

CONDITIONS OF PAROLE FOR LIFE IMPRISONMENT

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Abstract

Parole in Romania has experienced great changes in the new Criminal Code, so it is necessary to study them for use by law enforcement system works in the execution of punishments and those who are direct beneficiaries of the new provisions. Parole with jobs and duties are completed after release so that the person is free to be able to re-socialize the best possible conditions and in a short time. Establish a monitoring period of time equal to the completion of the sentence is likely to warn the person convicted to the fact that it is possible to return to prison if it has a behavior consistent with the obligations

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Introduction

Conditional release or parole is particularly designed to lead to normalization of the convict's life after serving a sentence of imprisonment, due to the fact that during the performance of the penalty it creates normal conditions, facilitating the transition from effective execution of punishment in places of detention, to assuming responsibilities in free life.

Parole is an institution used since ancient times, the belief that not the punishment is the one that re-socializes, but the confidence in the convicts possibilities and life in society, makes it so that the length of the sentence is not more important than the moment in which the punished person realizes that a life of crime should be avoided at any cost.

Offenders are sent to places of detention punished and not to be punished. This concept, accepted as a philosophy of performance of the penalty since the eighteenth century, became the reason to conclude as soon as possible the stage in which convicted persons are in state custody, and their conditional release under penalty of execution of all punishment, in order to be reinstated in the community from which they have been removed for longer or shorter periods of time.

Romanian penal philosophy of the twentieth century has been oriented, as in other European countries, towards the gradual enforcement of sentences, after the auburnian or Philadelphian system, with draconian regimes in the early period of penalty and their improvement after periods of time considered sufficient to correct criminal behavior. These regimes were continued even with conditional release of prisoners, which reflected the idea of prison "treatment" and Christian humanism of performance of penalty¹. All inmates, including those punished with hard labor for life,

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¹ Criminal Code of March 17, 1936

- Those sentenced to hard labor for life, after serving 15 years of sentence, who gave evidence of referral would be sent to a penal colony, and after serving 5 years in prison could be released on parole;

- Those sentenced to hard labor for a specific period of time were sent to a penal colony after the execution of two thirds of the sentence and could have been released on parole after serving a $\frac{3}{4}$ of the total penalty;

- After the execution of two thirds of his sentence, the one sentenced to heavy prison, which, through incentive to work and good behavior, gave hope to referral was sent for the remainder of the sentence, to penal colony, and after serving $\frac{3}{4}$ of the total penalty could get parole;

- Those sentenced to correctional imprisonment up to 2 years were detained a quarter of their sentence, separated day and night in individual cells, for a period that may not exceed one year, two quarters of their sentence at

those with heavy prison sentence, correctional prison, rigorous imprisonment, penal servitude, simple imprisonment, began the execution by a period of isolation in cells, of different durations depending on the nature of punishment, continued with joint work under the regime of silence, and then were transferred to a penal colony, and after serving a fraction of the sentence were released conditionally.

Parole during the communist regime was a way to force all inmates to work, even if the forced labor penalty no longer existed. Under the guise of re-education through labor, through by exceeding standards you gained executed days, inmates were encouraged to push up to the physical existence the reduction of prison sentences, reduction that was optimally granted by the prison board. The Decree 720/1956 and the Act 23/1969 used the system of reduced penalty through days considered executed as a result of their work, but without applying a compulsory deduction, but as a system by which convicts entered into the discussion of the board of parole. In this way the prisoners were used for productive activities of achieving state objectives without adequate payment and in a fast pace.

The new Penal Code substantially modified the institution of parole by a new philosophy, both in terms of conditions for granting and especially on the process of social reintegration of prisoners, through the direct involvement of state institutions, by probation services, in providing qualified support for every specific situation. If the institution of parole, in the previous legislation, did not require that the convict make concrete steps towards reintegration, but not to commit new crimes, for the period from release until the end of the sentence, the new Penal Code has a new vision, continuing the rehabilitation activities by the need to fulfill other conditions under the control of probation services so as to achieve effective reintegration into society by the deadline set for the penalty.

2. The new Criminal Code in relation to the previous law

In the new penal code parole is introduced in Title III - Punishments, Chapter V - Customizing punishment, Section 6, Art. 99-106, so it becomes a separate institution to be applied according to general criteria of individualization of punishment, taking into account the seriousness of the crime and the dangerousness of the offender. In the previous Criminal Code conditional release was part of the general part of the same title, but was established under the rules on life imprisonment and prison art. 55¹, respectively art. 59, 59¹, 60 and 61, and considered to be another way of execution of sentence, without deprivation of liberty.

Although the institution of parole has special rules in the new penal code, both codes have common features that trace the continuity of the institution and its progress in the development phase of the current penal policy. These features are:

- a) conditional release is provided in criminal law, following general regulatory criteria which relate to both punishment and the condemned person, so punishment can be applied individually for each situation;
- b) conditional release is not discriminatory, so that when the performance requirements of law are fulfilled, any condemned person can benefit them;
- c) conditional release can operate only after serving part of the sentence under the deprivation of liberty, period considered sufficient to achieve the effect of coercion, so as the convicted person would be warned about the need to respect the laws, but also to stimulate the convicted so he would wish to benefit from the execution of the sentence in custody;

work during day and as much as possible separated in cells at night and the remaining 1 / 4, if they proved good behavior incentive to work, could be executed, half in penal colony, half on parole;

- Those convicted of political crimes to rigorous imprisonment, penal servitude or simple imprisonment, could ask to be transferred in a penal colony, where they would be separated from other inmates, then they could ask for parole, under the same terms and conditions as convicts sentenced to corresponding common law punishments.

d) to qualify for conditional release inmates must meet certain conditions of conduct, so that the stimulatory effectiveness of the institution is enhanced and thereby constitutes a continuing incentive for others, both in terms of behavior in the place of detention, and perseverance in meeting the system's requirements and programs²;

e) being a means of performance of an imprisonment penalty, the released convict is still considered to serving the sentence, so that the time spent in custody until the date of expiration of the period of execution is used to calculate the duration after which the penalty is considered fully executed;

f) conditional release may be granted by the court, as a vocation for the condemned, discussion, postponement or refusal of application is related to persuading the court that serving the remainder of the sentence on parole is more useful for a faster rehabilitation of the convict. The court may deny parole based on circumstances surrounding the criminal act or the convicted person, but also on considerations of an enhancement in the efficiency of punishment in periods when the preventive effect of this institution falls;

g) although parole is an institution that can be applied as a result of the subjective belief of judges, it objectifies through the fulfillment of conditions related to the execution of punishment, such as serving a portion of the required sentence in the established regime, achieving the conditions of conduct and the position of regret towards the offense, the victim, compensation, completion of specific training programs, gaining skills, rehabilitation.

Both criminal codes have set conditions for granting parole, in both documents the fulfillment of these conditions must be found by the Board of proposals for conditional release or by the convicted person, who will address the court to ascertain the veracity of their completion. Law 275 / 2006 Art. 77 shows that the commission proposes parole taking into account the fraction of the sentence actually served, the duration of punishment which is considered as served on the basis of work performed, the conduct of the convicted person and his efforts for social reintegration, particularly in the educational, cultural, therapeutic, psychological and social assistance, training and vocational training schools (for the duration of punishment considered as served as a result of participation in training activities), the responsibilities entrusted, the rewards granted, the disciplinary sanctions imposed and his criminal records.

The Commission, that consists of director, the deputy director for detention security and prison regime, the deputy director for education and psychosocial support, probation counselor, prison doctor, a worker in the production service, with participation of the judge designated for the execution of prison sentences, as Chairman, prepares a report, together with the documents proving the above claims, and forwards them to the court in whose jurisdiction lies the place of detention, proceeding to trial the conditional release. The convicted person may apply the request himself, only the court being the one able to establish the fulfillment of conditions for parole.

3. Elements of compared law

Conditional release was examined at the Committee of Ministers of the European Council on the occasion of the Council's Report on Criminal Cooperation in preparation of Recommendation R (99) 22, which was adopted on the 30th of September 1999.

The Recommendation concerned measures regarding the overcrowding and growth of population in confinement, so parole occupied an important place in the economy of this document, taking measures to stop the inflation of prison population was one of the desiderata in the field of crime control.

² DONGOROZ Vintilă, KAHANE Siegfried, OANCEA Ion, STĂNOIU Rodica, FODOR Iosif, ILIESCU Nicoleta, BULAI Constantin, ROȘCA Victor - Theoretical Explanations of the Romanian Penal Code, General Section, Vol II, Ed II Ed Romanian Academy, Bucharest, 2003, p. 39 et seq.

In respect to conditional release in European countries, the report noted a particularly high growth in the number of population subjected to custodial measures, in the first decade of our century, especially in economically developed countries³. The large fluctuations of convicted persons that occurred in the first decade were due to the events of 1989, the opening of borders, misunderstanding of democratic systems and the migration of large numbers of criminals from one state to another. In these circumstances parole appears to be a tool for displacing prisoners from crowded prisons to other systems of enforcement. The range of possible alternatives to imprisonment to be taken in European countries are:

- a) Alternatives to sending in penal institutions:
 - Limitation of preventive detention;
 - Introduction of alternative sanctions or other measures without deprivation of liberty;
- b) Alternatives to continuance of deprivation of liberty:
 - With a reduction in the period of detention (parole, unconditional release) which would have as a result early release, intensive supervision, electronic monitoring, etc.;
 - Without reducing the period of detention (semilibertate, a leave from the prison, working outside the prison) that can create conditions for a pardon, amnesty, redemption.

As can be seen, the measures envisaged by the 1999 Recommendation R (99) 22, have been implemented in the Criminal Code, with emphasis in the new Criminal Code, in the Act for enforcement, so the current number of people in holding places does not exceed 33 000 people, solving the problem of overcrowding. However parole continues to be used, furthermore it became a means of individualization of punishment, another way of serving a sentence.

Recommendation Rec (99) 22 proposes to Member States several ways of serving the sentence, to reduce the penalty by extending the effective length of parole. It recommends reducing the part of sentence to be served in detention, shortening the minimum time to be spent in prison, and the introduction of a graduated system of enforcement of sentences in transitional stages between the deprivation of liberty and unconditional release. Our country has adopted measures for each recommendation, has reduced the maximum length of specific punishments, has introduced a progressive system of enforcement that uses semi-open and open regime as stages before parole, and introduced the institution of exit permission, leave. Among the preventive measures judicial review (art. 211-215 of the Criminal Procedure Code) and house arrest (art. 218-222 of the Criminal Procedure Code) were introduced as new institutions of European recommendations.

In the German Criminal Code a similar institution of parole is suspension for the remainder of the sentence. The suspension for the remainder of the sentence applies after the execution of two thirds of the length of the sentence, but after the execution of at least two months' imprisonment, if the offender is not a danger to society, the defendant accepts the suspension and the measure takes into consideration the convict's personality, criminal records, the circumstances of committing the crime, the importance of judicial values that would be harmed in the case of recurrences, the convicted's conduct, livelihoods, and the consequences of suspension for the convicted person. Suspension may be granted at the execution of 1/2 the sentence if the convicted person is at his first sentence, and has spent at least six months in prison.

If the case of life imprisonment suspension of the remainder of the punishment may be ordered by the court after serving 15 years of the sentence and continuance of imprisonment is not imposed further because of the particular gravity of the offense. In the case of imprisonment as a "total punishment" due to the fact that it is a composition of several concurrent sentences, the suspension is applied in terms of each single sentence.

³ Netherlands - 240%, Spain - 192%, Portugal - 140%, Luxembourg - 76% Ireland - 66%, Switzerland - 56%, Greece - 43%, England and Wales - 43%, Cyprus - 40%, France - 39%, Belgium - 28% Scotland - 21%, Norway - 19%, Sweden - 18%, Denmark - 6%, Czech Republic - 50%, Romania - 150%, Hungary - 55%, Poland - 60%, Ukraine - 80%, Latvia - 20% 40% Lithuania, Croatia - 100%

The Spanish Penal Code establishes the circumstances in which this institution is applied in Title III - Section 3, Art. 90⁵, 91⁶, 92⁷, 93⁸ regarding parole. Parole applies to those who are in the third year of imprisonment, have served three quarters of the sentence imposed, or the condemned showed good conduct and there is a good prognosis for reintegration and the fulfillment of civil responsibilities derived from misdemeanor in the cases and according to the criteria established in law enforcement.

For persons convicted of terrorist or criminal offenses committed within organizations, it will be understood that there was a prediction for social reintegration when demonstrating, in an unmistakable manner, that he has abandoned the goals and means of terrorist activity and cooperated with authorities, either to prevent the occurrence of crimes by armed gangs, organizations or terrorist groups or to mitigate the effects of his crime, to identify, capture and prosecute the persons responsible for terrorist acts.

The supervisory judge may impose, on granting parole, the performance of rules of conduct or legal actions.

Proposals for parole are made after serving half the sentence, up to 90 days for each year of actual performance, excepting crimes of terrorism. Offenders who met the age of 60 years or meet it during serving the sentence and fulfill the conditions laid down, unless they served three quarters of it, or, where appropriate, two-thirds, will be able to obtain parole.

The same criteria will apply to patients who suffer from serious incurable diseases, according to medical reports. If the danger to the subject's life, because of illness or due to old age, is obvious, as evidenced by the report of the forensic medical services and the establishment of the prison, the judge may authorize parole without any formalities other than the prison's report with the final outcome, in order to make the assessment referred by in the Criminal Code.

The probation period consists of the remainder unexecuted period of time of the sentence. If the convicted person will commit crimes, or will not follow the rules of conduct imposed in this period, the supervisory judge shall revoke the parole and the convict shall be imprisoned in the corresponding period and serving year, without prejudice to the calculation of time spent on parole.

In the case of those convicted for terrorist crimes the supervisory judge may require reports to enable him to prove that conditions for parole exist. If during this period of probation, the defendant commits crimes, does not follow the rules of conduct or does not meet the conditions which have enabled it to gain access to parole, the judge shall revoke the release granted and the prisoner will return to prison during the proper prison year.

Some elements of comparative law in connection with parole regulations that differentiate the institution from Romanian law would be the following criminal codes:

- The Greek Criminal Code introduces the release of drug addicts provided that they seek treatment. Also, during the holding detainees who turn 70 years can be released conditionally;
- In Portuguese law it exists the institution of commutation of sentences for prisoners who have a serious and irreversible end-stage disease who can be admitted to hospital or under house arrest;
- Since 1995, the Polish penal legislation introduced parole and suspended sentences for convictions for failure to pay fines;
- The Dutch penal code system introduced house arrest during evening or weekend, combined with participation in rehabilitation programs during working hours;
- The Swiss criminal law introduced electronic monitoring of prisoners outside the penal institutions. The base and scope of the conditional release was broaden by reducing the minimum period of performance of two thirds of the sentence to half of it, as was necessary for effective enforcement.

In 42 States that participated in the Council of Europe study on parole in 1999, alternative measures have been taken to the serving of the sentence of imprisonment, with the conditional

reduction of the period of detention and surveillance measures of the condemned during the remainder of non-custodial sentence.

4. The notion of conditional release from a custodial sentence

Conditional release is a way of executing the sentence without deprivation of liberty under the conditions imposed by the Penal Code and the Law of enforcement of penalties.

In the previous Criminal Code, the punishment (art. 52) was a measure of restraint and a means of rehabilitation of the defendant, its purpose being general and special prevention, aiming to form a correct attitude towards work, towards the law and the rules of social coexistence.

This definition, adopted in 1968, along with the adoption of the Criminal Code, resisted although there have been many changes in the law as a whole, in the sentences in their nature and content, due to developments in the state and crime.

The purpose of punishment can not be the same in this century, when convicted citizens have rights that confer them the possibility of acting in detention, of course, with limited freedom of movement, under the same conditions as in freedom. The purpose of punishment is radically changed, and release before the exhaustion of penalty time, is considered a moral, material, communicational, educational advantage and another way of serving the sentence.

Through conditional release the criminal law notes that the punishment can be individualized setting criteria (74 Criminal Code) on the seriousness of the crime and the dangerousness of the offender, as well as conditions on the concrete conduct of the convict during the period of deprivation of liberty (art. 99-100 Criminal Code).

In these circumstances, conditional release is not a complementary institution⁴ but a part of the punishment enforced, in continuing the deprivation of liberty, with multiple conditions that the convict must assume, under the penalty of revoking it.

The purpose of parole is given by the means of obtaining it and by the way it is executed to the end of the sentence. The convict's compliance of numerous conditions during imprisonment, along with fulfilling all the conditions for transition from a maximum security regime or semi-closed to a semi-open or open system, creates, from the first day of detention, a progressive program of assuming responsibilities, that lead to awareness in the convict's mind, that only the accumulation of positive results can lead to the belief of the court that such conditions can be met without deprivation of liberty. The continuance in fulfilling conditions from the beginning of the sentence until the deadline, puts parole in the stage of assuming responsibilities as free citizens, but under the control of probation services to ensure the efficiency of the penalty. This continuity distinguishes conditional release from ancillary and complementary sentences, because the conditions put the released convict on an active position, to meet requirements, unlike ancillary or complementary sentences that consist of restrictions and prohibitions, which put the convict in a position to not do certain things, to refrain from the exercise of certain activities.

We can say that parole is a means of individualization of punishment, by continuing execution at large, by the continued fulfillment of conditions laid down by law, and by assuming responsibilities as free citizens, but under the control of probation services with the purpose of social reintegration.

Parole does not guarantee that the released convict will not commit another crime, but states effective actions so that, during the execution of punishment in this way, the convict would be effectively controlled, would be constantly warned about his conduct, under the possibility to return executing under deprivation of liberty if they do not comply with surveillance measures.

⁴ DONGOROZ Vintilă, KAHANE Siegfried, OANCEA Ion, STĂNOIU Rodica, FODOR Iosif, ILIESCU Nicoleta, BULAI Constantin, ROȘCA Victor - Theoretical Explanations of the Romanian Penal Code, General Section, Vol II, Ed II Ed Romanian Academy, Bucharest, 2003, p. 40.

5. Preparing prisoners for release

By the resolution adopted on August 30, 1955 at the United Nations first Congress for Crime Prevention and treatment of offenders, which was held in Geneva, Switzerland, from August 22 to September 3, 1955, it is stated that custodial sanctions and measures are to protect society against crime. Such a goal will be achieved only if the period of detention is used for the purposes of obtaining, if possible, that the offenders, once released, are not only willing, but also able to live by respecting the law and caring for his needs. "To this end, the prison system must resort to all curative, educational, moral, spiritual and other means, and all forms of assistance it may have, trying to apply them in accordance with individual treatment needs of the offenders."

Rule 60 states the principle aspects of the gradual normalization and social reintegration " The regime of places of detention must seek to reduce differences that may exist between life in prison and free life, to the extent that these differences tend to weaken the sense of responsibility of the detainee or the dignity of his person. Before the end of execution of a sentence or measure, it is desirable to take steps to ensure the prisoner a gradual return to life in society. This goal can be achieved, if necessary, by a preparatory arrangement for release, organized even in the place of detention, or another institution nearby, or a sample or control release, which should not be entrusted to police but will include effective social assistance. "

Rule 61 refers to the principle of community involvement in preparing for release and reintegration post-detention: "Treatment should not focus on the exclusion of prisoners from society, but rather on the fact that they continue to be part of it. To this end, should be used where possible, cooperation of community organizations to help the prison staff in the task of reclassification of prisoners. Social workers, in collaboration with the places of detention, would have the mission to maintain or improve relations with the prisoner's family and social authorities which may be helpful. Steps must be taken to safeguard, to the extent consistent with law and punishment to be executed, the rights relating to civil interests, social security benefit rights and other social benefits of prisoners."

In preparation for release, all physical or mental deficiencies or illnesses that could be an obstacle to the reintegration of a prisoner must be removed (Rule 62). Rules 66 and 67 outline the basic issues (needs) to be considered in the preparation for release: "The treatment of individuals sentenced to imprisonment or deprivation of liberty should aim, as long as the length of the sentence allows, creating the will and skills will enable them to live after their release respecting the law and meeting their needs. This treatment must be such as to spare them respect for themselves and to develop their sense of responsibility. To this end, we must rely mainly on religious concerns in countries where it is possible, to train, guide and qualify professionally, providing means of individual social assistance, advice on work, building the physical and moral character education according to individual needs of each detainee. Must take account of social and criminal history of the convict, his physical and mental abilities and his personal inclinations, the length of the sentence and the prospects for reintegration. "This information is summed in the personality assessments made during the detention of the detainee, but also in the probation report, if such report has been prepared.

An important aspect of post-prison reintegration capacity is the work of prisoners. Prison labor should not be degrading. Prisoners should be given productive work to deal with plentiful during a normal working day. This work should be, wherever possible, such as to maintain or increase their ability to earn an honest living when set free. The organization and methods of criminal work should be as close as possible to those applied to a similar work outside the establishment, in order to prepare prisoners for the normal conditions of free labor (Rules 71-72).

Particular attention should be given to maintaining and improving relations between prisoners and their families if they are desirable in the interests of both parties. It should be taken into account, early in the sentence, the prisoner's future after his release. He should be encouraged to maintain or establish relationships with outside persons or bodies that can facilitate the interests of his family and his own social rehabilitation (Rules 79-80).

Services and bodies, social or otherwise, which help released inmates to find their place in society, should, if possible, ensure them the identity documents required, to provide them housing, jobs, suitable clothing for appropriate climate and season, as well as means to reach their destination and to sustain himself during the period immediately following the release. Representatives of such bodies, that were granted approval, should have access inside the imprisonment place and should be able to get in touch with the prisoners. It is desirable that the work of these bodies would be as centralized or coordinated as possible, so that the best use of their efforts could be ensured (Rule 81).

The intensity of intervention for the release is directly proportional to the level of risk that could lead to community protection and the prevention of future crimes, so prisoners should make constructive use of the time spent in prison, to develop and enhance social and cognitive skills or self-control, to recover or to maintain contact with their family and the community and to initiate the supervision phase after release.

In the latter period of detention, which can be a year long for long term penalties and of 3 to 6 months for medium and short term sentences, it is necessary to intensify the activities in preparation for release, through specialized programs that can enhance the social reintegration prospects of the prisoner, oriented towards outlining the skills needed for life in freedom, programs with simple but strictly necessary content for life in community, with the most diverse topics such as:

- Skills for everyday life;
- Personal hygiene skills;
- Money management;
- Skills on housing and use of community resources;
- Managing a house of their own;
- How to benefit from the assistance of public institutions and services?
- Social and relationships skills;
- Embracing one's own identity;
- Caring for one's own family;
- Emotions and conflict management;
- Communication;
- Leisure management;
- Skills for an individual activity and work;
- Learning skills;
- Employment skills;
- Initiative on their own business.
- The above programs and any other activities designed to help adapting the detainee to the

reality of social life outside.

Society's expectations about the effectiveness of imprisonment, correctional programs, the belief that prison inmates are approached so that they will improve their ability to adapt to the demands of society when they leave prison are prejudices. In a broader sense, there is a concept in the judiciary system, that prisons may reduce crime rates, particularly recidivism. As it concerns crime rates, there are serious doubts among criminologists around the world about the positive effect of Prisons. Too many countries have gone through the experience of increasing penalties that have not influenced at all the decrease of crime rate.

As for the function of preparing prisoners for release it follows a truly institutionalized system, starting with a specialization of prison for planning the performance of sentences, completing specialized programs for the positive development of conduct of prisoners, following the route of progressive system of performance with an emphasis on assuming individual responsibility, passing to an semi-open or open system with enforcement rules similar to life in freedom, intensive training in the latter part of the sentence, before discussing with the parole commission, for gaining the status of responsible and free person, but supervised and obliged to the fulfillment of conditions imposed by law.

Preparing for release, conditional or unconditional, is the imminent stage before the departure of convicted persons in the community, where due to the support of probation services, volunteers, their families and their own will, they will be advised on how they must and may integrate in compliance with the laws of the country.

6. Conditions of parole for life imprisonment

Those sentenced to life imprisonment can be conditionally released if they meets the following conditions:

a) The convicted person actually executed 20 years imprisonment. This provision leaves no benefit reduction for the days considered served as a result of work performed in prison. Those days can be taken into account for the situation where life imprisonment was replaced by imprisonment of 30 years, in which case the periods actually performed and those won as a result of the working days or as a result of participation in training programs will be deducted. In the case of life imprisonment, the convict must perform effectively 20 years to meet the proportion necessary for the committee to discuss the proposal for parole. Of course in relation to the age at which the convict begins serving the sentence of life imprisonment, he can appreciate when he meets the 20 years of effective enforcement, if it's not the situation of reaching the age of 65 years in this period, in which case the penalty can be replaced with imprisonment of 30 years. In this situation there is no longer the case of effective enforcement of the penalty, but rather applying the conditions of parole for a prison sentence.

b) The convicted person showed good conduct throughout the sentence.

Good Conduct covers the period until the decision of conditional release, as well as during subsequent surveillance.

For the 20 years of effective enforcement of the sentence good conduct should be characterized by:

- Obeying the rules imposed by the maximum-security system or closed system, by abiding the obligations, restrictions and prohibitions that make these systems;
- Acceptance of prison life without disciplinary proceedings that would determine the penalties introduced by Law 275/2006;
- Persistence and constance in the system specific socio-cultural, instruction or training activities, in working activities where he is used, performance of the working programs for which he receives awards established by law;
- Carefully keeping of the goods entrusted for use, maintain collective cleanliness and personal hygiene;
- Respecting the rules of civilized coexistence, showing respect for prison staff and people he enters in contact with, use of decorous language towards other detainees;
- Voluntary participation in activities organized inside the prison service, and occurring activities and incidents such as heavy snowfalls, floods, fires, earthquakes, blood donations, or similar, proving his intentions of becoming a responsible citizen;
- Refusal to initiate or participate in collective violations such as protests, rebellion, serious damage or destruction of objects, noise or disturbance of the daily schedule of the detention;
- Informing the personnel about aspects concerning prison life, shortcomings that may cause adverse events, also intervention to give first aid for those who are threatened, assaulted, or those who injure themselves intentionally until staff intervention;
- To show in all the circumstances that he understood the consequences of his act, he regrets the earlier criminal conduct and is trying to prove that he directed in the sense that will not commit another crime in the future.

The period of 20 years of effective enforcement of the penalty represents a long time of reflection and meditation for the convicted person, and showing good conduct in a world of criminals

is particularly difficult, especially because the offender had a long period of negative conduct prior to conviction and that it is harder to change dramatically right away. Therefore a multi-stage extension in discussing the parole by the board will fulfill the desire of serving 20 years with good conduct. Since in the first part of the sentence, the first two or three years, the defendant can not waive his radical criminal conduct, the discussion of parole, after the 20 years of effective enforcement, is not an exception but a way of ensuring that the message set by the punishment was intercepted and that the law will be respected in the future, regardless how hard it would be for the one who has to opt for the letter and spirit of the law. The periods of deferred penalty execution are times of testing the good conduct, even if the sentenced person had an exceptional conduct, in the period before the committee would discuss the proposals for release.

c) The condemned person has fully complied with civil obligations established by the sentence, unless he proves that he had no possibility to perform.

This condition is a new provision in the Criminal Code, and represents the concrete evidence of the convict's regret towards the offense, the consequences and his desire for compensation of material damages to victim, the injured party or the state. The required condition of fully complying with civil obligations established by the court, was regulated just to emphasize the importance of paying liabilities before parole, in order to prevent giving the fraction of 20 years of imprisonment a greater role than the payment of expenses to which the convict is sentenced. The purpose of paying the civil obligations is that it proves that the convicted person actually understood the moral and material values of society, and that repairs caused by the offense are not less important than the sentence. Full compensation does not allow partial payment of civil obligations, enabling the sentenced person to "forget" about the due obligations, once released, creating the risk of delay or failure of performance of civil obligations. The mandatory provision does not allow any transaction for the convicted person, for future payment of the obligations, but sets their performance as a condition of parole.

However, the court may grant the conditional release without the fulfillment of this requirement if the convict shows that he had no opportunity to fully meet civil liabilities. He will prove he does not own goods that can be sold to fulfill civil obligations, not money or securities, that he failed to obtain through work the amounts necessary to pay the obligations, although he tried to pay a part of these obligations, proving to be of good faith. The court may take account of these efforts to show that there was no possibility, denying parole, or to consider that this obligation is not so important as to lead to a denial of parole. It is possible that the injured part would waive the requested expenses so that civil obligations would not exist until the discussion of the request for parole.

d) The court is convinced that the convicted person has straightened and can be reintegrated into society

In order for the court to build its belief on regarding the possibility of reintegration in society of the person convicted to imprisonment for life it should consider his specific situation from at least two views.

The first aspect is the analysis of the 20 years of execution of the life sentence, by observing the proposal of the parole committee under Law 275/2006.

A second aspect that the court must review is if the convicted person is able to observe the conditions of supervision and obligations imposed by court for the next 10 years after release, according to art. 101 Criminal Code.

If under the previous Criminal Code for conditional release, the convict had no obligations after the release, other than not committing another crime, and there was no rule relating to the supervision of his activities, under the current Penal Code there is such an obligation and the court must take it into account, because if the conditions are not met, the probation service should propose changes, termination, revocation or cancellation of parole.

In connection with the system of execution of the sentence with life imprisonment, in every penitentiary was organized a committee for the individualization of penalty performance system (art. 77 para. 2 Law 275/2006), which consists of director, deputy director for imprisonment safety and prison regime, the deputy director for education and psychosocial support, probation counselor, prison doctor, a worker from the service of production, with the participation of the judge for execution of sentences, as President, who proposes parole in view of the part of sentence actually served, the convicted's individual behavior and social reintegration efforts, particularly in the educational, cultural, therapeutic, psychological and social assistance activities, learning and training, assigned responsibilities, the rewards granted, the disciplinary sanctions imposed and his criminal history.

The Commission of proposals for the admission of parole reviews weekly (Art. 191 - Government Decision no. 1897/2006 - Law Enforcement Regulation 275/2006) the state of prisoners that qualify for conditional release based on period, based on individual file of imprisonment, in presence of the convicted person, enlisting the conditions to be met if the rest of the sentence is to be run on parole.

The minute prepared by the probation committee shall be submitted to the court in which jurisdiction lies the prison, together with documents proving the claims contained therein. If the committee rejects the proposal for conditional release, it shall notify the convicted person informing him, under signature, that he can apply directly to court with a request for parole. The period of deferment of discussion for the new conditional release proposal is one year.

The convict who addresses the request for conditional release directly to court, will attach the report prepared by the commission for parole proposals, with all the particulars and documents evidencing the state of the convict. In order to fully understand the concrete situation of the convict's case, the court may require the convicted person's imprisonment file.

The court of jurisdiction where the place of detention lies, will analyse the convicted person's request for conditional release or the proposal from the commission of prison regime and shall order, under art. 587 of the Code of Criminal Procedure – Conditional release, parole or rediscussion after a further period of time, not exceeding one year. This period starts from the moment the decision becomes final. This decision may be challenged by appeal to the court in whose jurisdiction is the place of detention within three days from notice. The prosecutor's appeal submitted at tribunal shall stay the execution.

If the court gives a parole decision that becomes final, the imprisonment place shall be notified, and a copy of the decision will be forwarded to the probation service and proximity police, that will take necessary measures for receiving the convict under the surveillance system for the next 10 years from release.

In accordance with art. 99 para. (2) Criminal Code, the court must argue their decision for parole, the reasons behind it, but it must also make a reminder for the convict on "his future conduct and the consequences he is to be exposed if he will commit more crimes, or will not comply with the surveillance measures or will not perform its obligations during the term of supervision".

References

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- **Victor Nicolcescu** - Procedural aspects of parole, Pro-Law no. 1 / 2001, p. 156.