



Mapping Solitary Confinement: Romania country report

Submitted by the National Administration of Penitentiaries

Cite as: Solitary Confinement in Romania (2022). In S. Shalev, *Mapping Solitary Confinement* (online). <https://www.solitaryconfinement.org/mapping-solitary-confinement>

1. Country general Criminal Justice System facts & numbers

On December 31st, 2021, 22.989 detainees were held in custody within the Romanian penitentiary units, as follows: Ø 20.272 convicted persons; Ø 2.717 persons on pre-trial detention; Ø 21.970 males; Ø 1.019 females; Ø 253 persons under the age of 18 (minors) – 245 males and 8 females; Ø 814 persons between the age of 18 and 21 (youth) – 788 males and 26 females. The Romanian penitentiary system consists of 34 penitentiaries, 6 hospital-penitentiaries, 2 detention centers and 2 educational centers. The educational and detention centers, according to the executive-criminal legislation, are intended for the execution of educational custodial measures (for persons who had committed crimes during the period of their minority). Link to statistics on the number of detainees: <http://anp.gov.ro/informatii/dinamica-efectivelor-2/>

2. Reasons for use, process, and administrative regulations

a. Solitary confinement as a disciplinary sanction:

During the execution of the sentence, detainees may be disciplined by enforcing the solitary confinement sanction for a maximum period of 10 days. This type of sanction is the most severe in terms of graduality and represents a low share of all disciplinary sanctions applied at the systemic level. The solitary confinement sanction may be enforced only following repeated serious or extremely serious disciplinary offenses. The disciplinary sanction involving solitary confinement shall be usually executed individually in the maximum-security sections of the penitentiaries or in specifically arranged rooms, irrespective of the regime of execution of the sentence in which the sanctioned person is classified.

The rooms intended for the execution of the disciplinary sanction involving solitary confinement shall have natural lighting and ventilation and shall be equipped with heating and water supply and with other facilities necessary for the personal hygiene. The detainees subject to the disciplinary sanction involving solitary confinement shall be examined daily by the doctor of the place of detention. At the proposal of the doctor of the place of detention, the disciplinary



sanction involving solitary confinement may be interrupted for health-related reasons. The detainees undergoing the disciplinary sanction involving solitary confinement may exercise their right to petition, to correspondence and to information through printed media and shall receive food according to the norms in force, medical assistance and a daily walk of at least one hour, in specifically arranged places, outdoors, separated from the other detainees. Smoking is allowed only during the walking activities.

When undergoing a disciplinary sanction involving solitary confinement, the detainees shall not be taken to work, shall not participate in cultural-educational activities and sports activities, and shall be deprived of the opportunity to retain and use the radio-TV appliance and information technology equipment. When undergoing a disciplinary sanction involving solitary confinement, the detainees' right to receive goods; to receive visits, except for the visits of the counsel for defence, of officials or of diplomatic representatives; to make phone calls; and to make purchases except for the items required for petitions, correspondence, smoking and personal hygiene, are suspended. Permitted visits shall take place with a separation device, irrespective of the regime of execution in which the detainee has been included.

b. Solitary confinement for management of those labelled as “difficult” or “dangerous”

A particularity of the Romanian penitentiary system is shared accommodation of detainees. Individual accommodation represents temporary situations, generated, in most situations, by the need to ensure the security of the detention place or to protect the life and integrity of the detainees. The prison regime separates the detainees into four main categories, namely the maximum-security regime, the closed regime, the semi-open regime and the open regime, and the penitentiary units are profiled for holding in custody the detainees according to the regime of execution.

Depending on their behaviour, the sentence regime of the detainees may be changed to a less severe one (towards the open regime) or to a more severe one in terms of the security degree (towards the maximum-security regime), this mechanism representing the regressive/progressive system that underlies the penitentiary system. The detainees that represent a risk to the safety of the penitentiary shall be subject to security measures, increased surveillance and escort, without their rights secured under this Law being affected, as they are executing their sentence in the maximum-security regime. The detainees who pose a risk to the security of the penitentiary shall be accommodated separately, in specifically arranged rooms within maximum-security sections. The activities carried out with the persons within this category take place separately from those with other detainees. In establishing the risk posed by the detainee for the security of the penitentiary the following criteria shall be considered:

- a) committing the offence by the use of firearms or by cruelty;
- b) escaping or leaving the place of work while currently executing the punishment or during the previously executed punishments;



- c) attempting to escape, forcing the security devices or destroying the security systems;
- d) unjustified failure of the detainee to report back at the date set in the permission to exit the penitentiary;
- e) bringing, possession or trafficking in weaponry, explosives, drugs, toxic substances or other objects and substances that endanger the security of the penitentiary, or individuals;
- f) incitement, influencing or participation in any other way in the incitement of riots or hostage-taking;
- g) affiliation to organized crime groups, coordinating criminal or terrorist activities;
- h) acts of violence resulting in bodily injury or death against staff or other persons;
- i) psychosocial profile information resulting from the evaluations provided in the regulations in force.

Consequently, solitary confinement for the management of detainees is not a routine mechanism in the Romanian penitentiary system, rather an exceptional measure, enforced for a limited period of time.

c. Isolation for the prisoner's own protection

The director of the place of detention may decide, on the basis of the information provided by the staff directly involved in activities with the detainee, that he should be accommodated in the protection room if there is an imminent danger of occurrence of one of the following events:

- a) bodily self-harming or suicide;
- b) injury to another person, if there is no possibility to separate them;
- c) destruction of assets or seriously disturbing of order.

The measure provided may be taken until the state that generated it comes to an end, but for no more than 24 hours. During placement in the protection room, the detainee shall receive psychological counselling. Before the expiry of the 24 hour-period, the doctor and psychologist shall draw up a report on the medical condition, the conduct and conclusions concerning the psychological behavioural condition of that person, which they shall forward to the director of the penitentiary. In exceptional circumstances, following a medical and psychological reevaluation, there can be a new measure of temporary accommodation in the protection room for up to 24 hours, under the terms of the law. There may be exceptional circumstances when:

- 1) the detainee is aggressive or threatens to resort to the same acts that have led to his accommodation to the protection room;
- 2) the detainee's conduct is unpredictable and there remains a high risk of occurrence of one of incidents which led to his accommodation in the protection room.



The detainee shall be placed in the protection room in the presence of the medical staff, after performing a body search and replacing personal clothing with attire suitable to the season provided by the administration of the place of detention under the terms of Article 112.

Throughout the period of accommodation in the protection room, the detainee shall be monitored by the medical staff which shall have the obligation to evaluate his condition, whenever necessary, but no less than once every 4 hours. The supervisory staff shall monitor the detainees temporarily accommodated in the protection room by observing their psychological and physical condition and informing those responsible with regard to the possible damage to the health condition or the imminent occurrence of adverse events.

Preventive isolation during the disciplinary investigation:

On the proposal of the chief of section, the director of the penitentiary may decide, for security reasons or in order to prevent obstruction of the truth or of the influencing of the outcome of the disciplinary investigation, to accommodate the detainee in another space of detention whilst they are being investigated for disciplinary misconduct, in compliance with the criteria of separation related to sex, age and regime of execution and without affecting the rights provided by the Law. The disciplinary investigation shall last, where appropriate, until the disciplinary investigation file is closed or until a decision of the disciplinary commission, which remains final, is reached. The security reasons that determine the accommodation of a detainee in another detention place are the following:

- a) the protection of detainees involved in incidents or self-harm actions or in order to prevent the injury of other persons or damage being caused;
- b) there is information that, after the initiation of the preliminary investigation against them, the detainee could commit a new offense or crime or that they will exert pressure on the injured person or on the witnesses or will try to conclude a fraudulent agreement with them;
- c) there is information that the detainee will try to persuade another participant to commit other offenses or crimes or to influence a witness to give false statements, not to submit evidence or to destroy, alter, hide or steal material means used as evidence or persuade another person to engage in such conduct.

According to the provisions of the criminal enforcement framework, the detainee may be relocated during the disciplinary investigation, but these do not compel the prison administration to accommodate them individually.

3. Restraints and chemical irritants

Depending on the profile and the missions to be performed, detention places are equipped with means of restraint. The means of restraint are metal handcuffs; restraint belts; disposable handcuffs; metal handcuffs and foot cuffs; immobilization belts of leather or textile material; rubber or tonfa-type sticks; water jets; weapons with non-lethal ammunition; service dogs, and so



on, as permitted by the legal provisions in force. They are used in exceptional cases, in compliance with the provisions governing the use of means of restraint or the use of force and only when other non-violent means have not led to the removal of the illegitimate behaviour of detainees.

The principles of using means of restraint are:

- a) The principle of legality - any measure taken in order to maintain order and discipline must be in accordance with the legal provisions in force;
- b) The principle of security - the maintenance of order and discipline in penitentiaries is absolutely necessary for the execution of guard, escort and surveillance missions, both inside and outside the place of detention;
- c) The principle of proportionality in using force - the physical force and other means of restraint are used only if the illegitimate actions of the detainee could not be removed by other non-violent means;
- d) The principle of graduality - the prison staff shall progressively use the means and techniques of restraint and control;
- e) The principle of non-surprise - implies the prior warning of the detainee regarding the imminent use of force and the means of restraint provided, ensuring the necessary time for the cessation of illegitimate actions;
- f) The principle of minimum risk - consists in choosing the most appropriate means of intervention in order to avoid the bodily harm;
- g) The principle of defending the human being - involves providing first aid in case of injury to bodily integrity or health, as well as non-recourse to unjustified violence.

4. Protected populations

Women (including those who are pregnant, nursing, with a child within prison) - Special penitentiaries may be established for certain categories of detainees, namely: a) penitentiaries for youth; b) female penitentiaries; c) hospital-penitentiaries. Within the Ploiești-Târgșorul Nou female penitentiary, a special section is set up for the accommodation of women in detention who are caring for their children up to 1 year old. Moreover, the women who are serving a custodial sentence or measure involving deprivation of liberty and who are caring for children up to one year old can benefit from specialized (medical) care in the Bucharest-Rahova hospital-penitentiary or in hospitals in the public health network.

Children and youth – The accommodation is provided in compliance with the principle of separation of women from men and minors, youth and adults.

People with mental illnesses - By the decision on the profiling of the detention places under the subordination of the National Administration of Penitentiaries, special sections have been set up for the detainees with serious mental disorders, including those caused by alcohol or psychoactive substances consumption.



LBTQI+ people - LBTQI+ detainees can be accommodated separately from the group only if they are included in the category of vulnerable detainees.

5. Statistical data on use of solitary confinement/segregation

Throughout year 2020, out of the total of 11.078 disciplinary sanctions applied to the detainees in prisons, only 662 sanctions involved enforcing the disciplinary measure with solitary confinement for a maximum of 10 days.

6. Reports on the use of solitary confinement

Information regarding solitary confinement was included in the Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), following a visit in Romania during 7th - 19th February 2018. Paragraph 130 of the Report stated: The Delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment found that solitary confinement as a disciplinary measure was not overly applied. Link: <https://www.coe.int/en/web/cpt/romania>

7. Good practice

The regulation of the procedure applicable during the execution of the disciplinary sanction of solitary confinement for a maximum of 10 days was described at point no. 2.