

# DISCIPLINARY PRACTICE IN PRISONS. REWARDS AND SANCTIONS THAT MAY BE APPLIED TO PERSONS DEPRIVED OF THEIR LIBERTY

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## Abstract

*Disciplinary practice in prisons is an essential element of the proper administration of correctional institutions and the maintenance of a safe and orderly environment in these facilities. In this paper, we aim to examine the crucial role of rewards and sanctions within the prison system and how they influence the behaviour of prisoners. Rewards and sanctions play a crucial role in shaping prisoners' behaviour and promoting compliance with institutional rules and norms. The main aim of this study is to assess how these disciplinary tools influence prisoners' behaviour and to examine their effectiveness in reducing delinquent and deviant behaviour in prisons.*

*The findings of this analysis highlight the importance of a balanced approach between rewards and sanctions within the prison system. The right balance between these two aspects is essential for promoting a safe prison environment and facilitating the social reintegration of prisoners.*

*A balanced approach can contribute to improving disciplinary practices in prisons and to the effective management of prisoners' behaviour.*

*This research provides an insight into how rewards and sanctions are used within the prison system and suggests that a balanced approach between them is essential for maintaining order and safety in prisons and promoting the social reintegration of prisoners.*

**Keywords:** *penitentiary, rewards, sanctions, practice, discipline.*

## 1. Introduction

In the prison system, ensuring order and security is a key priority for the authorities, with disciplinary enforcement being a fundamental pillar in achieving this objective.

This paper aims to present a comparative approach to the rewards and sanctions that can be applied to prisoners.

Detained persons are under the power of the state and it is imperative that there is a transparent and impartial framework for the management of their behaviour within prison institutions.

Disciplinary practice in prisons involves a diverse range of measures, from rewards for positive behaviour to sanctions for breaking institutional rules.

Within the prison system, ensuring order and security is fundamental to the authorities, and disciplinary enforcement is an essential pillar in achieving this objective. This paper proposes a comparative approach to rewards and sanctions applicable to prisoners, with a focus on their impact on prisoners' behaviour and social reintegration.

Proper management of prisoners' behaviour can make a significant contribution to maintaining a safe and orderly environment in prisons. In this context, it is imperative to have a transparent and impartial framework for the administration of rewards and sanctions, given the vulnerability of persons in custody and the importance of their reintegration into society.

Disciplinary practice in prisons involves a diverse range of measures, from rewards for positive behaviour to sanctions for breaking institutional rules. Understanding how these mechanisms are implemented and operate can provide insight into the internal dynamics of the prison system and their impact on people in detention.

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*„The disciplinary system applied in places of detention must meet the objectives of effective control and the maintenance of normal order. Most of the time, life in prison is carried out in a normal way, all actions, relations*

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*between the administration and convicts are carried out in compliance with the regulations and rules of criminal law, voluntarily, without the need for correction.”<sup>1</sup>*

*„The purpose of the disciplinary system is to fulfil the requirements of the law on the execution of sentences, i.e., to find ways and means to re-socialise prisoners.”<sup>2</sup>*

Law no. 254/2013 provides, in art. 3, the purpose of the execution of sentences and measures of deprivation of liberty, namely, the pursuit of the formation of a correct attitude towards the legal order, towards the rules of social coexistence and towards work, in order to reintegrate prisoners or internees into society.

There are numerous comparative studies in the literature on the need for a well-structured system to achieve the educational purpose of punishment, *i.e.*, the reintegration of the sentenced person into society.

In national legislation, the rewards that can be granted to persons deprived of liberty are provided for in various normative acts, such as, Regulation for the application of Law no. 254/2013, dec. no. 443/2016 of the Director General of ANP on the approval of the Working Procedure for the granting of rewards based on the System for crediting participation in educational activities and programmes, psychological and social assistance, gainful activities, and the prevention of risk situations, as well as in the contents of Law no. 254/2013;

As regards the sanctions that may be applied to persons deprived of their liberty, they are regulated in art. 101 of Law no. 254/2013, in the Regulation implementing Law no. 254/2013, the Regulation on the security of places of detention under ANP, approved by Order of the Minister of Justice no. 4800/C/2018, and also in art. 61 and 73 of the Instructions on the nominal and statistical record of persons deprived of liberty in subordinate units, Regulation on the security of places of detention under ANP, approved by Order of the Minister of Justice no. 432/C/2010.

The aim of this paper is to investigate the various forms of rewards available to prisoners and how they can stimulate positive behaviour and contribute to the social reintegration process of prisoners. At the same time, we will analyse the disciplinary sanctions used in prisons, including their application procedures and their impact on the individual and the climate in the prison.

In the light of these aspects, the paper will contribute to the development of knowledge in the field of prison disciplinary practice and provide a useful perspective for improving the behaviour management of prisoners in order to ensure a safe prison environment and facilitate social reintegration.

Thus, in the course of this paper, we will investigate the various forms of rewards available to prisoners and how they can stimulate positive behaviour and contribute to the process of social reintegration of prisoners. We will also look at disciplinary sanctions used in prisons, including their application procedures and their impact on the individual and the climate in the prison.

## 2. Paper content

*„Discipline in places of detention is one of the contradictory problems of the system of execution of custodial sentences, because it tries with coercive means to achieve re-socialization through imprisonment, which is from the outset the failure of the action”.*

Disciplinary practice in Romanian prisons is an essential element in the administration of the penitentiary system, with the main objective of maintaining order and safety in detention institutions. According to national legislation and international standards, disciplinary rules and procedures are designed to ensure a safe and secure detention environment and to promote respect for the rights and dignity of persons deprived of their liberty.

The rules of conduct and behaviour are defined in the internal order regulations of Romanian prisons. These regulations include details of prohibited behaviour, applicable disciplinary sanctions and procedures for dealing with breaches. The disciplinary procedures are in accordance with the Law on the Execution of Punishments and Deprivation of Liberty Measures and the Internal Order Regulations specific to each penitentiary establishment, thus ensuring respect for the procedural rights of prisoners and guaranteeing a fair process in the application of disciplinary sanctions.

Disciplinary sanctions are based on the seriousness of the violation and may include written warnings, restriction of privileges, transfer to other correctional facilities, disciplinary segregation or reduction of the length

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<sup>1</sup> I. Chiș, Al.B. Chiș, *Execution of criminal sanctions*, 2<sup>nd</sup> ed., revised and added, Universul Juridic Publishing House, Bucharest, 2021, p. 485.

<sup>2</sup> *Ibidem*.

of probation. These sanctions are applied in accordance with legal procedures and following a fair and equitable disciplinary process.

Prison staff monitor the implementation of disciplinary practice, ensuring compliance with the rules and the application of sanctions in a fair and just manner. Disciplinary processes are documented and recorded to ensure transparency and accountability within the prison system.

Within a hierarchical reporting framework, persons deprived of their liberty are obliged to comply not only with the provisions of normative acts, such as Law no. 254/2013 on the execution of custodial sentences and the Regulation implementing this law, but also with the rules laid down in the internal rules or provisions issued by the prison administration through decisions, written or verbal orders in the exercise of its managerial powers.

There is an essential requirement for prison discipline rules to be in writing, as this is a safeguard both for those deprived of their liberty - who, in the absence of written rules, may claim that they have not been informed of their obligations and to the facts considered disciplinary violations - as well as for the prison administration, which could be accused of arbitrary application of sanctions. Arbitrariness derives not only from the absence of rules, but also from the presence of rules that do not meet legal standards or are outdated. According to Principle 30(1) of the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, adopted at the 76th plenary session of the UN General Assembly on 9 December 1988, the regulations must specify the following aspects: i) the types of conduct that constitute a disciplinary offense during detention or imprisonment; ii) the description and duration of the disciplinary penalty that may be applied; iii) the competent authorities for imposing such sanctions. It is also essential that the rules identify or define the means of appeal and review available to prisoners who wish to challenge the preliminary proceedings. Therefore, the most important sources related to discipline in penitentiaries are Law no. 254/2013, which contains two chapters on offenses and disciplinary sanctions applied to persons deprived of their liberty, and the Internal Order Regulation for detainees. Internal order regulation, according to art. 44 of GD no. 157/2016 implementing Law no. 254/2013, is the document by which the prison administration establishes the rules that the prisoners and the prison staff must follow in order to properly apply the execution regime. This is a unilateral act of the administration of the place of detention, the structure of which cannot be negotiated and which does not allow clauses left to the discretion of persons deprived of their liberty. The administration can base its disciplinary decisions on the basis of this internal normative act, while persons deprived of their liberty can use the internal order regulation to their advantage. The internal order regulation is approved by the director of the penitentiary, and compliance with it is an obligation for all inmates throughout their detention. The prison administration is obliged to display the internal order regulation in visible places or to make available information about its content by various means, according to the provisions of the Regulation for the implementation of Law no. 254/2013.<sup>3</sup>

**Rewards for persons deprived of their liberty.** Rewards play a crucial role in improving social life, as they are an effective tool to motivate and encourage the embracing of positive behaviours in society.

The American poet and essayist, Ralph Waldo Emerson, stated in his essay, entitled „*Reward*“, that „*A reward is the best motivation. However, everyone must understand that the reward is not the end; it is the result.*“ Thus, Emerson suggests that the greatest benefit of an action is not the external reward but the very inner satisfaction that the individual feels for having done something correctly and successfully. This quote highlights that in some cases, the very act of accomplishing something itself is a sufficient reward for the human, thus highlighting the importance of internal motivation and personal satisfaction in influencing human behaviour, in addition to external rewards or social recognition.

Rewards help to strengthen social relationships and reinforce bonds between individuals and communities. When people are rewarded for their contributions to the community or for helping others, a sense of mutual recognition and appreciation is created, thus strengthening social cohesion and solidarity.

In addition, rewards can provide opportunities for individuals' personal and professional development, contributing to improved quality of life and increased personal satisfaction. By recognising and rewarding individual or collective achievements, people feel encouraged to go beyond their limits and reach their full potential in various areas of social life.

The system of awarding rewards to people deprived of their liberty is fundamentally different from the system practised in economic or budgetary organisations. It is based solely on the enhancement of certain

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<sup>3</sup>, S.C. Opreșan (Nedelcu), *Disciplinary practice in applying sanctions to persons deprived of liberty*, Universul Juridic Premium Magazine no. 2/26.02.2020.

recognised rights, such as the possibility to receive visits and food parcels, to conduct online or intimate visits and to obtain permission to leave. All these rewards are granted without financial involvement of the detention institution, the only moral reward being the lifting of the previously imposed sanction, while the others impose material and financial costs on the families of the detainees. The system of rewards is limited in the modalities and types of rewards available. Although package and visiting entitlements are relatively sufficient in number and duration for all categories of prisoners, the most desired rewards are those related to intimate visits and permission to leave. These rewards are a means of individualisation of the custodial sentence and are granted to prisoners who adopt a correct attitude towards work, respect the legal order and the rules of social coexistence, show a consistently positive conduct and are actively involved in productive, educational, cultural or therapeutic activities, as well as in risk situations.<sup>4</sup>

*„The system of recording and the procedure for granting rewards are strictly regulated both in the law and in the Regulation implementing Law no. 254/2013, as well as in tertiary legislation, in particular dec. no. 443/2016 of the Director General of the ANP, and rewards may be granted, where appropriate, by a specific commission established in para. 1. (2) of art. 98 or by the Director General of the ANP (in the case of exit permits for more than one day).”<sup>5</sup>*

In art. 98 of Law no. 254/2013, the legislator has retained 5 types of rewards that persons deprived of their liberty can benefit from.

Thus, para. (1) of art. 98 of Law no. 254/2013 provides that convicted persons who are of good conduct and who have made the necessary efforts within the framework of work performed or within the framework of educational, moral-religious, cultural, therapeutic, psychological counselling and social assistance activities, school education and vocational training shall be granted, by the procedure established by the decision of the Director General of the National Administration of Penitentiaries, the following rewards:

- a) the lifting of a disciplinary penalty previously imposed;
- b) the addition to the number of on-line conversations;
- c) additional entitlements to packages and/or visits;
- d) supplementing rights to private visits, subject to the conditions laid down in art. 69, with the exception of para. 1. (1)(d);
- e) permission to leave the prison for one day, but not more than 15 days per year;
- f) permission to leave the prison for a maximum of 5 days, but not more than 25 days per year;
- g) permission to leave the prison for a maximum of 10 days, but not more than 30 days per year.

**Reward with the lifting of a previously imposed disciplinary sanction.** Reward with the lifting of a previously imposed disciplinary sanction is a crucial element in managing behaviour in prisons. This reward is offered when the person in custody shows evidence of correction and significant improvement in their behaviour, even if they have previously committed another disciplinary offence.

This form of reward brings with it multiple benefits. Firstly, it serves as a strong incentive for prisoners or those under strict supervision to improve their behaviour and comply with institutional rules. The prospect of the removal of a disciplinary sanction can motivate individuals to adopt more positive behaviour and avoid further rule violations.

Secondly, the reward of having a previous disciplinary sanction removed may help to improve relations between management and prisoners. This can generate a sense of recognition of the individual's efforts to comply with the rules and to improve themselves, thus building trust and mutual respect between the parties.

*„The lifting of the sanction implies that after this reward the convicted person will be able to receive other rewards, only if he has not committed more offences which must be lifted in turn. If the prisoner has committed more than one misconduct, the lifting of disciplinary sanctions will start with the oldest, and if there are more than one misconduct in a month, the sanctions will be lifted in relation to the severity, starting with the lightest sanction.”<sup>6</sup>*

According to Article 209 of the Regulation implementing Law 254/2013, the lifting of a previously imposed disciplinary sanction may be granted to prisoners who:

<sup>4</sup> I. Chiș, Al.B. Chiș, *op. cit.*, p. 485.

<sup>5</sup> A. Barbu, R.F. Geamănu, *Law no. 254/2013 regarding the execution of punishments and custodial measures ordered by judicial bodies during the criminal process: comments and jurisprudence*, Universul Juridic Publishing House, Bucharest, 2021, p. 636.

<sup>6</sup> I. Chiș, Al.B. Chiș, *op. cit.*, p. 485.

*a) for at least two months from the date of application of the disciplinary sanction referred to in art. 101 para. (1) letter a) of the Law have not committed any further disciplinary offences and have behaved in a lawful manner;*

*b) for at least 3 months from the date of application of the disciplinary sanction referred to in art. 101 para. (1) (b) and (c) of the Law have not committed disciplinary offences and have behaved in a lawful manner;*

*c) for at least 4 months from the date of application of the disciplinary sanction referred to in art. 101 para. (1) (d) and (e) of the Law have not committed any disciplinary offences and have behaved in a lawful manner;*

*d) for at least 5 months from the date of application of the disciplinary sanction referred to in art. 101 para. (1) letter f) of the Law, they have not committed any disciplinary offences and have shown a regular conduct.*

**Reward with more online calls.** Rewarding extra online conversations is a practice used in some prisons or detention centres to encourage positive behaviour and to maintain social links between prisoners and their families and loved ones. This reward consists of offering prisoners more opportunities to have online conversations with their family members or significant others.

The additional online conversations can serve as a strong incentive for prisoners to maintain appropriate behaviour and respect the rules of the institution. The prospect of being able to communicate more often with loved ones can motivate individuals to engage in constructive activities and avoid rule violations.

Online conversations provide a way for prisoners to maintain links with their families and friends outside the detention facility. These chats can help improve prisoners' emotional well-being and reduce feelings of isolation or loneliness.

By providing more opportunities to communicate with people outside prison, the reward of additional online conversations can facilitate the social reintegration process of prisoners after release. Maintaining social connections and positive relationships can help them adapt to life in the community and avoid reoffending.

It is important to note that these online conversations are usually supervised and monitored by prison authorities to ensure compliance with the rules and to prevent abuse or misuse.

The additional number of online calls is provided for in art. 210 of the Regulation implementing Law 254/2013 and is granted under the same conditions as the right to online calls. The reward is calculated by adding two such calls per month.

Persons deprived of their liberty are entitled to additional online calls from the month immediately following the month in which they were granted the reward.

**Reward with additional entitlement to packages and/or visits.** The reward with additional entitlement to packages and/or visits is provided for in art. 211 of the Regulation implementing Law no. 254/2013, and involves the additional granting of a package or a visit within a maximum of 3 months from the date of granting the reward.

**Reward with additional right to private access.** In order to be eligible for the reward of additional private access, persons deprived of their liberty must meet the criteria set out in art. 69(2). (1) of Law no. 254/2013, namely:

*a) they are definitively sentenced and are assigned to a regime for the execution of custodial sentences, i.e., they are remanded in custody during the course of the trial;*

*b) there is a marriage relationship, proven by a certified copy of the marriage certificate, or, where applicable, a partnership relationship similar to the relationship established between the spouses;*

*c) they have not been granted permission to leave the prison during the three months preceding the request for an intimate visit, in the case of convicted persons;*

*d) they have not been disciplined within a period of 6 months prior to the request for an intimate visit, or the sanction has been lifted in the case of convicted persons, and in the case of persons remanded in custody during the course of a trial, within the last 30 days prior to the request;*

*e) actively participate in educational, psychological and social assistance activities and programmes or work.*

The person deprived of liberty will benefit from the reward of the supplement to the right of private access from the month immediately following the granting of the reward. At the same time, art. 212 para. (1) of the Regulation implementing Law no. 254/2013, provides that persons deprived of liberty who have benefited in the previous 3 months of an intimate visit, will not be rewarded with this reward.

**Permission to leave prison.** Permission to leave the penitentiary is regulated by art. 99 of Law no. 254/2013 and requires that the prisoner has a consistently positive conduct and actively participates in educational, cultural, therapeutic, psychological counselling and social assistance activities, education and training.<sup>7</sup>

„Prison release permits are regulated separately, depending on the enforcement regimes, with different durations and procedures for granting them, as follows:

*One-day permits - regulated by para. 1 (e), specific to the closed regime, granted by a commission (composed of the director, who is also the chairman of the commission, the deputy director for detention security and prison regime, the deputy director for education and psychological assistance), not more than 15 days per year;*

*Permits for a maximum of 5 days - regulated in para. (1) (f), specific to the semi-open regime, granted by the Director General of the ANP, not more than 25 days per year;*

*Permits for a maximum of 10 days - covered by para. (1) (g), specific to the open regime, granted by the Director General of the ANP, not more than 30 days per year.”<sup>8</sup>*

**Sanctions that can be applied to persons deprived of liberty.** In Romania, the sanctions applied to persons deprived of liberty are regulated in accordance with the Law on Execution of Sentences and Measures Depriving of Liberty, as well as with the internal order regulations specific to each penitentiary unit. These sanctions are applied in case of violation of institutional rules and are aimed at maintaining order and safety within detention institutions, as well as promoting respect for the rights and dignity of persons deprived of liberty.

Sanctions may vary depending on the severity of the rule violation and may include written warnings, restriction of privileges, or disciplinary isolation.

The disciplinary process is overseen by prison staff and must follow legal procedures to ensure a fair and transparent process.

It is important to note that the sanctions applied must be proportionate and justified, and prisoners have the right to appeal and review the decisions taken against them. Transparency and accountability in the application of sanctions are crucial to maintaining trust in the prison system and respecting individual rights.

The disciplinary sanctions that can be applied to persons deprived of liberty, in the case of committing disciplinary violations, are provided in the content of art. 101 para. (1) of Law no. 254/2013 and there are 6 of them:

*a) the warning;*

*b) suspension of the right to participate in cultural, artistic and sports activities, for a period of at most one month;*

*c) suspension of the right to work, for a period of at most one month;*

*d) suspension of the right to receive and purchase goods, except for those necessary for personal hygiene or exercising the rights to defense, petition, correspondence and medical assistance, for a period of no more than two months;*

*e) suspension of the right to receive visits, for a period of no more than 3 months;*

*f) isolation for a maximum of 10 days.*

Within the penitentiary system, the application of sanctions is a crucial aspect of the behavioral management of persons deprived of liberty. This practice is not only a response to rule violations, but is a tool for regulating behavior and maintaining order in detention facilities. The history of these sanctions illustrates not just a functional necessity but a reflection of the delicate relationship between institutional power and human individualism.

The application of sanctions primarily promotes individual responsibility and discipline. They give prisoners the opportunity to internalise the consequences of their actions and take responsibility for their behavior within the prison community. This not only reinforces respect for the rules, but also encourages deep reflection on the consequences of individual actions.

In addition to disciplinary issues, the application of sanctions has a direct impact on stability and security within prison institutions. By imposing clear consequences for breaking the rules, a framework is created in which antisocial behavior is discouraged and social norms are reinforced. Thus, sanctions serve not only control purposes, but also to promote a safe environment and stability within the institution.

<sup>7</sup> *Ibidem.*

<sup>8</sup> A. Barbu, R.F. Geamănu, *op. cit.*, p. 638.

Also, the application of sanctions can serve as a tool for the rehabilitation and social reintegration of prisoners. By including educational or counselling activities as part of the sanctions, opportunities for personal development and growth are provided, preparing prisoners for reintegration into society after release.

Thus, the application of sanctions in penitentiary institutions is an essential practice for maintaining order and discipline, strengthening social norms and promoting individual responsibility. This reflects not only a functional aspect of the penal system, but also an aspect of the complex dynamics between institutional power and personal autonomy within restrictive environments.

Disciplinary sanctions have an immediate and subsequent effect on the situation of the convict, which influences the entire execution of the custodial sentence.

First of all, the immediate effect of a disciplinary sanction consists in restricting for a period the exercise of the rights conferred according to Law no. 254/2013, including the right to packages, shopping, participation in cultural-educational and sports activities, as well as the right to family visits. This restriction results in an intensification of the usual detention regime, where prison staff are more rigorous in granting facilities or responsibilities, and other inmates distance themselves from the sanctioned one to avoid negative influences. According to the Methodology of April 30, 2013 regarding the awarding of rewards, art. 10 provides that, in case of application.<sup>9</sup>

### 3. Conclusions

Disciplinary practice in prisons is a vital aspect in the management of the prison system and in ensuring security for both prison staff and prisoners. It involves the application of both sanctions and rewards to influence inmate behavior and maintain order and discipline in institutions.

The existence of sanctions in the prison system is justified by several fundamental reasons. First, sanctions serve as a means of enforcing compliance with institutional rules and norms. By establishing clear consequences for breaking these rules, a framework is created in which inmates are motivated to adjust their behavior and avoid problem behaviors. This is essential to maintaining a safe and orderly environment within prisons.

Secondly, sanctions have an educational and pedagogical role. They provide the opportunity to learn from mistakes and promote individual responsibility. By experiencing the consequences of their actions, inmates can come to a deeper understanding of the impact of their behavior and be encouraged to adopt more positive and rule-compliant behavior in the future.

Sanctions can also play a role in managing risk and preventing problem behaviour. They can deter anti-social or violent behavior and help maintain security within prisons. By consistently applying sanctions, a clear message can be sent that certain behaviors will not be tolerated and that there are consequences for their actions.

On the other hand, rewards for people deprived of their liberty are also essential within the prison system. They can serve as an incentive for positive behavior and compliance. By offering additional benefits and privileges in exchange for appropriate behavior, inmates can be motivated to engage in constructive activities and behave in accordance with the institution's rules.

Rewards can also help improve relationships between prison staff and inmates. By recognizing and rewarding positive behavior, trust and mutual respect can be built between parties, which can help create a more stable and cooperative environment within prison institutions.

In addition, rewards can play an important role in the process of rehabilitation and social reintegration of persons deprived of their liberty. They can provide opportunities for personal development and education, as well as the development of social and professional skills. Providing rewards for participating in educational programs or engaging in constructive activities can prepare prisoners for reintegration into society and prevent recidivism.

In conclusion, the existence of both sanctions and rewards in the prison system is justified by multiple reasons and needs. These practices are essential for maintaining order and security within penitentiary institutions, as well as for promoting positive behavior and facilitating the process of rehabilitation and social reintegration of persons deprived of liberty. Through the balanced application of sanctions and rewards, a safer, more responsible and more conducive prison environment for the personal and social development of prisoners can be promoted.

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<sup>9</sup> I. Chiş, Al.B. Chiş, *op. cit.*, p. 526.

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