

THE RIGHTS OF A PERSON DEPRIVED OF LIBERTY OF MAINTAINING FAMILY TIES IN 5 EUROPEAN COUNTRY

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Abstract

A prisoner's life can often be a scary way of life for many people, which is why many individuals don't want to be close to people who have been imprisoned, for obvious reasons.

But the reality is that those who execute prison sentences, sooner or later, are liberated from prison and re-enter en society. Resocialization is a hard and difficult process to be fulfilled, but obviously not impossible.

In trying to redress the behaviours of those who have chosen the wrong way of life, family involvement is essential, especially in terms of maintaining mental health, and in the hope that at the end of the punishment, at the exit of the penitentiary there will be someone waiting there for them.

The present paper aims to analyze the rights of inmates to keep in touch with their families, stipulated in the legislation of 5 European countries, the similarities and possible differences of their approach in the desire to identify the best regulations in this field, with best results in re-socialization.

However, it is known that permanent contact with the family increases the confidence in the person self-esteem so that he / she overcomes the bad moments of life, as well as in the case of the prisoners the existence of more rights to maintain contact with the family is a desire

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1. Introduction

The incarceration is an unusual situation that deprives the person convicted of both freedom and his familiar and family environment.

Sentencing a person to the execution of a custodial sentence is an exceptional measure that is applied by the court in the case of those offenses punishable by life imprisonment or imprisonment.

In most cases, when the situation permits, the law provides rules that have the effect of avoiding the deprivation of liberty, precisely because of the obvious negative effects that the isolation of society can provide on individuals.

However, there are many cases where the enforcement of a custodial sentence is mandatory, and the data on the number of persons imprisoned in Romanian prisons confirms it.

According to World Prison Brief, on January 27/ 2018, 22,988 people were imprisoned in Romania¹.

Following the Regulation on the organization and functioning of penitentiaries, their purpose is to ensure the execution of custodial sentences and the measure of preventive arrest and to ensure the recuperative intervention, facilitating the empowerment and reintegration into society of persons deprived of their liberty.

A success of re-socialization involves first and foremost the awareness of the consequences of the committed offenses and the violation of social norms.

Changing the mentality is a route that staff in charge of educational and re-socialization activities in penitentiaries go without results if this titanic work is not based on factors outside the penitentiary, factors that are represented by family and friends.

The existence of families waiting for them to leave the penitentiary is a motivation for convicted people not to let themselves to be fooled into negative feelings and violent starts, sometimes suicidal.

Romanian legislation provides rights for arrested and convicted persons to keep in touch with their families or close persons, being in this respect in harmony with European Union provisions.

An analysis of the rights of persons legal provisions deprived of their liberty in countries in Europe can be a good thing in identifying a complete and effective picture of these rights.

In doing so, the laws of 5 European countries, namely Spain, the Netherlands, Belgium, the Republic of Moldova and Romania, were analyzed.

Their choice was based on geographic aspects (taking the extremes of the Western part of Europe, in this case the Netherlands, Belgium and Spain) constitutional (some being republics, other monarchs) and EU membership (Moldavian Republic, neighbour to our country but at the same time it is not part of the European Union).

At the same time, the fact that those peoples origins, their habits and their lifestyle are different, but also with common elements has influenced their choice even more, for the radiography of how each state perceives the connection that a person should have with his family.

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¹ <http://www.prisonstudies.org/country/romania>

2. Paper Content.

2.1. Spain.

The Spanish legislation provides for convicted person rights to keep in touch with his family, the elements common to the Romanian legislation, but also different aspects.

The normative framework governing the rights to stay in contact with the family, which have convicted persons in Spain, is the Organic Penitentiary Law no. 1 of 1979 and the Law on the Penitentiary Regime, Royal Decree no. 190/1996.

These rights are:

- the right to correspondence;
- the right to visit, which is divided into three categories, an intimate visit, a visit to relatives and friends as well as a family visit;
- the right to telephone conversations;
- the right to receive packets.

Art. 51 of the Organic Penitentiary Act explain that convicted persons have the right to communicate periodically, both verbally and in written form, in the language they understand, with their family or friends.

These communications are done in such a way as to respect as much as possible the privacy of individuals and the way these communications are conducted without violating the security rules. In some cases, written or verbal communications may be suspended or intercepted, reasoned, with the authorization of the director of the penitentiary unit.

Art. 52 of the Law no. 1/1979, provides that in the event of death, illness or serious injury of the convicted person, the director shall immediately inform his / her family or person designated by the sentenced person. Also, if a parent or a person close to the convicted person has died or is in serious condition, the convicted person will be immediately informed.

The detainee has the right to inform his or her family, about incarceration, as well as the transfer to another penitentiary.

In art. 53 of Law no. 1/1979, it is inserted that the penitentiary units will provide annexes, specially arranged for the family or intimate visits of those convicts who do not have a permit to leave the penitentiary.

Art. 41 of the Penitentiary Regime Act, Royal Decree no. 190/1996, provides that it is foreseen that visits and communications will be made in the manner necessary to meet the special needs of foreign detainees to which the rules applicable to Spanish citizens will apply in accordance with the present normative act.

According to art. 42 of the same Royal Decree no. 190/1996, the usual visits are carried out at least twice a week, for a period of at least 20 minutes, the detainee being allowed to be visited by up to 4 persons at the same time. If the location allows, the convicted person may accumulate the time for 2 visits in one.

In order to be able to visit the detainee, the family must provide evidence of family ties, and for those who

are not family members, the penitentiary director's authorization is required.

Article 43 of the aforementioned normative act provides for the possibility of restricting this right in the case of violation of security rules, communicating this fact to the detainee.

Another right provided by Royal Decree no. 190/1996, in art. 45, is the possibility for inmates to have an intimate visit, a visit to relatives and friends, and a family visit.

These three types of visits are given by the categories of visitors that may come to the detainee.

Thus, the intimate visit is granted at the request of the detainee, at least once a month, which cannot be less than 1 hour but not more than 3 hours, unless the security rules prohibit it.

The visit of relatives and friends, as the name implies, is that category of visit that is granted for family, extended family and friends, on request, with a minimum of 1 hour and a maximum of 3 hours, at least once a month.

People presenting for an intimate visit or for relatives and friends do not have the right to bring packets or to be accompanied by minors (in case of intimate visits).

Family visits are made on demand and run between the detainee and his or her spouse or person with a relationship similar to that of spouses and children not older than 10 years of age. The duration of this type of visit is a maximum of 6 hours and is done at least 2 times a week.

According to art. 47 of the Penitentiary Regulations, detainees have the right to make phone calls if their families live in remote localities and cannot travel to visit it and if the detainee has to communicate some important issues to the family, the defender or another person.

In those situations permitted by the penitentiary rules the incarcerated person have the right to telephone communications that shall be made at a maximum of 5 calls per week in the presence of a supervisor and may not take more than 5 minutes.

The value of the conversations will be borne by the detainee, except those related to the communication of the penitentiary entry and the transfer to another penitentiary.

Telephone calls made between detainees from different penitentiaries can only be made on the basis of the director's authorization.

According to art. 50 of the Regulation for the organization of penitentiary units, the detainee can receive no more than two packages per month, except for the ones included in the closed regime which can receive only one package per month and the weight of each package cannot exceed 5 kg, containing books, publications, or clothes.

2.2. Netherlands.

As far as the legislation on the rights of persons deprived of their liberty is concerned, in Netherlands

those rights are close to those in Spanish law, but of course with specific features.

The classification of rights covered by this analysis is:

- the right to correspondence;
- the right to visit;
- the right to telephone conversations;

The rights of convicted persons are laid down in the Penitentiary Principles Act, within the framework of Art. 38, which provides that the detainee is entitled to receive visits in accordance with the rules laid down in the Regulations for at least one hour per week.

It is foreseen that the Minister of Justice may lay down additional rules on the admission and refusal of a visit, and that the rules are set out in the Organizing Regulations on the request for a visit.

Also, it is stipulated that the director of the penitentiary unit may at the same time limit the number of persons admitted to the detainee, if necessary in order to maintain order or safety in the unit.

The director may refuse to allow the detainee to visit a particular person or persons if this is necessary for the maintenance of order and safety in the institution for the purpose of preventing or investigating offenses or for the protection of victims or other persons involved in committing the deed. This refusal may be maintained for a maximum period of 12 months.

Also for the safety reasons outlined above, the executive director of the penitentiary unit may establish that the prisoner's visit by persons outside the penitentiary is carried out under supervision. This surveillance may involve listening or recording the conversation between the visitor and the detainee, the detainee being informed of the nature and reason of the surveillance.

The Director may discontinue the visit within the specified time limit, with the intention of removing visitors from the institution if necessary to maintain order and safety in the institution for the purpose of preventing or investigating offenses or for the protection of victims or other persons, involved in the act.

At the same time, among the rights granted to the convicted persons are also those related to making phone calls with persons outside the penitentiary unit.

Art. 39 of the Penitentiary Principles Act indicate that convicted persons have the right to make one or more telephone calls, at least once a week, at the times and places established by the organizational regulations, from the telephone stations in the prisons.

The costs of calls made by persons deprived of their liberty will be borne by them, unless the director of the prison unit decides otherwise.

The telephone conversations made by or with the detainee may be supervised and recorded, with the consent of the director, if necessary to establish the identity of the person with whom the prisoner carries a conversation, if this is necessary to maintain order or safety in unity, protection of public order or national security, the prevention or detection of criminal

offenses and the protection of victims or other persons involved in committing offenses.

The person concerned will be informed of the nature and the reason for the oversight, this supervision assuming either listening to a phone conversation, live or listening to a recorded telephone conversation.

By the Council's provision on recording telephone conversations and storing and providing recorded telephone conversations, other rules on telephone call surveillance may be established.

As with the right to visit, the Director may limit the right of the prisoner to hold a particular telephone conversation or certain telephone conversations or to conclude a telephone conversation while allowed if this is necessary for the same reasons as mentioned above up. The period for which this right may be limited is no more than 12 months.

Another right that is related to keeping in touch with the family is the right to send and receive letters and documents by post, provided in art. 36 of the Law on Penitentiary Principles.

As with the other rights mentioned above, the law provides, in addition to the right itself, the limitations of its exercise. Thus, the text of the law indicates that the director is authorized to inspect envelopes or other postcards from or intended for detainees to detect forbidden goods.

Where envelopes or postcards originate from or intended for the persons or bodies involving human rights protection, examination of the documents can only be carried out in the presence of the prisoner concerned.

Also under the control that the Director can make on documents sent or received by mail, the law stipulates that these correspondences can be supervised, which may include copying letters or other postcards or letters. The detainee is advised in advance of the surveillance.

The Director has the possibility to refuse to dispatch or deliver certain letters or books or postal orders, as well as the enclosed items, if necessary to:

- keeping order or safety in the unit,
- the protection of public order or national security,
- preventing or detecting crimes,
- the protection of victims or other persons involved in committing offenses.

2.3. Belgium.

The rights of detainees to keep in contact with the family in Belgium have the same rights as in the other mentioned states, namely:

- The right to visit;
- The right to correspondence;
- The right to telephone conversations.

The content of the detainees' rights is laid down in the Law on Principles on the Administration of Prison Facilities and the Legal Status of Detainees of 05.02.2005.

Thus, the right to visit in Belgian penitentiaries is a table visit, a visit with a separator, an intimacy visit and a children's visit.

The visit to the table is done in the special room assigned to this activity and represents the normal visit.

The visit with the separator is done in a space provided with a screen or window, the detainee cannot be reached.

The cases that lead to the application of this visit system, with separator, are:

- If there are reasonable suspicions that incidents that could endanger order and security may occur during the visit;
- At the request of the prisoner or visitor;
- If the former detainee or his / her visitors have violated the regulations governing the visit and there are reasons to believe that these deviations will be repeated;
- If the detainee was previously disciplined, where only a visit with a separator is allowed;
- If the detainee is included in an individual security regime, where only a visit with a separator is allowed.

From the presentation of this type of visit, it follows that visiting with a separator is the exception in the exercise of the right to visit.

The intimate visit consists of an unattended visit, which takes place in an intimate space, without being subjected to supervision by the penitentiary staff. This type of visit can be organized at least once a month for a minimum of 2 hours. An inmate may request this type of visit after at least one month of detention.

People who can benefit from this type of visit are husband, wife, legal partner or concubine, children, parents, grandparents, brothers and sisters, uncles and aunts.

The law is limited in terms of the persons who may be included in this visit.

In order to be able to benefit from this type of visit, the visitor, who have not family ties with the detained, must prove a sincere relationship with the person incarcerated by showing an interest in the detainee over the past 6 months.

As regards the children's visit, an activity for the children and their detained parents is organized at least once a month.

As mentioned above, another right that helps maintain the ties with the family and social environment of the detainee is that of correspondence.

Belgian law allows any detainee to send and receive an unlimited number of letters, according to art. 54 of the Law on Principles concerning the Administration of Penitentiary Establishments and the Legal Status of Detainees of 05.02.2005.

Correspondence that the detainee receives from his or her family and other people is controlled to contain no prohibited articles or substances. Only if there is a danger to the order and security in the penitentiary the correspondence will be read, the director of the penitentiary unit will decide in the

immediate form that the objects or letters are not handed over to the detainee but kept in a depot, informing the detainee about these matters. The detainee will receive those goods at the time of release.

Correspondence that detainees send, as a rule, is not verified, however, in case there are suspicions of a threat to order and security, correspondence will be verified and, if necessary, it will be retained.

The third right to keep in touch with the family is the right to telephone calls and other means.

Unlike the countries above, Spain and the Netherlands, the legislation in Belgium is more permissive in terms of making phone calls. Thus, phone calls can be made every day, at the expense of the prisoner, from fixed or GSM stations. Phone posts are located on the cell corridor, each prisoner receiving a personal code that he inserts into his phone, and the payment of calls will be made from his personal account.

The text of the law does not specify any time limit for the conversations made.

However, if there are indications that phone calls endanger the order and security of the penitentiary, the director of the unit will forbid totally or partially a detainee to exercise the right to make telephone calls.

Within the first 24 hours after entering the penitentiary, the detainee is entitled to a free national or international free phone call of 3 minutes.

The specificity of this right, with respect to the other legislation under consideration, is that these talks cannot be recorded nor heard. Penitentiary management can only check the person with whom the prisoner held the call and how long this conversation lasted.

2.4. Moldovian Republic.

The law governing the rights of convicted persons in the Republic of Moldova is the Decision no. 583 from 26.05.2006 regarding the approval of the Penalty Execution Statute of the convicted persons and Code no. 443 / 24.12.2004 on the Execution Code of the Republic of Moldova.

Detainees from Moldovan penitentiaries have the following rights closely related to maintaining family ties, according to art. 87 of the Decision no. 583/2006:

- have the right to communicate the name of the penitentiary to the family and close relatives;
- receive packets of supplies, parcels, bands and keep food, except those requiring heat treatment before being consumed and alcoholic beverages;
- to acquire and receive in the packages of necessities in the assortment provided in Annex no. 6, for storage and / or consumption;
- at meetings with relatives and other persons of a duration and number determined by the legislation;
- To phone calls from the public telephone, on its own, in the manner and under the conditions established by the Execution Code;
- Receive and dispatch, on their own, letters,

telegrams and petitions, without limiting their number, in the manner and under the conditions established by the Execution Code;

- For own account, send to relatives or other persons parcels, packages and bands, under the conditions stipulated by art. 211 of the Code of Enforcement;

- In case of death or serious illness of one of the close relatives or in other exceptional personal circumstances, as well as in other cases, under the conditions provided by art. 217 of the Enforcement Code, detainees are given the right to move without escort outside the penitentiary for a short period of time.

The normative act stipulates that the detainee has the right to receive during the year at least one short-term visit of up to 5 days outside the penitentiary for visiting the family, relatives, guardian or curator, as the case may be, and convicts enrolled in higher education institutions or specialist backgrounds - for the duration specified in the Labour Code for examinations.

In order to benefit from this right, the sentenced person has to execute the joint punishment or re-socialization, and be included in the release preparation program if it is positively characterized.

Sentenced persons are entitled to short and long-term meetings. Long-term meetings can take place outside the penitentiary, with the right of the convict to reside with family members, according to art. 213 of the Code no. 443 / 24.12.2004 on the Execution Code of the Republic of Moldova, for a period of 12 hours to 3 days, the convict paying the expenses incurred by the long-term meeting.

Short-term meetings with the spouse, relatives up to the fourth degree inclusive, or with another person indicated by the convict, are given for duration of 1-4 hours. These meetings are held in specially arranged areas, under visual supervision or through video systems by the representatives of the penitentiary institution administration.

The detainee is allowed to meet up to two mature persons with whom his / her minor children may come, as well as close relatives who have not reached the age of the majority (brother, sister, nephew, niece).

The detainee is entitled to a short term meeting per month and a long-term meeting per quarter.

There is no right to long-term interviews with convicts who:

- a) the right to long-term meetings has been suspended;
- b) who were initially transferred as a disciplinary sanction;
- c) sentenced to life imprisonment in the initial regime.

The number of meetings mentioned above may be exceeded in order to stimulate convicts.

Thus, more than 4 short-term meetings and 2 long-term meetings per year are provided as incentives, according to Decision no. 583 of 26.05.2006, art. 280.

When determining the visit period allowed, the behaviour of the detainee, the periodicity of visits, the total number of visits of the prisoner concerned, as well as the number of visits to the prison, etc., are analyzed.

Incentive appointments are only granted to the spouse and relatives and cannot be given to others.

Meetings between detainees placed in different penitentiary institutions are forbidden.

The director of the penitentiary unit approves meetings between the detainees, if the detainees are in the same penitentiary institution and if there is a marriage relationship between them, based on documents.

It is not allowed to divide the time for a visit in more short ones, but replacing the long-term meeting with the short term is only allowed at the written request of the sentenced person.

Sentenced prisoners of the Republic of Moldova have the right to make phone calls of up to 15 minutes, including the possibility of changing long and short-term meetings with telephone conversations.

For marriage, the long-term and short-term meetings on this occasion are not included in the set number of meetings.

The meeting takes place after a meeting permit issued by the prison director following the request of the detainee or the visitor.

The administration of the penitentiary may order a ban or discontinuation of a meeting if there is a suspicion that the order and safety in the penitentiary unit may be jeopardized.

In accordance to art. 305 of the Decision no. 583 of 26.05.2006 regarding the approval of the Penalty Execution Statute by condemned persons, the discussion at the short-term meetings is held in the language chosen by the persons arriving on the visit. If the representatives of the penitentiary administration do not know the spoken language, an interpreter or other person (except for the detainees who know the language) may be invited to oversee the discussion.

According to art. 313, from the Decision No. 583 of 2006, detainees can receive packets, bands or parcels from family or other persons.

In art. 314 it is stipulated that the opening and control of the contents of parcels, parcels with supplies and banderols shall be carried out by the representative of the administration of the penitentiary, in the presence of the person who brought them, and the ones sent by mail are subject to specific control in the presence of the detainee and transmitted to the last counter signature.

Persons convicted have the right to receive and dispatch letters, telegrams and petitions on their own, without limiting their number, in the manner and under the law.

Sending postal mandates to the family is done freely and to other non-family members only with the authorization of the penitentiary administration.

Correspondence between detainees of different penitentiaries who do not have family ties is allowed

only with the authorization of the penitentiary administration, according to art. 330 of Decision No. 582/2006.

Correspondence of detainees can be subject to control if there is a suspicion of a danger to safety and order in the penitentiary.

In order to keep in touch with the family, the detainees also benefit from the right to telephone calls, the penitentiary administration assuring the installation of public telephones in the penitentiary in special places.

The detainee is entitled to telephone conversations with his spouse, a relative, or another person of his choice. The payment for telephone calls is made with prepaid cards, and in the case of a telephone connected to the public fixed telephone network, according to the established tariffs, on the detainee's account of the detainee.

Provision of phone calls to detainees is only allowed at the initiative and upon request. Conversations at the request of relatives or other persons are not admitted, they can only discuss with the representatives of the administration, communicating their exceptional information to be transmitted to the detainee.

The convict is entitled to a 20-minute weekly telephone conversation with the husband, relative or other person of his choice.

As with meetings, it is not allowed to divide the time allowed for one phone call in shorter ones. Also, phone calls between inmates of different prisons are forbidden.

2.5. Romania.

In Romania, Law 254/2013 regulates the execution of sentences and measures of deprivation of liberty ordered by the judicial bodies during the criminal proceedings.

By Government Decision no. 157 of 2016 approved the Implementing Regulation of Law 254/2013, which sets out in detail the composition of the rights of the convicts to preserve the contact with the external environment and especially with the family.

A first right is the right to correspondence, which is regulated in art. 63 of Law 254/2013, together with the petition right. The text of the law mentions in par. (1) only that the right to correspondence and petition is guaranteed.

In the other four paragraphs of the above mentioned article are stipulated only the restrictions on these rights.

These restrictions consist in the fact that correspondence can be held and handed over to those

entitled to conduct investigations if there are good indications of a crime. The convicted person being notified in writing of these measures.

However, according to the law, correspondence and responses to petitions are confidential and can only be retained within the limits and under the conditions laid down by law.

The frequency of the use of this right was not limited by the legislator, the detainee having the possibility to make petitions and to have correspondence without limitations. In other words, the detainee has the possibility to keep in touch with his family by mail whenever he wishes.

Another right provided by national law is the right to telephone calls, provided in art. 65 of Law 254/2013². Among the possibilities of the persons deprived of their liberty to communicate with the outside, the right to make phone calls helps constantly and regardless of the distance where the punishment or educational measure is executed, maintaining the connection with the family or with other persons with whom he wants to relate.

Phone calls are made without being heard, are confidential and run during the hours of the program, both with people in the country and abroad. Under the right to telephone calls, the detainee can contact his lawyer and diplomatic representative (if the detainee is a foreign national)³.

In art. 2 lit. m) of the Implementing Regulation of Law 254/2013, are explained that the family members, are spouse, wife, relatives up to the fourth degree, persons who have established similar relations with those spouses or between parents and children, legal representatives when appointed, as well as, in exceptional cases, persons to whom strong affective relations have been established and which maintain contact with the detainee through visits, telephone, correspondence and on-line communications.

Regarding the right to correspondence, which is not limited, as far as the right to telephone communications is concerned, it has limitations given by the regime in which the detainee is included.

The limitations imposed by the detention regime are aimed at preventing the commission of new criminal offenses by means of telephone conversations. The fact that those who are imprisoned in penitentiaries with maximum security have committed acts of certain gravity, or their situation (crime contest, recidivism) has led to a certain danger, they are considered to be more prone to use the right to hold telephone conversations to continue their criminal activity interrupted by the conviction.

Although the existence of this right may favour the continuation of criminal activity, it is advisable to

² Law no. 254/2013, art. 65: "(1) Persons convicted have the right to make phone calls from public phones installed in penitentiaries. Phone calls are confidential and conducted under visual supervision. (2) In order to ensure the exercise of the right to telephone calls, the director of the penitentiary has the obligation to take the necessary measures for the installation of public telephones within the penitentiary. (3) Expenses incurred for the making of telephone conversations shall be borne by the convicted persons. (4) The number and duration of telephone conversations shall be established by the regulation for the application of this law. "

³ Chiş Ioan, Chiş Alexandru Bogdan, Execution of criminal sanctions, Universul Juridic Publishing House, Bucharest, 2015, pag. 385

maintain the link with the family, outside the penitentiary environment, helping to preserve the humanity of every person deprived of liberty and his hope to reintegrate into the world of which was temporarily excluded.

The right to receive visits and the right to be informed about the special family situations provided in art. 68, is perhaps the most important right in the lives of detainees and which, as stated above, motivates the detainee to wish to overcome the period of imprisonment.

The right to visit allows direct contact with the family, keeping in touch with the family environment, maintaining feelings of affection among family members.

This right is all the more important by providing parents with the opportunity to see their children, to be part of their lives, enabling communication and fulfilment of the role of parent through the necessary guidance for children.

Contact with family, though reduced in terms of the consequences of punishment, is so necessary for parties, family and detainees.

Visit to the place of detention is a family event, sometimes educative or full of positive influences, by comparing what can be done between the status of those who meet thru separation devices between those who come and those who are visited⁴.

Visiting moments represent for true moments of celebration that have the gift of interrupting the monotony of the daily existence.

The organization of the granting of the right to visit and the manner of granting these visits are stipulated in art. 138-144 of the Regulation implementing Law 254/2013.

Thus, detainees can be visited by the family or the caregivers and with the consent of the detainees and the approval of the director of the place of detention by other persons as well. Children up to 14 years of age can only visit detainees accompanied by a major person.

A detainee may receive a single visit during one day, the administration of the place of detention being obliged to provide a daily 12-hour program for the exercise of the right to visit by detainees.

The duration of the visit is from 30 minutes to two hours, depending on the number of requests for visits and existing spaces.

Visitors can not simultaneously visit two or more detainees, with an exception being provided when two or more inmates, husband or wife or relatives up to the second degree can be simultaneously visited by their husband or wife or relatives up to at the second degree, with the approval of the penitentiary director.

The number of persons visiting a prisoner at the same time can be limited by the motivated decision of the penitentiary director.

In order to benefit from the right to visit, it is necessary to make a prior appointment, which is made before the presentation date for the visit.

The request for the appointment is made by telephone, by e-mail or directly to the penitentiary's office, during the working hours of the package granting and visiting section.

The way of the visit is granted differently depending on the regime of execution of the custodial sentence and the conduct adopted during the detention, as follows:

- a) With cabin type separation devices;
- b) Without separation devices.

The visit with separating devices is granted to detainees to whom maximum security or closed regime applies and convicted detainees to whom the execution regime has not been established.

The visit without separation devices is granted to detainees to whom the semi-open and open regime applies.

The Regulation also provides for the possibility of granting the right to visit between detainees, with the approval of the prison director, under the law.

The number and frequency of visits varies depending on the regime in which the person in question is included.

Inmates to whom the open regime applies benefit monthly from 6 visits, the incarcerated in the semi-open regime, close regime and those for whom the penalty regime has not yet been established receive 5 visits per month and those to whom the maximum safety regime applies benefit monthly 3 visits.

Pregnant women who have given birth during the period of taking care of the child in their place of detention receive 8 visits per month.

The law provides for the possibility of granting a further visit, in addition to those stipulated, for the birth of the child of the detainee or the death of a family member, with the approval of the penitentiary director, which may be carried out without a separation device.

Detainees also have the right to be informed about the special family circumstances, the serious illness or the death of a family member, person or other person, as soon as they are aware of the event, being psychologically counselled, when required.

An important right that helps maintain affective and matrimonial relationships is the right to the intimate visit that is provided in art. 69 of the Law no. 254/2013⁵.

The exercise of this right is done by the convicted person or preventively arrested, married, only with his

⁴ Chiş Ioan, Chiş Alexandru Bogdan, Execution of criminal sanctions, Universul Juridic Publishing House, Bucharest, 2015, pag.390.

⁵ Article 69 of Law 254/2013

a) They are finally convicted and assigned to a regime for the execution of custodial sentences;

b) the legal effects ceased;

c) There is a marriage relationship, proven by a legalized copy of the marriage certificate or, as the case may be, a partnership relationship similar to the relationships established between the spouses;

spouse, being granted by the director of the penitentiary at the written request of the sentenced person.

Persons convicted or preventively arrested, who are not married, may benefit from the intimate visit only with partners with whom they have established a similar relationship to relationships established between spouses prior to the date of receipt in the penitentiary.

The partnership relationship between the convicted person and his / her partner is carried out by a declaration on his / her own responsibility given to the notary.

The director of the penitentiary may approve intimate visits and between convicted persons upon their request, subject to the above mentioned conditions.

The person convicted or preventively arrested, the spouse or his wife or partner, as the case may be, have the obligation, under the sanction of the provisions of art. 353 and 354 of the Penal Code to inform each other, through a declaration on their own responsibility, of the existence of a sexually transmitted disease or acquired immunodeficiency syndrome - AIDS. Statements are filed in the individual file.

According to art. 146 of the Implementing Regulation of Law 254/2013, the persons finally convicted, respectively preventively arrested during the trial, are entitled to a once a 3-month intimate visit, with a duration of three hours, in compliance with the legal conditions.

For marriage, the right to intimate visit, which lasts 48 hours, may be interrupted for a maximum period of 24 hours for reasons related to the administration of the place of detention, without that the 24h being reduced from the 48h, according to par. 2 and 3 of Art. 146 of the Regulation implementing Law 254/2013.

The Romanian legislation also provides for the right to receive packages and to buy goods, according to art. 70 of Law 254/2013.

According to art. 148 of the Implementing Regulation of Law 254/2013, detainees have the right to receive a packet of foodstuffs weighing no more than 10 kg per month, to which a maximum of 6 kg of fruit and vegetables can be added.

Detainees are forbidden:

- a) the receipt of foodstuffs which, for consumption, require heating, baking, boiling or other thermal treatments;
- b) the purchase of easily altered foodstuffs or which, for consumption, requires heating, baking, boiling or other heat treatment, except coffee, tea, milk and

instant smoked sausages;

- c) the receipt and purchase of lemons and their derivatives.

3. Conclusions.

Following the analysis of the five penitentiary systems it can be concluded that the systems presented have many common points but also differentiation elements.

The result is a normal one given the fact that for maintaining strong connections between the convict and his family or friends group, both physical contact and the possibility of communicating by telephone or on-line, aspects that are also made between people at large, are necessary.

All penitentiary systems have regulated the right to visit, perhaps the most important right of all, which helps most to maintain the interest of the detainee for the family and the family for the detainee, the right to telephone calls and the right to receive packets.

The differences between those systems are the way these rights are achieved, reflecting the importance that the state attaches to the role of the family in the prisoner's life.

The Romanian penitentiary system is approaching most of the Spanish penitentiary system, in regulating the rights of convicts, but it also has common elements with the other penitentiary systems.

It is noteworthy that the legislation in our country and in Spain is the most permissive in granting the right to the usual visit, in relation to its frequency. Spanish legislation being even more permissive and by stipulating different types of visits, depending on the people who visit with different periodicities.

Analyzing the importance of each individual right, one could conclude that the existence of the right to intimate visit represents a gain, if one can say so, for both the detainee and the family, but also for society, by re-socializing the former condemned, many times he manages to overcome the negative effects of executing a prison sentence due to his family.

What is worth to note after presenting these five laws is that there are notable differences between detailing the exercise of these rights.

Thus, the Netherlands, Belgium and Spain, precisely in that order, are concise in the content of the listed rights without too much exemplifying the way in which the rights are exercised.

However, this is not the case in Romanian law, and even less so in the Republic of Moldova.

d) have not benefited from the permission to leave the penitentiary in the last 3 months prior to requesting an intimate visit;
 e) have not been disciplined for a period of 6 months prior to the request for an intimate visit, or the sanction has been lifted;
 f) Participates actively in educational programs, psychological assistance and social assistance or work;
 (2) A married convicted person may only receive an intimate visit with his or her spouse.
 (3) In order to grant the intimate visit, the partners must have had a similar relationship to relationships established between spouses prior to the date of receipt in the penitentiary.
 4) Proof of the existence of the partnership relationship is made by the declaration on own responsibility, authenticated by the notary.
 (5) The director of the penitentiary may approve intimate visits between convicted persons under the terms of this article.
 (6) The number, periodicity and procedure of the intimate visits shall be established by the regulation for the application of this law. "

Why is it necessary to provide, in the smallest detail, the means of exercising only in Romanian and Moldovan legislation, in order to be understood by convicts, and in other legal systems is it sufficient only their succinct presentation?

Maybe there are questions whose answer comes out of the legal sphere, rather related to psychology or human consciousness.

However, what should be emphasized and praised is that the states under consideration have understood that the attempt to socialize some convicted persons cannot be achieved without the intervention of the family and the circle of friends of those condemned.

Nevertheless, there is no clear evidence that any of the systems analyzed is the best, with outstanding results in re-socialization.

It could be a solution a long-term research, during the execution of the sentence, of a representative group

of convicted persons under different detention regimes, who keep in touch with the family as well as those who are not visited by family members.

But a solution of this study may be that Romanian legislation takes over those elements of the legislation of the other analyzed states, which allow a greater proximity of the family prisoner.

In the same time, the existence of more rights for the convicted person to keep in touch with the family is not an obligation on the family to honor them.

Although supplementation rights for prisoners would seem too lax compared to the punitive nature of the punishment, this must not lose sight of the fact that the punishment by imprisonment aims to punish the individual by taking away his freedom and not to break the family ties.

References

- Spanish Organic Penitentiary Law no. 1 of 1979
- The Spanish Law on the Penitentiary Regime, Royal Decree no. 190/1996
- The Netherlands Penitentiary Principles Act
- The Belgian Law on Principles on the Administration of Prison Facilities and the Legal Status of Detainees of 05.02.2005
- The Moldavian Republic Decision no. 583 from 26.05.2006 regarding the approval of the Penalty Execution Statute of the convicted persons and Code no. 443 / 24.12.2004 on the Execution Code of the Republic of Moldova
- The Romanian Law 254/2013 regulates the execution of sentences and measures of deprivation of liberty ordered by the judicial bodies during the criminal proceedings
- The Romanian Government Decision no. 157 of 2016 approved the Implementing Regulation of Law 254/2013
- Chiș Ioan, Chiș Alexandru Bogdan, Execution of criminal sanctions, Universul Juridic Publishing House, Bucharest, 2015
- <http://www.prisonstudies.org/country/romania>