



Report of Various Size – Fieldwork research (FRANET)

Criminal Detention in the EU – Conditions and Monitoring

Country Report Romania

FRANET Contractor: Human European Consultancy
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1. Cell space

- a) What is the national standard for cell space available to prisoners in m²? Is it regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- b) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
- c) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

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The Romanian standard for cell space is of 4 m². The standard is regulated by Order no. 2772/C/2017 regarding the minimum standards on detention conditions for people deprived of liberty of the Ministry of Justice.¹ This MoJ Order is applicable to all detention regimes including pre-trial detention. However, the provisions of the Order are not complied with in all detention facilities and detention conditions differ from one penitentiary to another. Conditions can even differ widely within the same detention facility as evidenced by monitoring work done by NGOs or by the NPM.

On 24 April 2018 the overall holding capacity and degree of occupation **in prisons** was the following:²

Prison	Total surface in sq.m	Number of inmates	Sq.m per inmate
Overall	74,188	22,722	3.27

Official data provided by the National Administration of Penitentiaries (*Administrația Națională a Penitenciarelor*, ANP) shows that detention conditions differ significantly between different penitentiaries.

Prison	Total surface in sq.m	Number of inmates	Sq.m per inmate
Vaslui Prison – semi-open and open	1,720	778	2.2
Deva Prison – semi-open and open	2,620	467	5.6

¹ Romania, Order of the Ministry of Justice no. 2772/C/2017 regarding the minimum standards on detention conditions for people deprived of liberty (*Ordinul Ministerului Justiției nr. 2772/C/2017 - aprobarea Normelor minime obligatorii privind condițiile de cazare a persoanelor private de libertate*) available at: <https://legeaz.net/monitorul-oficial-822-2017/om-2772-c-2017-norme-minime-obligatorii-cazare-persoane-private-libertate-detinuti>. All hyperlinks were last accessed on 6 June 2018.

² Official data provided by the National Administration of Penitentiaries available at: <http://anp.gov.ro/wp-content/uploads/2018/04/24.04.2018-Capacitatea-de-cazare-a-unitatilor-si-efectivele-acestora-ef-22722-CC-18547.pdf>.

Focșani Prison – maximum security, closed regime and PTD	1,200	569	2.1
Arad Prison – maximum security, closed regime and PTD	5,192	1142	4.55

The same overview provided by ANP concludes that 29 out of 45 prison units accommodate more people than their legal capacity (of 4 sqm).³

There is not official information publicly available on the capacity of **police lock-ups**. Still, during monitoring visits organized by the only NGO constantly engaging in this work, the Association for the Defense of Human Rights – Helsinki Committee (*Asociația pentru Apărarea Drepturilor Omului în România- Comitetul Helsinki, APADOR-CH*) researchers often found overcrowded cells. For example, in July 2016, in the Police Lock-up no. 1 in Bucharest there were around 2 m² available for each person.⁴

In Romania the NPM is a department of the Ombudsman's Institution (*Avocatul Poporului*). All NPM monitoring visits reports are published in chronological order in PDF (not searchable) format and in Romanian only.⁵ Every report contains a section about the detention capacity as well as sanitary facilities and other issues on detention conditions. The NPM published an extensive report regarding human rights in detention in 2015 reflecting the situation in 2014.⁶

2. Sanitary Facilities

- a) What is the national standard with regard to access to toilets? Are these located in cells? If not, do prisoners have access to these facilities without undue delay, even during the night? Do these facilities offer privacy to prisoners who use them?
- b) What is the national standard with regard to access to regularly cleaned shower/bathing facilities? How often is this access provided? Do these facilities offer privacy to prisoners who use them?
- c) Is the provision of cleanly sanitary facilities regulated by any legal instrument such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- d) *Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).*
- e) *Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>*

³ Official data provided by the National Administration of Penitentiaries available at: <http://anp.gov.ro/wp-content/uploads/2018/04/24.04.2018-Capacitatea-de-cazare-a-unitatilor-si-efectivele-acestora-ef-22722-CC-18547.pdf>.

⁴ APADOR-CH, *Raport privind vizita in centrul de reținere și arestare preventivă nr. 1 din București*, from 30 July 2016 available at: <http://www.apador.org/en/raport-privind-vizita-in-centrul-de-retinere-si-arestare-preventiva-nr-1-din-bucuresti/>.

⁵ Avocatul Poporului, reports available at: http://avp.ro/index.php?option=com_content&view=article&id=359:rapoarte-mnp&catid=2&lang=ro-ro&Itemid=121.

⁶ Avocatul Poporului, Magda Ștefănescu, *Raport special privind condițiile de detenție din penitenciare și centre de reținere și arestare preventivă, factori determinanți în respectarea demnității umane și a drepturilor persoanelor private de libertate*, București 2015, available at: <http://www.avp.ro/rapoarte-speciale/raport-special-mnp-decembrie2015.pdf>.

Please cite any relevant sources

Acces to toilets and sanitary facilities in general is also regulated by the Order of the Ministry of Justice no. 2772/C/2017 regarding the minimum standards on detention conditions for people deprived of liberty.⁷ According to the Order of the Ministry of Justice no. 2772/C/2017, every room should have its own bathroom separated by the rest of the room.

According to APADOR-CH's reports, in most prisons cells hot water for bathing is available twice a week for an hour.⁸ For people sharing cells with a lot of others this is often a problem. Not all the rooms have their own showers and toilets. Still, the rooms without bathrooms are usually in open regime sections, so inmates can use the toilets whenever they need without asking for someone's approval. The hygiene materials that penitentiaries provide are insufficient (for example two rolls of toilet paper/month) and this affects inmates who are not visited by their families and do not have money to buy. In **police lock-ups** not all the cells have toilets so inmates still depend on staff to use them.

3. Time out of cell

- a) What is the national standard set for time per day/week spent by prisoners outside of their cells:
 - a. Outdoors (within the boundary of the prison)?
 - b. Indoors in the common area?
- b) Are sports or other recreational and educational facilities available to prisoners? If so what types?
- c) Is time spent in cells regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- d) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
- e) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

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The standard for time spent outside the cells is provided for in a Decision which approves the Regulation implementing the Law no. 254/2018 on the execution of sentences⁹ (Implementing Regulation) and it varies depending on the different regimes as it follows:

- For maximum security – 1 hour/day outdoors;
- For closed regime – 3 hours/day outdoors;
- For semi-open – all day indoors and 3 hours/day outdoors;

⁷ Romania, Order of the Ministry of Justice no. 2772/C/2017 regarding the minimum standards on detention conditions for people deprived of liberty (*Ordinul Ministerului Justiției nr. 2772/C/2017 - aprobarea Normelor minime obligatorii privind condițiile de cazare a persoanelor private de libertate*) available at: <https://legeaz.net/monitorul-oficial-822-2017/om-2772-c-2017-norme-minime-obligatorii-cazare-persoane-private-libertate-detinuti>.

⁸ APADOR, information presented in detail in multiple monitoring reports available at: <http://www.apador.org/en/monitorizarea-conditiilor-de-detentie-penitenciare/>.

⁹ Romania, Decision 157/2016 approving the Regulation for implementing Law 254/2013 on the execution of punishments from 10 March 2016 (*Hotărâre Nr. 157/2016 din 10 martie 2016 pentru aprobarea Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*) available at: <http://anp.gov.ro/wp-content/uploads/sites/37/rapoarte/hg%20157%20-%20extras.pdf>.

- For open – all day;
- For pre-trial detainees the time outside is the same as for those in closed regime.

All prisons and police lock-ups have libraries. The outdoors spaces usually have no facilities for sports.

4. Solitary confinement

- What is the national standard set regarding solitary confinement? Is it regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
- Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

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Solitary confinement is regulated by the Law no. 254/2013 on the execution of sentences¹⁰ and it can be applied according to Article 101 of the Law for disciplinary reasons for a maximum of 10 days. There is no difference between regimes when it comes to the solitary confinement.

5. Access to healthcare

- What is the national standard with regard to access to medical services in prisons? (E.g. do prisoners have prompt access to medical services within prisons or externally? Do prisoners have access to dentists and opticians?)
- Are there any special provisions relating to the provision of specialist care? (E.g. for long-term diseases, for sick and elderly prisoners, the mentally ill, drug addicted prisoners etc.)
- Is access to healthcare in prisons regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- Please indicate whether there are different standards applicable to different detention regimes.
- Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

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¹⁰ Romania, Law 254/2013 on the execution of punishments and measures depriving of liberty during the penal trial (*Legea nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*) from 14 August 2013 available at: http://www.dreptonline.ro/legislatie/legea_254_2013_executarea_pedepselor_masurilor_privative_de_libertate_organele_judiciare_cursul_procesului_penal.php.

The right to medical care is provided for in the Law no. 254/2018¹¹ and detailed in the Implementing Regulation.¹² It includes in addition the access to dentists and opticians. For drug users there is a special regulation, the Interministerial Order no. 1.216/C / 1.310 / 543.¹³ Mainly, the Interministerial Order stipulates that inmates have the right to access the same services as every citizen. According to APADOR-CH's reports there are problems regarding medical care services provided in prisons due to the lack of specialized personnel.

6. Special measures in place to protect juvenile prisoners.

- a) Are there any legal instruments, such as a legislative act, internal prison regulations, manuals, policy papers etc. regulating the separation of juvenile prisoners from adults? (e.g. a separate juvenile ward, or part of the building, canteen, common area etc.?)
- b) What age category falls under this specific juvenile prison regime?
- c) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.).
- d) Please, provide a link to the National Preventive Mechanism's reports **from the reference period** (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English). These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of-designated-npm-by-regions-and-countries/>

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Juvenile prisoners serve their sentences totally separated from adults according to Article 117 of the Law no. 254/2013.¹⁴ There are two Detention Centres and two Educational Centres in the prison system and a special police lock-up in Bucharest for minors. In the other police lock-ups there are special rooms. As of June 5 2018, there were 279 minors in the custody of ANP out of which 146 were in Detention Centres and 133 in Educational Centres.¹⁵ No information is available regarding the number of minors in police lock-ups.

¹¹ Romania, Law 254/2013 on the execution of punishments and measures depriving of liberty during the penal trial (*Legea nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*) from 14 August 2013 available at: http://www.dreptonline.ro/legislatie/legea_254_2013_executarea_pedepselor_masurilor_privative_de_libertate_organele_judiciare_cursul_procesului_penal.php.

¹² Romania, Decision 157/2016 approving the Regulation for implementing Law 254/2013 on the execution of punishments from 10 March 2016 (*Hotărâre Nr. 157/2016 din 10 martie 2016 pentru aprobarea Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*) available at: <http://anp.gov.ro/wp-content/uploads/sites/37/rapoarte/hg%20157%20-%20extras.pdf>.

¹³ Romania, Ministry of Administration and Internal Affairs, Order no. 1310/2006 on implementing integrated programs of medical, psychological and social assistance for persons deprived of liberty who are drug users, from 31 May 2006 (*Ordinul nr. 1310/2006 privind modalitatea de derulare a programelor integrate de asistență medicală, psihologică și socială pentru persoanele aflate în stare privativă de libertate, consumatoare de droguri*) available at: <https://lege5.ro/Gratuit/ha3dinjy/ordinul-nr-1310-2006-privind-modalitatea-de-derulare-a-programelor-integrate-de-asistenta-medicala-psihologica-si-sociala-pentru-persoanele-aflate-in-stare-privativa-de-libertate-consumatoare-de-drogu>.

¹⁴ Romania, Law 254/2013 on the execution of punishments and measures depriving of liberty during the penal trial (*Legea nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*) from 14 August 2013 available at: http://www.dreptonline.ro/legislatie/legea_254_2013_executarea_pedepselor_masurilor_privative_de_libertate_organele_judiciare_cursul_procesului_penal.php.

¹⁵ <http://anp.gov.ro/wp-content/uploads/2017/06/05.06.2018-Capacitatea-de-cazare-a-unitatilor-si-efectivele-acestora-ef-22476-CC-18851.pdf>.

Minority means under the age of 18 and criminal liability starts at 14. Between 14 and 16 a forensic expertise will be used to decide the criminal liability of the minor. Minors can never be placed under the maximum-security regime.

7. Special measures in place to protect prisoners from violence

- a) Are any special measures in place to protect prisoners against violence, including sexual violence? (E.g. are prisoners supervised by prison staff? Are there emergency call buttons? Do guards receive training in de-escalation? Do prisoners have access to a complaints mechanism?)
- b) Are there any special measures in place to protect LGBTI prisoners, who are particularly vulnerable to violence/sexual violence?
- c) Are these measures regulated by any legal instrument, such as a legislative act, internal prison regulations, manuals, policy papers etc.?
- d) Please indicate whether there are different standards applicable to different detention regimes (for example, if applicable in your jurisdiction: open, semi-open, closed etc.)..
- e) Please, provide a link to the National Preventive Mechanism's reports from the reference period (1 January 2015 to 1 May 2018, if no report is available for this period, please provide a link to the most recent one) and whether there are any recommendations regarding this aspect (please provide the exact quotation in the national language and if official translation is available – in English) These reports can be found on the web-page of the National Preventive Mechanism. For ease of reference a list of links can be found here: <https://apt.ch/en/list-of--designated-npmby-regions-and-countries/>

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Inmates who feel threatened, regardless of the reason, can ask for special measures of protection. Art. 28 of the Law 253//2013 provides for an obligation for the ANP to ensure protection and assistance of those executing a sentence or deprived of liberty and Art. 56 details the procedure allowing detainees to challenge any measure taken by the penitentiary administration before the judge overseeing the deprivation of liberty.¹⁶ The Implementing Regulation mentions that special spaces will be designed for vulnerable inmates according to Article 5(6).¹⁷ The procedures for protecting vulnerable detainees are initiated following the request of inmate or ex officio. Criteria for vulnerability are provided for in Article 34 – they include sexual orientation, disability, ethnicity, HIV/AIDS status. Mere belonging to one of the listed groups does not trigger additional protective measures. A procedure for assessing vulnerability is included in Article 35. Article 36 provides for the measures which can be taken. Vulnerable inmates can be placed in separate rooms or even moved to other prisons for supervision. If placed under supervision the closed regime is applicable.

8. Responsible authorities

- a) What authority is responsible for the provision of additional information requested under Article 15 of the EAW Framework Decision? (Please specify whether there a central authority deals with these requests, if yes, please provide contact details, such as the name of the institution, a website,

¹⁶ Romania, Law 254/2013 on the execution of punishments and measures depriving of liberty during the penal trial (*Legea nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*) from 14 August 2013 available at: http://www.dreptonline.ro/legislatie/legea_254_2013_executarea_pedepselor_masurilor_privative_de_libertate_organele_judiciare_cursul_procesului_penal.php.

¹⁷ Romania, Decision 157/2016 approving the Regulation for implementing Law 254/2013 on the execution of punishments from 10 March 2016 (*Hotărâre Nr. 157/2016 din 10 martie 2016 pentru aprobarea Regulamentului de aplicare a Legii nr. 254/2013 privind executarea pedepselor și a măsurilor privative de libertate dispuse de organele judiciare în cursul procesului penal*) available at: <http://anp.gov.ro/wp-content/uploads/sites/37/rapoarte/hg%20157%20-%20extras.pdf>.

physical and email addresses, and a telephone number. In the absence of a central authority, who deals with those requests?)

- b) What authority is responsible for monitoring conditions of detention and putting forward recommendations?

Please cite any relevant sources

- a) Ministry of Justice (*Ministerul Justiției*)
Directorate for International Law and Judicial Cooperation
Division for International Judicial Cooperation in Criminal Matters¹⁸
RO-050741, 17 Apolodor Street, 5th District, Bucharest
E-mail:
Phone: 0040.372.041.077
Fax: 0040.372.041.084
- b) The NPM is a department of the Ombudsman Institution (*Avocatul Poporului*)¹⁹
Strada Eugeniu Carada nr. 3, sector 3
avp@avp.ro
Phone: 004021/312.71.34
Fax: 004021/312.49.21

¹⁸ <http://www.just.ro/despre/cooperare-judiciara-internationala-in-materie-penala/>.

¹⁹ <http://avp.ro/index.php?lang=ro-ro>.