

RELEASE OF MINORS

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Abstract

The sanctioning of minors provided in a whole new Criminal Code is kinder to those applying to one category of criminal penalties, namely educational measures. This change occurred after finding the need to recover and straightening of juvenile offenders with their age-specific means and without coming into contact with major people that could adversely affect behavior.

Keywords: *minor, release, parole, jail, prison.*

1. Introduction

The sanctioning regime applicable to minors, provided by The New Criminal Code, is overall milder than the previous one¹, because to them there will be applied only one category of criminal law sanctions, namely the seducational measures. This change occurred after finding the need to recover and redress the juvenile offenders by specific means for their age, without coming into contact with adults, that could affect their behavior in a negative way.

Custodial educational measures can be taken against a minor in the two cases provided by art. 114 para. (2) of The Criminal Code:

a) if he has committed a crime for which it was taken an educational measure that has been executed or he began executing an educational measure before committing the offense for which he is judged;

b) when the punishment provided for the offense is imprisonment for 7 years or more or life imprisonment.

Also, custodial educational measures will be applied to the minor in the following cases:

- If the minor does not comply, in bad faith, the execution conditions of the educational measure or the obligations imposed, the court decides to replace the measure with internment in an educational center, where, initially, it was taken the most severe non-custodial educational measure, for its maximum duration provided by the law (situation provided by art. 123 para. (1) c) of The Criminal Code);

- If the minor does not comply with bad faith performance conditions or obligations imposed educational measure, even after it has been done in accordance with paragraph 123. (1) a) and b), the court has to replace the measure with internment in an educational center (situation provided by art. 123 para. (2) Criminal Code.);

- If the minor serving a non-custodial educational measure commits a new crime

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¹ Excepting the situation provided by the previous criminal code, when the minor was sentenced to a term of imprisonment with conditional suspension on supervision or control, which in terms of maintaining the minor in liberty was more favorable than an educational measure involving deprivation of liberty under the new code.

or he is being tried for a concurrent crime previously committed, the court decides to replace the initial measure with a custodial educational measure (situation provided by art. 123 para. (3) c) of The Criminal Code.).

The two custodial educational measures that can be applied to the minor are:

- Internment in an educational center for a period of 1 to 3 years;
- Internment in a detention center for a period of 2 to 5 years, and if the punishment provided by the law for the offense committed by the minor is 20 years imprisonment or more or life imprisonment, for a period of 5 to 15 years.

Minors are not sentenced to imprisonment, therefore the institution of release on licence does not apply to them, not even if at the age of 18 years it is required a change of the enforcement regime, according to art. 126 of The Criminal Code, and the court decides for them to continue the execution of the educational measure in a prison.

The release on licence institution becomes applicable only if a person has committed two crimes, one during the minority and the other after turning 18 years, and, according to art. 129 para. (2) b) of The Criminal Code, he was sentenced with imprisonment, but in this case, it applies to the adult.

However, given that they are subject to a deprivation of liberty as a result of their internment into an educational center or a detention center, minors also have the opportunity to be set free before executing the whole period of the educational measure, if they have provided proves that the educational measure has achieved its purpose and the offender can reintegrate into the society.

In the previous Penal Code there were two types of custodial educational measures: the internment in a rehabilitation center and the internment in a medical-educational institute, which were being taken for an indefinite period of time, but only until the aperson turned 18 years old and could be extended for up to two years if it was necessary to accomplish the purpose of the internment². After passing at least one year from the date of the internment, the minor could have been released if he had given strong evidence of improvement, of diligently into his education and of the acquisition of a professional training³.

Unlike in the previous code's rules, currently the release from executing a custodial educational measure is ordered for the person who has reached the age of 18, so to the adult. The release possibility is no longer appreciated after a fixed period of one year, but after a fraction of at least half (1/2) of the internment duration.

Also, unlike the previous legislation, The New Criminal Code requires compliance of some obligations until the expiration of the internment's time.

2. Content

In order to obtain release, both the person interned in an educational center and the person interned in a detention center, must accomplish the following conditions:

1. They have reached the age of 18 years;
2. By the age of 18 they have executed at least half (1/2) of the length of the internment measure.

The person interned in an educational center can be released after serving a minimum period of between 6 months and 1 year and 6 months and the person interned

² See art. 104-106 of The Criminal Code 1968.

³ See art. 107 of The Criminal Code 1968.

in a detention center can be released after serving a minimum period of 1 year to 2 years and 6 months, if the punishment provided for the offense is imprisonment up to 20 years, and of 2 years and 6 months to 7 years and 6 months, if the punishment provided for the offense is imprisonment for 20 years or more or life imprisonment.

According to art. 127 of The Criminal Code, for the custodial educational measures, the provisions of art. 71-73 shall apply accordingly. Therefore, the duration of the educational measure of internment shall start from the day the final decision of the court was enforced. If during the criminal trial, against the minor was taken a custodial preventive measure, the duration for which the minor was deprived of liberty shall be deducted from the period of the internment, considering that he has already served a part of the internment measure.

3. During the internment, the minor has shown constant interest in acquiring academic and professional knowledge.

According to art. 90 para. (1) of The Law no. 254/2013⁴, "in the prison system there are organized educational courses for general compulsory education and there can be organized courses for other forms of education provided by the law of education". These courses are organized and conducted under the conditions set by the Ministry of National Education and the Ministry of Justice, with teaching staff insured and paid by the school inspectorate⁵, and the expenses of educational attainment are supported by the

Ministry of National Education and the National Administration of Penitentiaries⁶.

Art. 92 of The Law no. 254/2013 shows that the professional training is provided according to the options and abilities of the interned persons, through initiating, qualification, training and specialization programs established by the prison administration, in collaboration with specialized personnel from employment agencies, and with other accredited training providers⁷. The courses are organized in spaces specifically designed in the educational or detention centers or of the accredited training providers, under the conditions set by the agreements between the prison administration and each supplier.

Expenses related to professional training are supported by the Ministry of Education, by The Ministry of Labor, Family, and Social Protection, by The National Penitentiary Administration or by other persons or institutions⁸.

The interned persons that serve the measure in an open regime can participate outside the educational or detention center, on request and with the approval of the center's director, at other types of professional training than those provided in par. (1), and the expenses related thereto shall be incurred by the interned person or by other persons or institutions⁹.

As we see, the executorial law provides all guarantees of providing a favorable climate for the assimilations of the academic and professional knowledge by the minor, him having just the task to

⁴ Art. 166 para. (1) of Law no. 254/2013 disposes that the provisions of art. 90-92 of the same Act shall apply accordingly to minors interned in an educational center or in a detention center.

⁵ See art. 90 para. (2) of The Law no. 254/2013.

⁶ See art. 90 para. (3) of Law no. 254/2013. Art. 141 para. (4) of Law no. 254/2013 provides that "the Ministry of National Education, through the county school inspectorates, provides qualified personnel for training activities in schools, in detention centers and in educational centers."

⁷ See also art. 141 para. (5) of The Law no. 254/2013.

⁸ See art. 92 para. (4) of The Law no. 254/2013.

⁹ See art. 92 para. (5) and (6) of The Law no. 254/2013.

show interest in participation in these and in obtaining positive results.

4. The minor made obvious progress in his social reintegration.

After finishing the quarantine period referred to in art. 44 para. (1) of Law no. 254/2013, for the minor admitted in an educational center or a detention center, the executing regime of the educational measure will be established according to art. 152 of Law no. 254/2013. Among with this it is developed The intervention plan, based on a multidisciplinary evaluation from an educational, psychological and social perspective¹⁰.

Art. 169 para. (3) of Law no. 254/2013 provides that "The intervention plan establishes, based on the development needs of the interned person, the duration and mode of execution of the custodial educational measures, activities and programs for education and professional training, cultural, moral-religious, psychological and social assistance in which the interned person is included, with its consultation". The educational, psychological and social assistance has the following components: school education, vocational guidance and professional training, educational activities, psychological and social assistance, individual or group moral-religious activity, and activities for maintaining an active life, with the main purpose of social reintegration and responsabilisation of the interned persons¹¹.

Also the interned persons may perform work, under the conditions of the employment laws, according to their

physical development, skills and knowledge, unless they endanger their health, development, their educational and professional training¹². Work is organized by taking into account only the interest of social reintegration of the interned persons, as the article 163 para. (3) of Law no. 254/2013 states.

Progress made in the interest of social reintegration may reflect from the educational process and from the participation at the activities organized in the center, from the fact that the minor had an appropriate behavior towards other interned persons and the staff of the Centre, from situations where the minor can receive rewards¹³, because he did not commit misconduct¹⁴ or crimes during internment.

Even if to the minor it is applied certain regimes for the execution of the educational measure (closed and open regime regime)¹⁵, unlike the release on licence, in the case of release from the educational center or from the detention center, the Criminal Code does not require that the minor had been placed in a certain regime at the age of 18, when granting the release from the center can be taken in consideration.

Although the minor who may be criminally responsible may also be obliged to repair the damages by civil law, art. 1366 par. (2) of The Civil Code provides that "a minor under the age of 14 is responsible for the damage, unless he proves that he was deprived of discernment at the time of the deed", the Criminal Code does not require the complete fulfillment of civil obligations

¹⁰ See art. 169 para. (1) and (2) of The Law no. 254/2013.

¹¹ See art. 165 para. (1) and (3) of The Law no. 254/2013.

¹² See art. 163 para. (1) of The Law no. 254/2013.

¹³ See art. 170 of The Law no. 254/2013.

¹⁴ See art. 173 and art. 100 of The Law no. 254/2013.

¹⁵ About the enforcement regimes of custodial educational measures, see art. 149 and art. 150 of The Law no. 254/2013.

established by the decision that imposes the educative measure for the minor¹⁶.

As in the case of release on licence, there are two stages of the procedure of release from a detention or educational center: the administrative stage and the judicial stage.

Most provisions relating to the procedure for granting release can be found in The Law no. 254/2013, The Code of Criminal Procedure coming to specify only the court that will review if the conditions are accomplished.

In the administrative stage, in accordance with art. 180 para. (2) of The Law no. 254/2013, The Educational Board¹⁷ or The Commission for establishing, individualization and change of the enforcement regime of internment measure¹⁸, with the participation of the judge charged with the surveillance of the deprivation of liberty, as president, and a probation officer from the probation service responsible under the law, from the center's surrounding district, analyzes the situation of the interned person, in its presence.

Similar to the procedure that takes place in prison for release on licence, in the case of the release of the interned persons,

The Educational Council or The Committee, meets weekly¹⁹. Art. 314 para. (3) of The Project of Regulation Implementing The Law no. 254/2013 shows that by care of The Service of inmates accounts, it is written the pre-constituted part of the minutes to be submitted to the court²⁰.

According to art. 110 of The Law no. 252/2013, inside of The Board organized at the educational center's level, respectively The Commission of the detention center, at the works regarding the proposal for the release of a minor who has reached 18 years, from the educational or detention center, attends a probation officer appointed of the probation service responsible in whose territorial jurisdiction the center is situated. He presents the assessment report containing proposals concerning the obligations provided by art. 121 para. (1) of The Criminal Code, that the court may impose on the individual case. In compiling this report, the educational center or the detention center is obliged to inform the probation service at least 14 days before the date on which the person's situation will be reviewed by The Educational Board or The Commission from the detention center²¹.

¹⁶ However, in the case of persons interned in an educational or detention center, where they were obliged to pay civil damages, which were not paid until the beginning date of internment in the center, a 50% share from the percentage of 50% of the income realised by the interned person, will be used for the compensation given to the civil party for damages, as has art. 163 para. (8) of The Law no. 254/2013 provides.

¹⁷ According to art. 145 para. (2) of The Law no. 254/2013, "The Education Council is composed of the center's director, who is also chairman of the board, the deputy director for education and the psychosocial educator in charge of the case, the teacher or head teacher, a psychologist, a social worker and the chief of supervision, registration and granting rights to interned persons".

¹⁸ According to art. 146 para. (1) of The Law no. 254/2013, The Commission for establishing, individualization and change of the enforcement regime of internment measure consists of the center's director, who is also chairman of the committee, the deputy director for education and psychosocial assistance, the deputy director for safety possession, the chief doctor, the teacher responsible for case, a psychologist and a social worker.

¹⁹ See art. 314 para. (1) of The Project of Regulation Implementing The Law no. 254/2013.

²⁰ The pre-constituted of the minute shall contain the following mentions about the inmate:

- a) civil status data;
- b) conviction and crime;
- c) brief description of the offense;
- e) criminal records;
- f) the existence of any arrest warrant or court of first instance.

²¹ See art. 110 para. (4) of The Law no. 252/2013.

The probation officer has access to the documents of the minor's file from the educational center or detention center and at the request of counsel, the center has to forward copies of the documents contained in the individual file within 5 days of their request²².

The Education Council or The Commission shall determine whether the person has shown constant interest in acquiring school and professional knowledge, has made progress in social reintegration, taking into account the previous periods of internement. Also, the prison authorities may consider the person's involvement in work, given that the work is not mandatory and it is not required by law to fulfill any requirements relating to work performed for granting release²³.

If it is established that the person serving the educational measure fulfills the requirements of art. 124 para. (4) or art. 125 para. (4) of The Criminal Code, the council or the commission proposes the release from detention center or education, which is contained in a motivated minute, that includes the opinion of the members of the council or commission regarding the opportunity of the release, along with documents proving the dates recorded in the minute²⁴. The release proposal is submitted to the competent court according to art. 516 para. (2) and 517 para. (2) of The Criminal Procedure Code²⁵, namely the court in whose territorial jurisdiction it is placed the educational center or the detention center,

with the same rank as the enforcement court. At the minute of the educative council or of the commission it is also attached the assessment report prepared by the probation officer²⁶.

If it is found that the interned person does not meet the legal requirements, the educational council or the commission establish a term for reviewing it's situation, which may not be longer than 6 months, according to art. 180 para. (5) of The Law no. 254/2013. The minute stating that the interned person does not qualify for release is communicated immediately to her, and it is being signed by her. The person serving the educational measure has the option, within 30 days from receiving the minute under signature, to address the request for release directly to the court in whose jurisdiction the detention center is located²⁷.

Art. 180 para. (5) of The Law no. 254/2013 indicates that the provisions of art. 97 para. (4) - (8) and (10) - (13) of the same Act, relating to release on licence, shall apply accordingly.

In the jurisdictional stage, the court may be seized with the request of the educative council or the commission.

The jurisdiction belongs, according to art. 516 para. (2) and 517 para. (2) of The Criminal Procedure Code, to the court in whose territorial jurisdiction is located the educational center or detention, of the same degree as the court of enforcement proceedings²⁸. According to the executional legislation, the proposal will be submitted

²² See art. 110 para. (5) of The Law no. 252/2013.

²³ See art. 180 para. (3) of The Law no. 254/2013.

²⁴ See art. 180 para. (2) - (4) of The Law no. 254/2013 and art. 314 para. (4) and (5) of The Project of Regulation implementing The Law no. 254/2013.

²⁵ See art. 180 para. (4) of The Law no. 254/2013.

²⁶ See art. 110 para. (3) of The Law no. 252/2013.

²⁷ See art. 97 para. (11) reported to art. 180 para. (5) of The Law no. 254/2013 and art. 314 para. (6) of Project of Regulation Implementing The Law no. 254/2013.

²⁸ Art. 181 para. (1) of The Law no. 254/2013 incorrectly uses the phrase "court of territorial jurisdiction in which the center is located" because the center is in the territorial jurisdiction of a court, and not both institutions in the jurisdiction of a third institution.

to the court²⁹ in whose territorial jurisdiction is located the educational or detention center.

The court may admit the proposal or the request and decide to release the person who has turned 18 years from the center, and with it the court may impose one or more of the obligations referred to in art. 121 of The Criminal Code³⁰, or it may overrule it, setting a time after which the proposal or request may be renewed³¹. The term shall not be less than 6 months and runs from the final decision of overrule.

According to art. 181 para. (3) of Law no. 254/2013, the decision of the can be challenged by appeal to the court within whose territorial circumscription is located the center, corresponding in rank with the court that would have jurisdiction to hear the appeal against the decision imposing the educational measure, within 3 days from the communication, and the appeal made by the prosecutor shall suspend the execution, so the interned person is not liberated until the appeal is judged.

With the release of the educational center or the detention center the court imposes one or more of the obligations referred to in art. 121 of The Criminal Code for minors who serve the non-custodial educational measures, until the final moment of the internment measure, regardless of its size.

In the case of this release, the Criminal Code did not mention that the remainder of the term would be a surveillance period, as in the case of release on licence.

These obligations are:

a) to follow a course of educational or professional training;

b) not to exceed, without the probation service, the territorial limit determined by the court;

c) not to be in certain places or at certain sports events, cultural or other public gatherings, determined by the court;

d) not to approach and not to communicate with the victim or members of it's family, the participants in the crime or other persons determined by the court;

e) to report to the probation service at the term fixed by it;

f) to accept examination, treatment or medical care measures.

The obligations provided by art. 121 para. (1) a), c) and d) have an identical content to the obligations provided by art. 101 para. (2) a), d) and e) of The Criminal Code, where the remainder of the sentence to serve from the release on licence to the end of the sentence is of 2 years or more. The obligation from art. 121 para. (1) e) has the same content as the supervision measure provided by art. 101 para. (1) a) of The Criminal Code for release on licence.

Considering the provisions of art. 71 para. (1) reported to art. 70 para. (5) of Law no. 253/2013, the enforcement of the obligations referred to in the subparagraphs b) -d) begins on the date of the final decision in which they have been established and for those provided by letters a), e) and f) begins on the date at which the minor has been informed of their content by the probation counselor.

According to art. 99 para. (1) of The Law no. 252/2013, the liberated person for which the court imposed one or more of the obligations referred to in art. 121 of The Criminal Code, is obliged to report to the probation service within 10 days from the time of release.

²⁹ See art. 97 para. (10) reported to art. 180 para. (5) of The Law no. 254/2013.

³⁰ See art. 124 para. (5) of The Criminal Code.

³¹ See art. 181 para. (2) of The Law no. 254/2013.

Although the code does not specify, observing the provisions of art. 99 of The Law no. 252/2013, which refer to the supervision of the liberated person by the probation service on and the competence of the surveillance counselor in these cases, we consider that the rules referring to supervising the execution of obligations provided in the other paragraphs of art. 121 of The Criminal Code are applicable. Alin. (3) art. 121 of The Criminal Code provides that "the monitoring the obligations imposed by the court is coordinated by the probation service."

According to art. 71 of The Law no. 253/2013, to the liberated person from serving the custodial educational measures at the age of 18 years, are applicable, in relation to the obligations established by the court, the provisions of art. 70 of the same law. Thus, if the court has imposed for released person to follow a course of educational or professional training, provided by the art. 121 para. (1) a) of The Criminal Code, the probation officer from the probation service in whose jurisdiction the person resides, receiving a copy of the judgment, decides, based on the initial assessment of the person, the course to be followed and the institution of community where it will take place. The councillor communicates its decision to this institution, together with a copy of the judgment. The supervision and enforcement of the obligations set out in art. 121 para. (1) a) of The Criminal Code, both regarding the surveilled person as well as the institution

established by the probation service is performed by the competent probation service³². The community institution established ensures the effective follow of the course and its finalisation until the date of the internment measure, and at the end of the course, it will issue a document certifying its completion. This document is attached, in copy, to probation file³³.

If the liberated person is required not to exceed, without the probation service's permission, the territorial limits set by the court (art. 121 para. (1) b) of The Criminal Code), the judge shall send a copy of the execution part of the decision to the County Police Inspectorate in whose jurisdiction the person lives³⁴.

According to art. 121 para. (2) of The Criminal Code, "when determining the obligation in para. (1) d), the court establishes, in particular, the content of this obligation, given the circumstances of the case".

When imposing the obligations provided by art. 121 para. (1) letters c) or d) of The Criminal Code (not to be in certain places or at certain sports events, cultural or other public gatherings, not to approach and not to communicate with the victim or members of it's family, the participants in the crime or other persons determined by court), the judge shall send a copy of the execution part of the decision, if appropriate, also to the persons or institutions referred to in art. 29 para. (1) letters m) and n)³⁵ of The Law no.

³² See art. 50 para. (1) and (2) of The Law no. 253/2013, referred to in art. 70 para. (1), and art. 99 para. (2) in relation to art. 94 para. (1) and (4) of The Law no. 252/2013.

³³ See art. 99 para. (2) in relation to art. 94 para. (3) and (5) of The Law no. 252/2013.

³⁴ See art. 70 para. (2) the second sentence of The Law. 253/2013.

³⁵ Art. 29 lit. m) for the prohibition of the right to be in certain places or at certain sports events, cultural or other public gatherings, established by the court, the communication is being made to the county police inspectorate in whose jurisdiction he resides or to the one from the place of the sentenced person lives, in cases where the ban was ordered for places, events or gatherings outside this constituency, to The General Inspectorate of Romanian Police.

lit. n) for the prohibition of the right to communicate with the victim or with members of it's family, the people who committed the crime or others, determined by the court, or to approach them, the communication is being made

253/2013, competent to supervise the fulfillment of these obligations³⁶.

According to art. 99 related to art. 97 of The Law no. 252/2013, where the court has imposed the enforcement of the obligation provided by art. 121 para. (1) e) of The Criminal Code, the probation counselor manager of the case determines the dates on which liberated person is required to report to the probation service.

According to art. 99 para. (1) in relation to art. 98 and art. 63 of The Law no. 252/2013, in order to enforce the obligation provided by art. 121 para. (1) letter f) of The Criminal Code, to submit to the examination, treatment or medical care measures, the case manager probation counselor shall proceed as follows:

a) if the court has determined, in the decision, the institution of examination, treatment or medical care, the counselor verifies if the liberated person is taken into the accounts of the established institution, the enforcement of the obligation by the liberated person and monitors the implementation of the examination, treatment or medical care activity³⁷;

b) if the court has determined, in the decision, the institution of examination, treatment or medical care, the counselor, depending on the particular case, established the institution and will communicated to it the copy of the court decision and his decision, proceeding in accordance with the provisions of letter a).

The decision shall be communicated to the supervised person³⁸.

According to par. (4) art. 70 of Law no. 253/2013, the cost of the examination, treatment or medical care covered by the state budget.

The person released from detention center or education at the age of 18 years may be granted permissions in the execution of the obligation by the probation counselor³⁹. Art. 72 para. (1) of The Law no. 253/2013 states that at the request of the liberated person, if justified, the probation counselor may, by decision, grant permissions in the execution of the obligations stipulated in art. 121 para. (1) letters c) and d) of The Criminal Code. In this case, permissions may not be granted for a period longer than 5 days, and its duration is included in the term of supervision.

According to para. (3) art. 72 of The Law no. 253/2013, where the court imposed on the liberated person the execution of the obligation provided by art. 121 para. (1) letter b) of The Criminal Code, at his request, for objective reasons, the probation counselor may grant, by decision, permission to exceed the territorial limit set by the court. If the request concerns leaving the territory of the country, the duration of the permission may not exceed 30 days in an year.

About granting permissions, the probation counselor shall inform, as

to the persons with who the sentenced person does not have the right to connect or is not entitled to approach, to the county police inspectorate in whose jurisdiction he resides and, if applicable, is the place where the convict lives and, for cases where the victim or persons determined by the court do not live in the same district, to county police inspectorates from their homes.

³⁶ See art. 70 para. (2) sentence I of the The Law no. 253/2013.

³⁷ See also art. 70 para. (3) sentence I of The Law no. 253/2013, which states that "if the disposition of the obligation referred to in art. 121 para. (1) f) of Law no. 286/2009, as amended and supplemented (The Criminal Code), a copy of the judgment shall be communicated by the probation counselor to the institution in which it will be held the examination, treatment or medical care referred to in the judgment."

³⁸ See also art. 70 para. (3) second sentence of The Law. 253/2013, which provides: "If the institution is not mentioned in the judgment, the probation officer shall establish, by decision, the institution in which will be held the examination, treatment or medical care and communicate the copy of the judgment and the decision to it".

³⁹ See art. 99 related to art. 96 para. (1) of The Law no. 252/2013.

appropriate, the persons or institutions listed in art. 29 lit. m) and n) of The Law no. 253/2013 and judge delegated with enforcement⁴⁰.

Although the Criminal Code does not refer to art. 121 para. (4), we believe that this text is applicable, as part of activities related to supervision held by the probation service. The latter is obliged to notify the court if:

a) there have intervened motifs for modifying the obligations imposed by the court or the ending of some of them;

b) the person does not comply with the educational measure's enforcement conditions or does not execute, in the established conditions, its obligations.

Art. 71 para. (2) of Law no. 253/2013 states that the execution of all obligations imposed stops by law at the final date of the period of the interment measure.

According to art. 124 para. (6) and art. 125 para. (6) of The Criminal Code, if the released person does not comply, in bad faith, the obligations imposed, the court reviews the release and orders the enforcement of the remaining of the custodial educational measure duration.

The legislature used the term "reviews the release", not interfering the revocation institution, as for the release on licence.

According to art. 516 para. (2) of The Criminal Procedure Code, the review of the release of the educational center is being made ex officio or after the notification from the probation service, by the court which heard the case at first instance. In the case of the release from the detention center, art. 517 para. (2) of The Criminal Procedure Code also shows that ex officio or after the notification from the Probation

Service, it will be competent the court of first instance which judged the minor. In fact, the two texts indicate the same category of courts using different terminology.

The law does not stipulate that committing a crime until the ending of the internment period would determine the revocation of the release, but we note that the provisions of art. 129 para. (2) of The Criminal Code are applicable. Thus, if the sentence established for the new offense committed is imprisonment or life imprisonment, the latter shall apply in accordance with letters b) and c), and if the penalty is a fine, it will continue to be enforced only the educational measure of which the offender was released, but its duration shall be increased by up to 6 months without exceeding the statutory maximum for that measure.

The Criminal Code does not provide the cancellation of the release from the educational center or from detention center if it is discovered that the liberated person has committed an offense before being granted release at the age of 18 years.

3. Conclusions

With the coming into force of The New Criminal Code, the enforcement regime applicable to minors became more gentle, because for them the law does not provide punishments anymore, but only educational measures, whose role is to reeducate and reintegrate the minor into the society without suffering the harms of the sanctions served by the adults.

⁴⁰ Art. 99 in relation to art. 96 para. (2) of The Law no. 252/2013 provides that "permission is granted by decision of the case manager probation counselor, communicated to the competent territorial police".

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