

**"NICOLAE TITULESCU" UNIVERSITY**

**FACULTY OF LAW**

**PHD SCHOOL**

**PhD THESIS - SUMMARY**

**"THEORETICAL AND PRACTICAL ASPECTS ON  
CONDITIONAL RELEASE OF PRISONERS"**

**THESIS COORDINATOR:**

**Professor Dr.**

**IOAN CHIȘ**

**PhD STUDENT:**

**Edgar Laurențiu DUMBRAVĂ**

**BUCHAREST**

**2015**

The thesis is an analysis of the release on licence institution in Romania, as it was amended in The New Criminal Code and The New Code of Criminal Procedure's view.

The paper is structured in four chapters, followed by conclusions and proposals for future law in this matter.

The first chapter presents the historical references about the evolution of release on licence institution in our country. Thus, I showed which were the first forms of release on licence at international level and, then, in our country. Here I talked about the consecration of release on licence in the law of The United Romanian Principalities and of The Austro-Hungarian law applicable in Transylvania.

I continued with the presentation of this institution as it was first regulated in the Criminal Code that unified the criminal law on the whole territory of Romania, respectively The Criminal Code of 1936, known as The Criminal Code of Carol The Second.

Given the change of regime in Romania with the coming of communism, I outlined the manner in which release on licence was regulated during The Decrees nr. 72/1950 and 720/1956, then the totalitarian period that followed the adoption of The Criminal Code and The Criminal Procedure Code in 1968, and also the Law no. 23/1969. Taking into account that these codes were in force until 2014, with some changes, I presented in detail which were the conditions of release on licence, granting procedure and its effects on the convicted person.

In 2004 there was an attempt to change the legislation and a new Criminal Code was adopted, known as The Criminal Code of Antoniu, so its provisions on release on licence were also described.

Taking into account the membership of Romania in The European area, particular attention was paid to the development of international rules in this chapter and European concepts of development of release on licence and its granting mechanisms.

In Chapter II, I approached the release on licence institution as it was regulated in the period following the entry into force of Law no. 275/2006, until the entry into force of the New Criminal Code on the 1st of February 2014.

Here i compared release on licence with other institutions of criminal law, such as the conditional suspension of sentence, the suspension of sentence under supervision, postponement of serving the sentence, interruption in serving the sentence, release from juvenile rehabilitation center before becoming a major and, finally, with pardon.

There were detailed the conditions for granting release on licence, such as the execution of a part of the sentence, showing which were the parts of the sentence for convictions for crimes

that were committed intentionally and where convictions for crimes they committed of negligence, and how the calculation was made. I also detailed which was the meaning of the perseverance in work of the sentenced persons and discipline in compliance with the prison regime, solid evidence of recuperation and of the criminal background.

Given the particular situation in which were the persons sentenced to life imprisonment, I wrote about the possibility for them to be released on licence in a separate paragraph. Here I referred to specific cases of release on licence or to those situations when because of health problems or other reasons, the convicts were not anymore or were never used at work, the case of persons convicted before the age of 18, the elderly and the short term soldiers.

Finally, i talked about the procedure for granting conditional release, it's effects, and the possibility of it's revocation.

The central point of the thesis is in Chapter III, respectively the regulation of release on licence in The New Criminal Code and The New Criminal Procedure Code. In this framework i presented the context of changes of the criminal provisions and the law, as well as the characters of the release on licence in the view of the new codes.

For the same reasons as those presented in the previous chapter, I gave a brief overview of the main institutions that produce similar effects, such as the suspension of the sentence under supervision, delaying of the application of the sentence, renunciation at the application of the sentence, the release of an educational center or detention center and pardon.

There were shown, in the following, the conditions for granting release on licence from imprisonment sentence and life imprisonment sentence, according to The New Criminal Code. Because the new law no longer distinguishes between men and women, I have shown the conditions for granting release on licence of the elderly in general.

A particularly important aspect is the procedure for granting release on licence, both in terms of the administrative stage and in terms of judicial procedure, which is further described in the third paragraph of this chapter.

Of course, I have shown which is the situation of the convict released on licence, what is the probation period, which supervision measures and obligations the convict must respect, as new elements introduced by The New Penal Code.

Since The New Criminal Code regulates, in addition to the revocation of release on licence, the cancellation hypothesis, we presented extensively the latter institution.

In view of the enforcement regime provided by The New Criminal Code for minors, for them existing only educational measures, and not sentences, on their matter release on licence

was replaced by release from the educational center or release from the detention center at the age of 18 years of the interned person, these being the two custodial educational measures.

Keeping into account that Romania joined The European Union in 2007, I showed which are in present the instruments of international judicial cooperation in criminal matters, in a last paragraf of this chapter.

In Chapter IV of the thesis, and the last one, I presented some systems of release on licence from Europe, approaching release on licence in The Anglo-Saxon legal system (in The United Kingdom of Great Britain and Northern Ireland), the release on licence The French law system and also in The Italian, Spanish and German ones.

In a final paragraf I approached the institution from the point of view of the jurisprudence of The European Court of Human Rights, presenting some concrete cases against countries in Europe.

The thesis concludes with a short analysis and proposals for future modification of the law.

At the end of the thesis I attached annexes, such as a model for the record of the days considered as served and the deadline for proposal for release on licence, an extras of The Prisons National Administration's Activity Report for 2014, a model of sentence on release on licence, on the revocation of it, on amending the obligations imposed, etc.