed in relation to the necessity of ensuring general welfare or government stability. From this perspective, criminal offences can be divided into two big categories: ordinary crimes, which are offences committed against life, property, individual freedom, the justice system, and crimes against the state, which have been laid down to defend the state and its borders, state interests, as well as the interests and the lives of the state rulers or the ones belonging to the privileged classes.

In the chapter which focuses on the present, we have analysed the possibilities and the limits that the Romanian state has for reclassification and reconceptualisation of ofences, considering the European criminal policies, the implementation of the recommendations made by the Council of Europe, the new 2013 Romanian Criminal Codes, the laws on executing custodial or non-

custodial sentences and imposing educative measures, so that the Romanian citizens that have committed crimes or that have led a criminal life could be offered the chance to change their habits and become good persons.

In **Chapter I** we have analysed the manner in which the Romanian state attempted to remodel the moral profile and thinking of the Romanian citizens through the penal pressure and repression that came into force especially after the Second World War, when the political change driven by the victorious great powers placed Romania under communism and, as a direct consequence, the criminal enemies of socialism had to undergo re-education.

Criminal law in communist Romania was itself created to eliminate from society and, in the long run, destroy individuals, groups or social classes that were against the newly established political regime; the abolition of private property by nationalizing all means of production, banking, trade, transport, exploitation of resources; the Stalinist reorganization of the Romanian state, culture and education, the health system and social protection. Under these circumstances, the criminal law was one of the most frequently used tools, and the institutions created to enforce it openly mirrored the repressive policy. Forced labour camps, set up since 1945 by the decision of the Romanian Communist Party sent to the Council of Ministers, which had already approved a Regulation for establishing and operating internment centres on November 1st, 1944, were built in each county, had a capacity of 1000 to 5000 people, and the individuals that were interned were grouped considering their education, social background, nationality (intellectuals, bourgeoisie, political opponents, Hungarians, Germans, Greek Catholic priests, small shopkeepers, factory owners, or peasants called ‘kulaks’) or their hostile attitude against the Soviet Union.

‘Securitate’ forces (‘Securitate’ = Romanian political police in the communist era), which were officially set up in 1948, fought against opposing partisan groups to physically exterminate them, using the various structures of

the communist administration, as well as the provisions of the Armistice Agreement concluded between Romania and the powers that ruled our country from those who had defeated Germany (USSR, United Kingdom and the USA). Although England, France and the USA secretly encouraged partisan fighting against the communist administration, considering their actual foreign policy, they entrusted Romania to the USSR's sphere of influence and power, placing our country outside the free world, under the so-called 'Iron Curtain', which subsequently became the 'Cold War' area.

In the same chapter we have analyzed the criminal justice policies of other communist countries that were under the Soviet influence: Hungary, German Democratic Republic, Poland and Czechoslovakia.

In **Chapter II** of the thesis we have analysed the repression related legislation, enacted between 1950-1964, in Romania. The legislation which laid down the policy of repression was gradually adopted: by amending the Criminal Code and the Code of Criminal Procedure in force after 1950; by decree-laws adopted considering the proposals made by the Minister of the Interior or the head of 'Securitate' at the meetings of the Presidium of the Central Committee of the Romanian Workers' Party, which were subsequently sent to the Grand National Assembly to be passed.

Many rules which amended laws and decrees were the result of the decisions of the Council of Ministers and even worse, the result of the secret orders of the Ministers of the Interior and the 'Securitate'.

All the activities in the concentration camps, the forced labour camps, the labour battalions were going on based on the secret orders given by the Minister of the Interior, and the 'Regulation' was a strictly classified document which regulated the organization of the places of detention, their security, their defence, the escorting of the inmates, the transfers between units, labour organization, the inmates' movement to work, labour and feeding standards according to work categories. The duration of the penalties continually

increased, especially for the offenses which involved the detriment of public property and the ones against state security, culminating with Decree no. 212 of June 17, 1960, which introduced the death penalty. Capital punishment was not an extraordinary punishment, but a special punishment that stiffened the system of penalties. All the activities related to re-socialization and re-education were based on forced labour, either for a limited period of time or for life, on intensively using the prisoners as an unpaid according to Decree no. 720/1956, as an illustration of the idea that the entire people was supposed to work so that socialism could prosper and the state could become stronger.

Although the criminal and the criminal procedure law, as well as the criminal law on the execution of penalties provided for the principle of the legality of executing the penalties under a final conviction and written laws, the actions undertaken in the communist era, which resulted in the repression of the individuals, totally violated the legality of the criminal prosecution, the trial and the execution of various sanctions.

In **Chapter III** of the thesis we have analyzed the coordinates of re-educating prisoners in the totalitarian era, by enforcing Law no. 23/1969: re-educating the convicts through labour; organising prisons as production units (this concept was taken from the previous era of political repression and it was applied throughout the entire totalitarian period, in Romania). The regulation on the execution of penalties and on the pre-trial arrest measure for the application of Law no. 23/1969 provided in art. 2 that prisons were to be organized so as to ensure the necessary conditions for assigning prisoners working tasks. The distribution of work was one of the particularly important activities from an operative point of view, so that escapes could be prevented; hence, each case file was analysed in the presence of the person convicted and that of the distribution board made up of the prison warden, his deputy in charge with the security and the regime of the prisoners, the prison doctor, the head of department in charge with registering the prisoners, the head of department in charge with work

distribution, the educator. The assessment of the distribution board took into consideration the prisoner's ability to work; his/her physical skills to accomplish the allotted tasks; the perceived likelihood of escape as the prisoner could have been employed to perform tasks outside or inside de prison, either guarded or only under close supervision; the hypothesis that the prisoner could get in touch with the outside world, especially with the family (if the working point was the place of residence of the convict).

In the scientific research undertaken in this paper, we have analysed both the perspective of the socialist state on the rehabilitation of the individuals who committed offenses against the social life rules, as well as the introduction of forced labour by corrective labour sentence. The process of re-education through correctional labour meant using the prisoners for performing extremely demanding physical activities in agriculture, forestry or other domains, but only for tasks which involved productive skilled or unskilled labour; these prisoners were never employed in leadership, administration, education or management related activities.

In **Chapter IV** of the thesis we have analysed the methods used by the state to increase the potential of the activities involving the re-socialision of the prisoners through on-the-job training, education, as well as through the cultural events organised with the detainees; these methods were provided for in the rules for the execution of penalties included in two articles of the Regulation; the most detailed regulations were related to guarding, escorting, supervising and employing prisoners in performing working activities. As far as the cultural activities organised in prisons, as well as the production councils and the work competitions were concerned, they were a mere copy of the activities that took place in the large Romanian factories of that era, activities which were formal and totally perfunctory. The work related activities that the convicts had to perform were organised in such a way that they could not easily meet other inmates, and discussions with the educational staff for re-education purposes

were not allowed. It was important to know details about the skills the prisoner had acquired before his/her conviction in order to determine the degree of risk involved and how dangerous the respective person was. Prison officers would study the indictments in the convicts' files, where they could find how the crimes had been committed, their accomplices, the means they had used, the degree of aggressiveness, the number of previous convictions (for habitual offenders or for those with criminal records). The guardians who worked directly with the prisoners had no direct access to their case files, so they gathered information about the convict from the cell record sheet or from the daily discussions. To prevent aggressive or hostile manifestations, and to know the mood of the group of convicts, the prison warden and his deputies were required to organize weekly meetings with the prisoners and to draft reports.

As far as education through disciplinary sanctions is concerned, the conduct of the convicted persons during the execution of the sentence was regulated by Law no. 23 / 1969, which laid down the obligations, the prohibitions, the possibility of submission to search, as well as the provisions related to the prison staff, the implementation of the regular and working schedule, and the voluntary participation in the activities involving the daily chores, maintaining order and safety in all places and during the entire day.

In case any provisions of the law, either on the execution of criminal penalties or the prison regulations, were violated, the disciplinary measures under art. 21 of Law no. 23/1969 could be enforced. Minors could not be 'withdrawn the right to correspondence, placed in severe isolation and given a restrictive regime', and pregnant women could not be sent to 'simple or severe isolation and transferred to a prison with restrictive regime'.

Withdrawing one, more, or all the rights to receive visits, parcels, get and send correspondence for the period they were entitled to was the penalty that was most often enforced and had a complex content, resulting in the loss of connection with the family for a period according to the frequency of its

enforcement. One, two or all the rights could be withdrawn, so that those who were visited were denied access to their relatives or family, those receiving food parcels were deprived of the food sent by their family, those who corresponded could not receive or send information about themselves or about family members. The penalty was all the more severe as it could be applied to all the rights for a period of time, and afterwards, when the punishment was lifted, they could no longer receive rewards. The sanction was customized depending on whether the convict was visited in prison, whether he was brought parcels, or whether he corresponded frequently.

Simple isolation up to 15 days was enforced on those who committed a repeat disciplinary offence or seriously violated the established rules. Simple isolation could be enforced on those who did not work during the day, and at night they were sent to their prison cell. For those who worked, simple isolation was carried out only at night, as during the day they were sent to work with their inmates; so, in this case, the prisoners did not go to his/her prison cell for the respective period. Simple isolation up to 15 days banned the prisoners from participating in the activities organized in prison, including a family visit, if that was planned during this period.

In **Chapter V** of the thesis, entitled *Psychological and character profiling, risk categories and the danger of the crimes committed*, we have analysed this topic considering the social situation, the weight of crimes and the number of offenders relative to the size of population, the number of conducts considered offences under the Criminal Code and the special laws with criminal provisions. From this perspective, we have considered the elements making up the moral profile of offenders during the totalitarian period, as their offence addiction was the only solution for a large number of individuals, not because there was a lack of jobs, but because of the chronic shortage of basic products.

In **Chapter VI**, entitled *Old and new concepts in approaching the restoration of the positive profile of the convicts*, we have analysed the evolution

of the concept of restoring the positive profile of the convicts. Thus, especially in the twentieth century, rehabilitation acquired humanist traits, trying to change adult offenders' mentality by means of moral recovery, directed towards materialistic, communist, totalitarian, democratic, religious principles, by abolishing particularly severe sentences, such as the death punishment, forced labour for life or for a limited time, political detention for life or for a limited period, by officially banning torture and ill-treatment and by trying to protect human dignity, by excluding beatings, starvation and bad conditions, by offering proper facilities, rights, and even medical care.

As compared to the past, criminal proceedings were more oriented to legality, to granting the right to defence, to individualizing the sanctions in a fair way and more expeditiously. Under these circumstances, the concept of rehabilitation, defined by the Criminal Code in force in the communist period as what could be achieved by working so that new offenses could be prevented from being committed, was both insufficient and unscientific. The current Criminal Code does not include the definition of penalty or its purpose.

Re-socialization is the process of reintegrating an individual who committed an offence punishable in some form by the criminal law, within the social system that he left, as he has improved his values according to the requirements of morality, basic principles and laws. Reintegration may be particularly difficult if the individual who has served his prison sentence and has returned to society is forced to live by the old 'arrangements', in the same family or community environment where crimes are still committed. In this case, the proper reintegration begins by leaving that environment and trying to 'restart life', which sometimes means overcoming big material and social obstacles.

In the same Chapter we have analysed *the concept of social reintegration in Romania after 1989, as well as the educational solutions provided by the Recommendation No. R (89) 12 of the Committee of Ministers of Council of*

Europe to Member States on education in prison, because, starting with 1989, Romania has made special efforts to attune its legislation to European Union law and, as far as the law on the execution of penalties is concerned, Romania has for the first time embraced the principles dictated by the rule of law. The particular context, in which this Recommendation had to be applied, transformed its provisions into milestones for educational activities organised in Romanian prisons, as they were used to develop annual programs by the Romanian Prison Service.

Moreover we have analysed *the changes in the rules on the execution of penalties referring to the re-socialization activity, after 1989*. From this perspective, since Law no. 23/1969 came into force, several periods of time passed that marked the re-socialization activity. In 2004, 15 years after the events that led to changes to the rule of law, the first bill on the execution of penalties and the measures ordered by the court during the criminal trial was drafted. Although it seemed that the humanitarian provisions of the law will influence the re-socialization activity, they were not applicable, not only because the context was unfavourable, but also because the provisions were intricate and inconsistent with the existing administrative infrastructure. It seems inconceivable, but this law has never been applied. Although it has never been applied, as a theoretical exercise, we can show that this law included both the execution of non custodial sentences, community service, converting a fine as community service, postponing the execution of the penalty and the execution of custodial sentences. Nevertheless, legislative developments were positive. *Law no. 294/2004 was the first legal document which set specific rights for convicted persons*, their rights as citizens and how to exercise them. Besides labour regulations for convicted persons, modern methods of re-socialization were provided.

Chronologically, two years later, the concept of re-socialisation gained momentum when Law no. 275/2006 was passed. In this law, under Chapter VI

new regulations were introduced on the educational, cultural, therapeutic, psychological counselling and social assistance activities, as well as educational and vocational training for persons serving prison terms. For the first time, the old concept of 'prisoner re-education' was done away with and replaced with new phrases: 'social reintegration of the persons serving prison terms' and 'the recovery of minor offenders.'

By means of the Enforcement Regulation for Law no. 275/2006, the purpose of executing the penalties was introduced explicitly, namely 'assisting inmates in their social reintegration and prevention of committing new crimes.'

On July 19, 2013 Law no. 254/2013 came into force, for the first time ever in Romania being established *procedures for re-socialization attuned to the categories of persons convicted and the regime that applied to them*. In 2015, the Romanian Government drafted a document on the reinsertion of the persons deprived of liberty, named 'the National Strategy of Social Reintegration of the Persons Deprived of Liberty, 2015-2019', Bucharest, May 27, 2015. An interministerial commission undertook various tasks dealing with coordination, the mobilisation of resources, communication, project planning and recommendations. Moreover, the commission initiated public policies on reintegration, set up working groups made up of specialists from central and local institutions, so that proposals evaluating the specific activities could be drafted.

In **Chapter VII**, entitled *Criminal sentences in the light of social reality and their effects in the process of re-educating the convicts*, we have analysed the aspects referring to the system of criminal sanctions in the new Criminal Code and its enforcement regulation, by examining especially their specific features, which are meant to improve the means necessary re-socialization, so that all educational measures and punishments should be executed in conditions close to the real social environment. In this respect, the conditions characterising normal life could be replicated by executing personalised non-custodial

sentences such as doing community service for two hours; thus, the relationship with the family and his/her job may continue, he/ she can exercise his/ her civil and political rights, unless otherwise decided, the implementation of the measures is done with discretion to preserve the individual's dignity and to help him /her to shortly be able to exercise all the rights and freedoms as a regular citizen.

As for the reformation of the systems for the execution of criminal sanctions in accordance with the latest developments in social sciences and information technology, we have approached their implications on the conduct of the person subject to the rigour of the criminal law, on his/ her family, the features of the custodial and non-custodial sanctions on the personality of the convict, the methods that might be used to prevent the commission of new crimes.

In **Chapter VIII**, entitled *Solutions to improve deviant behaviour by enforcing alternative measures. Personalizing the sentence,* we have analysed the possibility of choosing a non-custodial sanction which should take into account the type and seriousness of the offence, the offender's personality and his /her criminal record, the purpose of the conviction and the victim's interests, so that the natural order of social relations affected by the criminal deviance could be restored.

Although, non-custodial sanctions became a discussion topic at international level since the 19th century, the first international regulations appeared in a UN document, in 1990. *The Tokyo Rules* recommend that countries should adopt an alternative criminal policy, which would cover several forms considered more effective than sending to prison certain categories of offenders. These measures laid down in 1990 represented the foundation for the reassessment of prison systems so that the serious problems related to imprisonment could be reduced.

In this chapter we have analyzed how effective it is from an educational point of view to waive penalties considering the experience of some economically developed European countries that adopted such a measure of judicial individualization of the punishment, as well as the changes in the Romanian criminal law. The penalty waiver is the first judicial approach that may be employed, which means that the sentence is individualised, the criminal responsibility is customised and that the activity assessing the opportunities for socialization, as well as the direct involvement of the court in legal, ethical and civic education of the offender are performed. It is actually a real start in applying the principle of social defence by the active role of the court in what we call the restoration of the restoration of the positive profile of the convict.

A special paragraph was dedicated to *the fine as a main non-custodial penalty and to the postponement of enforcement of imprisonment*, the legal conditions necessary for taking this measure, and also the reaction of the person to whom the court applied this sanction. Thus, the court decision is in close connection with the personality of the offender, because the concept is based on the offender's ability to understand the opportunity that is given to him/her, that is to postpone the enforcement of imprisonment, and then after two years, not to enforce the sentence. In addition to this, we have given special emphasis to the situation in which the court may order for the service of the penalty under supervision to be suspended (concept, characteristics, conditions of enforcement).

The possibility of the court to order for the service of the penalty under supervision to be suspended occurred after 1992 when the Romanian Criminal Code was amended by Law no. 104/1992, so that domestic legislation attuned to European recommendations regarding the alternatives to imprisonment. As an institution of the criminal law on the execution of penalties, the enforcement of the suspended sentence is the second variant for implementing the policy on providing opportunities for those who have committed crimes and who have met

certain conditions, not to be sent to prison to serve a sentence. In light of the legal provisions, we have analysed the role of this measure in the activity of re-socialization. One of the special conditions on the possibility of the court to order for the service of the penalty under supervision to be suspended is for the offender to agree to perform community service. Another legal institution, namely *probation*, has been analysed in terms of *concept, features, how appropriate it is to be enforced as a way to individualise punishment*.

Chapter IX deals with *Remodelling the positive personality of the persons who serve custodial sentences by means of social educative programmes and activities, academic and vocational education.*

Recommendation 2006/2 of the Council of Europe regulating the rights of the convicted person creates an image on the future of the penitentiary, whose purpose is to offer opportunities that could result in the re-socialization of the detainees who execute criminal sanctions. Innovations introduced by this recommendation, considering that it could be applied obeying not only the letter but also the spirit of the law, would turn prisons into very different institutions where the detainees could find themselves and recover educationally, instructionally, culturally, religiously, in terms of their health, regaining the fullness of their emotional and mental balance, able to re-enter the democratic society, as the principles in criminal law and criminal law on the execution of penalties are enshrined.

Also, the research has been focused on *the institutional system for organising and unfolding of educational and social assistance activities in the places of detention*. Using it as a starting point, we have devised *a number of proposals which considered the possibility to adapt the relevant regulatory framework* in order to effectively reintegrate the people who have committed crimes and have served their prison sentence in society and, then, lead a normal life.

The benefits of modern training, the use of computer developed educational and professional training programs would shorten and intensify the acquisition of knowledge while leaving enough time for individual educational activities. Dividing the places of detention taking into account the regime of the security and surveillance measures is important as it could offer better opportunities for the re-socialisation activities. However, we suggest that the re-socialization activities should be organised in a qualified manner, and that penitentiaries should be organised to match the re-socialization needs of the detainees.

In this context, *de lege ferenda, we propose that penitentiaries and detention centres be organised considering the regime of the respective correctional facility and the various categories encompassing re-socialization needs.* This new separation and classification would be beneficial in organizing distinct prison sections because, regardless of the crime they committed, the detainees have their own personal interests and intentions about how they will act when they are released from prison. As each category of prisoners with the same type of re-socialization problems will be grouped together, taking into account the legal separation criteria, not only that they will be able to interact with each other but it will also be easier to organize them to participate in educational activities focusing on re-socialization. A project that would lead to valuable conclusions about the usefulness of alternative sanctions, the manner in which the convicts might serve their sentence in a closed or half-open facility or even being given a non-custodial sentence or performing working tasks for the victims, the organisation of pilot correctional facilities in which specialized re-socialization activities could be done in order to eradicate violence, would be extremely useful and, possibly, would lead to concrete proposals for improving legislation on the execution of criminal penalties.

We propose that the situation of prisoners who serve their sentence in a half-open or open regime be analysed so that, through their work, they could

cover the expenses incurred by their detention. At present, the proposal that the execution of the criminal penalty be carried out at the domicile of the convict in order to reduce the costs related to the detention and eliminate the bad effects caused by detention has not been successful.

In this chapter, we have also paid special focus on the *educational programs dedicated to young offenders detained in re-socialisation centres.*

The last Chapter of the thesis comprises our *Conclusions and Proposals*. The system dealing with the execution of criminal penalties at both international and national levels is looking for solutions to cater for the ever increasing categories of offenses as well as number of offenders.

This paper has attempted to demonstrate *the need to radically change the system of criminal responsibility, so that penalties be personalised to match the offence*, the offender's re-socialization needs, the offender's abilities to reintegrate in a society indulging in libertinism rather than democracy, the human and material resources available (increasingly larger, but entirely used for collective programs and for financing projects that improve prison conditions, but do not really change them).

Some of our *proposals for reforming the system of criminal responsibility and the regime of correctional facilities* are:

1. One of the most important issues is about *defining penalty*. We propose that a text on the definition of penalty to be introduced in the Criminal Code in Title III, Chapter I Penalties. We believe that a possible definition of the criminal penalties would be: 'according to the law, a criminal penalty provides for the period and the possibilities to limit the exercise of constitutional rights as custodial or non custodial sentences or educational measures, which are enforced on the individuals who have committed offences, so that the latter are included in personalised re-socialization procedures, that is in activities and programs necessary not only for their reintegration in family and society, but also for their educational recovery, in order to prevent them from subsequently

committing new offences. The most important element is there should exist an emphasis on the educational purpose of the penalty and a strict delimitation from the physical and psychological constraint inherent to imprisonment and the enforcement of the prison regime.

2. We propose that *a Code on the Execution of Criminal Penalties* be drafted which should comprise all the rules related to the criminal law on the execution of penalties and probation, starting with the European principles, the institutional framework, the rights and obligations of the detainees, the separation based on the re-socialization needs, the procedures necessary to ensure discipline, as well as the unfolding of all activities according to Romanian legislation in force. The procedures should eliminate the possibility of exchanging the detainees' negative experiences by means of separation and education.

3. We propose *a definition of the three degrees of seriousness of the offense against the criteria set out in article 74 of the Criminal Code,* so that, regardless of the offense committed, the principle of progressivity could be applied, if possible. In this way, the court would be able to judiciously individualise the categories of offenders, and the individualization could represent a customisation of the penalty as waiver, alternative measure to imprisonment, non custodial educational measure, imprisonment, custodial educational measure or, in particularly serious cases, long term prison sentences in alternation with life imprisonment. We propose three degrees of seriousness regarding penalties: up to 5 years, between 5 and 10 years, over 10 years and life imprisonment.

4. As for the evaluation of the proposal for probation for those sentenced to life imprisonment, we suggest that *a distinct condition should be introduced, that is a psychological and psychiatrical examination determining the individual's ability to understand and level of intelligence* in order to establish if he/ she has a fair representation of his/ her guilt. This is necessary because, in

many instances, only the circumstances and faulty way in which the offence was committed have possibly led to less serious consequences.

5. We propose that for those who have to serve long term sentences, *the assessment of their conduct be made for the last 10 years before starting the procedure for possible probation*, since the early years of imprisonment are especially difficult and they will inevitably include negative acts and sanctions. We propose that a system for effective reduction of the sentence be introduced, using the credit system already used in the reward system, which could lead to a benefit of reduction of the penalty from three to six months per year, reduction conditioned by the literal fulfilment of predetermined conditions. Thus, prisoners' efforts to meet these conditions would result in annual reduction of the penalty, as this benefit could not be cancelled by the decision of a committee dealing with the individualization of the penalty. Under these circumstances, probation would be granted following the system used in some European countries only for humanitarian cases.

6. We propose *the reduction of the penalty as a result of the working tasks performed by the convicted person, or the 'gain time' accumulated due to participating in various activities*, no matter if the convict is released on probation or not. Thus, considering the benefit of the prison term already served, the convict might be released from prison earlier. In this respect, it is necessary to amend art. 96 of Law no. 254/2013.

7. We propose that governmental factors initiate a *Strategy of creating the necessary accommodation facilities in order to transform penitentiaries in places suitable for re-socialization and social rehabilitation*. We propose *de lege ferenda that penitentiaries and detention centres be organised considering their regime and the re-socialization needs*. This new separation and classification would be beneficial in organizing the distinct prison sections because, regardless of the offence committed, the detainees will behave differently when executing the criminal penalty.

8. *All the rules on the enforcement of educational measures for young offenders should be reconsidered,* because the provisions of Law no. 254/2013, which are 'properly' enforced, do not match the rules related to achieving educational purposes. The rules referring to searching, escorting, supervising, sanctioning, regulating the right to visit, etc., should not be similar to those in penitentiaries, because they do not comply with the level of development characterising the century we live in.

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