

A Brief History of the Death Penalty in Romania Between 1900 and 1990

ÁGOTA SZEKERES

Ph.D. student, University of Miskolc,

Central European Academy

E-mail: szekeres.agota@centraleuropeanacademy.hu

ABSTRACT

There is little, and sometimes unclear, information about the history of the death penalty in Romania in the years between 1900 and 1990. It is difficult to estimate the number of people sentenced to death, and it is almost impossible to do the same for those who were found guilty and sentenced to death, but not executed. Insufficient information and mystification hinder public perception, and the few scientific publications on the subject are filled with inconsistencies that make what is known about it even more uncertain today. From what we have been able to find, we can conclude that the death penalty became widespread in the years before World War I and with every “change of season” (the instauration of the royal dictatorship and the Soviet-type totalitarianism), the laws also changed, including the death penalty. In this article, we examine the crimes for which the death penalty was imposed, the method of execution, the exceptions to the death penalty, the courts that sentenced people, and provide a brief overview of the prisons where this type of punishment was applied.

KEYWORDS

death penalty, Romania, royal dictatorship, Soviet-type dictatorship.

O scurtă istorie a pedepsei cu moartea în România între 1900 și 1990

REZUMAT

Există puține informații și uneori neclare despre istoria pedepsei cu moartea în România între anii 1900–1990. Este dificil de estimat numărul persoanelor condamnate la moarte și este aproape imposibil a estima numărul persoanelor care au fost găsiți vinovați și condamnați la moarte, dar neexecutați. Informațiile insuficiente și mistificarea împiedică percepția publicului, iar publicațiile științifice pe această temă sunt pline de inconsecvențe care fac ceea ce se știe astăzi despre pedeapsa cu moartea și mai incert. Din ceea ce am putut afla, putem concluziona că pedeapsa cu moartea a devenit des folosită înainte de Primul Război Mondial și că, cu fiecare „schimbare de anotimp” (instaurationa dictaturii regale și a totalitarismului de stil sovietic), legile, inclusiv pedeapsa cu moartea s-au schimbat. În acest articol, vom examina infracțiunile pentru care a fost aplicată pedeapsa cu moartea, modalitatea de executare, excepțiile de la pedeapsa cu moartea și instanțele care au condamnat persoanele, precum și o scurtă prezentare a închisorilor în care se aplica acest tip de pedeapsă.

CUVINTE CHEIE

pedeapsa cu moartea, România, dictatura regală, dictatură de stil sovietic.

I. INTRODUCTION

The death penalty is a legal practice in which a person is sentenced to death as punishment for a specific crime. This is also known as capital punishment. It is one of the most popular methods of punishing criminals and includes hanging, electric shocks, lethal injections, and firing squads.

The main objective of the death penalty is to limit the number of atrocious crimes committed by returning to the source and terminating the criminals. The death penalty remains a legal punishment imposed by a court for violating the law in some countries. The procedures for carrying out the death penalty differ from one country to another and from one period to another.

The history of the death penalty in Romania is crucial for understanding the capacity of the law and the humanism behind it.

Our study focuses on the period from the quasi-abolition of the death penalty under the Penal Code in 1865 to its literal abolition in 1990. This period is sufficient for an in-depth study as it is the most turbulent period regarding the death penalty.

In Romania, the death penalty fluctuated in terms of harshness and application and was the most strident during the Soviet-type dictatorship. Even during this period, attempts were made to abolish it before the 1990s. The death penalty, as a form of punishment, was widely applied during dictatorial periods as it survived the royal dictatorship and Soviet-type totalitarian regime.

In modern society, the idea of using the death penalty as a punishment remains relevant. It is still used in some parts of the world, including developed countries, such as the USA. In Romania, the death penalty has been abolished, but occasionally, the idea of reintroducing it has emerged from society.¹ This article aims to present the history of the death penalty in Romania and recall the forgotten horrors of this punishment and the hardships necessary to abolish it.

II. HISTORICAL OVERVIEW

Our brief historical presentation begins with the Romanian Kingdom. In 1900s Romania, from the perspective of the death penalty, the Military Code of 1873 was in force during wartime. King Charles' royal dictatorship opened doors to the death penalty during peacetime and crimes against the royal family. As the royal dictatorship ended, new rules were introduced. The death penalty was active in Romania in the first half of the Soviet-type totalitarian regime. Its beginnings were dominated by the problem of dealing with war criminals, which frequently took the form of retribution, a covert means of punishing fascists and communists' erstwhile political adversaries. Legislation relating to the death penalty was expanded in 1949 to include several economic and political offences. The peak in the number of executions occurred in 1958 and

1 Roxana Trandafir, Dragoș Pârgaru, Valentina Dinu, Florin Bobei: Studiu privind percepția studenților la Drept asupra pedepsei cu moartea, *Forum Juridic*, 3/2020, p. 14.

1959 when the highest rates of execution were recorded from 1944 to 1990. Leadership changes typically led to a revision of the Penal Code and a change in death penalty policies. In this way, we can see a different Penal Code under the ruling of Stalinist-influenced Gheorghe Gheorghiu-Dej and Marxist-Leninist Nicolae Ceaușescu.

III. CRIMES

1. Before the Soviet-type totalitarian regime

The first penal code for modern Romania was implemented in 1865. The French Penal Code of 1810 significantly influenced this code.

It was regarded by the doctrinaires of the day as the mildest Penal Code in Europe and was influenced by France and Prussia's penal laws. The death penalty, corporal punishment, and property seizures were not permitted. This was in effect until 31 December 1936 when various amendments were made throughout those 71 years. On 11 March 1864, during arguments before the General Assembly, Vasile Boerescu, the official rapporteur of the Penal Code, stated,

"[t]he commission suppressed the death penalty from our law. This barbaric punishment, which does not correspond to the moral and exemplary purpose that a punishment should have, and is in disagreement with the rights and power of society, is only written in our law without it being executed for many years. Its suppression, however, not only cannot bring us the slightest disturbance as the nonsense claims, but I believe it will not even give place to the discussion, for its suppression exists, in fact, in a tacit way, by a consent generally, by the power of public opinion, by the sweet and humanitarian morals of our people. Nevertheless, it was time for this punishment, which had disappeared for many years, to disappear from the law. While other more civilized peoples doubt and do not dare to suppress this punishment, I am proud to say that the Romanians are the first to suppress it in practice and will be among the first to suppress it in law. And yet, relatively speaking, in our State, far fewer crimes are committed and in a far less cruel manner than in other more civilized states where this punishment exists both in deed and in law!"²

The Penal Code was published and proclaimed on 30 October 1864 and gained effect on 1 May 1865. The harshest penalty was hard labour for life, as stated in Article 7. Portugal abolished the death sentence in 1867, while the Netherlands did the same in 1870, making Romania one of the first nations in contemporary Europe to abolish the death penalty in 1865.³

The 1866 Constitution, inspired by the liberal Belgian model of 1831, made it clear in Article 18 that the death sentence could not be reintroduced. Under the Constitutions of 1866 and 1921, the application of the death sentence was prohibited, except

2 National Archives of Romania. Available at: <https://artsandculture.google.com/story/hwVxSnR9-PMIJw?hl=ro>, (accessed on: 20.11.2022).

3 Csaba Lőrincz, József Kabódi, Barna Mezey (2005): *Büntetéstani alapfogalmak*, Rejtjel Kiadó, Budapest, p. 60.

in cases provided for by the Military Penal Code during wartime.⁴ The death penalty was banned until 1938, except for a few military offences covered by the Military Code during the First World War. During this period, the death penalty was only used for wartime crimes, as stated in the Military Code.

The new Code for Military Justice was enacted in 1873. It should be noted that this was a copy of the French Army's Code of Combat Justice in 1857 and not an original development of the national school of law.⁵ The law was introduced in the Romanian army in 1873 and amended by Decree No. 1256 on 14 May 1881;⁶ Decree No. 1304 on 25 March 1894;⁷ Decree No. 1025 on 3 March 1906;⁸ and by the law of 21 December 1916,⁹ which was repealed on 28 December 1916.¹⁰

The death penalty under the law was applied during wartime and not during peacetime. This is described in the annotation of Article 144. The general command of the Constituency can suspend the execution of the decision under the condition of immediately informing the Ministry of War. In the annotation, Article 144 is the exact copy of Article 150 of the French Code. In France, there was a need to include this text, because there was a death penalty even during peacetime. In the Romanian code, "*we do not have the death penalty in peacetime*"¹¹ and the suspension can only take place in extreme cases with heavy punishments, such as criminal penalties, and not at all in the case of correctional penalties. For this, it is necessary to report to the Minister of the Army, who will assess whether it is necessary to ask for Royal Clemency or proceed with an appeal for annulment.¹²

The only legal standard in Romanian society that guaranteed the death penalty for at least 24 military offences on the date that Romania enlisted in the First World War was the Code of Military Justice. In this setting, the death penalty was seen as an essential tool because it offered a speedy resolution and a certain result, as opposed to imprisonment, which would have encouraged soldiers to break rules to avoid the horrors of the frontlines.¹³

One of the most important changes to the Code of Military Justice was the introduction of a provision that, in times of war, the right to appeal could be suspended regarding the solutions adopted by permanent war councils. With the entry of Romania into

4 Ioan Muraru, Simina Tănăsescu (2019): *Constituția României. Comentariu pe articole. Ediția a 2-a*, C.H. Beck, București, p. 176.

5 Liviu Corciu: Codicele (codul) de justiție militară și modificările sale în perioada premergătoare Războiului de Întregire, *Buletinul Universitatii Nationale de Aparare „Carol I”*, 3/2021a, p. 22.

6 Decree No. 1256 of May 14, 1881 (Official Gazette No. 40/1881)

7 Decree No. 1304 of March 25, 1894 (Official Gazette No. 290/1894)

8 Decree No. 1025 of March 3, 1906 (Official Gazette No. 271/1906)

9 Decree from December 21, 1916, repealed on December 28, 1916 (Official Gazette No. 224/1916)

10 Constantin Manolache, Iustin Nistor, Toma Tomița (1936): *Codul justiției militare și legile speciale aferente adnotat cu jurisprudențele instanțelor de casare militară și civilă și cu note de doctrină*, Triajul, București, p. 7.

11 Manolache, Nistor, Tomița (1936): p. 104.

12 Manolache, Nistor, Tomița (1936): p. 104.

13 Liviu Corciu: Courts Martial and the Code of Military Justice of the Romanian Army in World War One, *Strategies XXI*, 6/2021b, p. 374.

the war, as mentioned previously, the right to appeal was suspended by High Royal Decree 17 No. 2930, from September to 16/29, 1916.¹⁴

The death penalty in the Code of Military Justice (1873) was used for the following crimes: treason, espionage, provocation of desertion to the enemy, crimes or offences against military duty, insubordination, revolution, and rebellion (however, in all cases provided for in this chapter, the death penalty is given only to the instigators or leaders of the rebels and the highest-ranking military), abuse of authority, desertion of the enemy, theft, looting, destruction, the devastation of edifices, and murder.

Under Charles II's reign, a new era of royal dictatorship began, which also left its mark on the law.

The 1938 Constitution, also known as Charles II's authoritarian Constitution, broke the tradition of abolishing the death penalty. It introduced the death penalty through Article 15 and simultaneously amended the Criminal Code (Charles II Code) to align it with the Constitution, making the death penalty a universal punishment.¹⁵

In the chapter "*Crimes and misdemeanours of a common nature to the Criminal Code and the Military Code*" of the Code of Military Justice from 1937, multiple crimes were punishable by death. Their structures and compositions were very similar to those of their predecessors. In the Military Code of 1937, betrayal and espionage, rebellion and offences, and murder were punishable by death. In Chapter 2 regarding crimes and offences against discipline and order in the army, insubordination, cowardliness, abuse of authority, disobeying the call and desertion, robbery, destruction, devastation, particular crimes of the navy, and military aeronautics were punishable by death.

Article 15 of Romania's 1938 Constitution declared that death sentences would be used in times of war, following the Code of Military Law. However, the Council of Ministers has the authority to decide on applying the provisions during peacetime for attacks on the Sovereign, Members of the Royal Family, Heads of Foreign States, and dignitaries of the state in connection with the exercise of their functions, cases of robbery with murder, and political assassination.

During the reign of Charles II, in addition to the Military Code, a new Criminal Code was created that entered into force on 1 January 1937. These included for the first time, educational measures for young delinquents and safety measures to combat dangerous situations. Compared with the previous code, which had 422 articles, the new code had 608 articles. Another difference is that the consequences are significantly more challenging. This code remained in effect until 1969 and experienced multiple alterations due to regime changes from Charles II's regime (1938–1940) to the Soviet-type totalitarian regime. For example, the adoption of the death sentence in 1938, the age of criminal responsibility starting from 12 years rather than 14 years, the inclusion of special criminal laws during WWII (stealing during bombings was punished considerably more severely), and the introduction of the death penalty. The penal code of 1936 was reissued in 1948, with revisions made by Law No. 16/1949.

The death sentence was abolished after the country's liberation on 23 August 1944 when Romania joined the Allies. The death penalty was re-introduced in 1945 for war

14 Corciu (2021a): p. 24.

15 Muraru, Tănăsescu (2019): p. 176.

crimes against peace and humanity.¹⁶ At the end of World War II, the right to life was given greater recognition in international treaties, and the death penalty was outlawed. Although the treaties secured the right to life, thus was not absolute, as the right to life could be denied under extreme circumstances through the death penalty.¹⁷ This began a turbulent period regarding the usage of the death penalty.

2. The death penalty under Gheorghe Gheorghiu-Dej

With the rise of the Soviet-type totalitarian regime in 1945, two statutes were introduced to address crimes punishable by death.

The first was the law “[f]or the prosecution and punishment of criminals and war profiteers”¹⁸, where Art. 3 stated that the death penalty could be used for facts provided in Article 1.¹⁹ Article 1 specified who can be categorised as war criminals. Here, we find eight possibilities: For example, in paragraph a) a war criminal was defined as a person who has subjected prisoners and hostages of war to inhumane treatment, contrary to international law. The second law was “*Law No. 312 of April 24, 1945 to Pursue and Punish Those Responsible for the Country’s Disaster or War Crimes.*” Art. 3 declared that people who are guilty of the facts provided by Article 2 paragraphs a) to j) will be punished with death or hard labour for life. Paragraphs a)–j) emphasise the growing power of Soviet-type totalitarian regimes. For example, paragraph a) states that those who decided to declare or continue the war against the Union of Soviet Socialist Republics (USSR) would be punished by death or hard labour.

The year 1947 marked the end of the Romania of individualist mentalities, and the liberal political and economic structures built over the previous century gave way to a collectivist development model. Western involvement in the nation ended with the signing of a peace treaty in February 1947,²⁰ which confirmed the conditions of the 1944 armistice and gave Northern Transylvania officially back to Romania.

The Romanian People’s Republic was declared on 30 December 1947 when King Michael, Charles II’s son, was forcibly abdicated. The abdication was promulgated in Law No. 363 on 30 December 1947 establishing the Romanian state in the form of the Romanian People’s Republic. The Law further stated in Article 1 that the Assembly of Deputies took note of the abdication of King Michael I and his descendants.²¹ Now in power, the members of the Communist Party could hasten the Sovietization of Romanian society. The totalitarian regime did not refer to the death penalty in the 1948,

16 Radu Stancu: The Political Use of Capital Punishment as a Legitimation Strategy of the Communist Regime in Romania. 1944–1958, *History of Communism in Europe*, 5/2014a, pp. 106–130.

17 Muraru, Tănăsescu (2019): p. 177.

18 Decree No. 50/1945.

19 Official Gazette No. 17/1945. Available at: <https://www.derechos.org/intlaw/doc/roulegea50.pdf> (accessed on: 20.11.2022).

20 Treaty of Peace with Romania, Official Gazette No. 2/1947.

21 Law No. 363/1947 for the establishment of the Romanian State in the Romanian People’s Republic.

1952, and 1965 constitutions. The section on the rights of Romanian citizens did not state that it was prohibited, nor was the capital sentence accepted.²²

A new Penal Code was enacted; however, it did not include the death penalty. Nevertheless, as the Communist Party seized power, Penal Code provisions helped transform this legal document into a hollow political tool. The Penal Code was changed through Law No. 16/1949, which provided for the death penalty. On 13 January 1949, a Law of Capital Punishment was enacted. Several capital crimes were established. Some of these were crimes against the state. This new law stated that crimes such as treason, trading state secrets, conspiring, sabotaging the economic progress of the Romanian People's Republic (as in destruction), and acts of terror were punishable by death. This law punished not only the author of the crime but also the instigators, those who were complicit, and those who aided the concealment of the crime.

Decree No. 199 issued on 12 August 1950 made some changes to Law No. 16 of 15 January 1949 regarding "*crimes that endanger the security of the state.*" The new decree grouped all the economic crimes stipulated in Law No. 16/1949 under the name "*sabotage of the development of the national economy*"; there is evidence regarding the execution of one person for this type of crime in 1952.²³

In 1953, Decree No. 202 re-defined the latter crime: undermining the national economy, as a capital crime "*when the actions determined or could determine severe consequences.*" The actions were

*"undermining national economy through the use of state institutions or factories, or the sabotage of their normal activity, as well as using or sabotaging them for the benefit of their ex-owners or interested capitalist organizations."*²⁴

Three people were executed between 1951 and 1953 for crimes against humanity.²⁵ Following the adoption of the amendments, records show that between 1952 and 1957, six people were executed for treason, one for plotting against state interests, and three for acts of terror.²⁶

In 1956, an attempt was made to abolish capital punishment. The short period of attempted restoration of legality was defined by Stalin's death in the USSR and the Hungarian Revolution. These happenings also impacted Romania, one of its results being the legal proposal of 5 July 1956 by A. Bunaciu, A. Alexa, and Al. Voitinovici I, Gh, Maurer and Gh. Diaconescu, the later Minister of Justice, who have attempted to abolish

22 Alina Duduciuc, Ilarion Țiu: Constituția și opinia publică: consensul social privind pedeapsa cu moartea, *Sfera Politicii*, 7/2010, pp. 41–52.

23 Radu Stancu (2013): The Political Use of Capital Punishment in Communist Romania between 1969 and 1989, Peter Hodgkinson (ed.): *Capital Punishment. New Perspectives*, Ashgate, Surrey, pp. 337–357.

24 Decree No. 202 for the Modification of the Penal Code of the PRR, Official Bulletin, 14 May 1953. No. 162.

25 Stancu (2014a): pp. 106–130.

26 Stancu (2014a): pp. 106–130.

capital punishment.²⁷ Internally, the repercussions of the Hungarian revolution acted as a stimulant, supporting the hard Soviet stance adopted by Romanian leader Gheorghe Gheorghiu-Dej in 1956.

Two fundamental issues have guided his political activities. First, there was a concern that revolutionary and anti-communist movements and feelings would emerge in Romania based on the Hungarian model, putting the state in peril. Second, he was concerned that due to the destalinization process, he would be deposed and replaced by a new anti-Stalinist leader. Consequently, the Romanian leader sought measures to increase his political power by exerting tight control over the state and society and subjugating them to his own unique authority.²⁸ Ultimately, the abolition of the death penalty was merely an attempt and was never fully actualised.

3. The consequences of the Hungarian revolution in Romania

The revolution in Hungary alerted the Romanian Workers' Party (PMR) to possible manifestations. Thus, through Decree No. 469 of 30 September 1957, the crime of conspiracy against the social order was codified. As a result of the plenum of the Central Committee of the PMR, held from June 9–13, 1958, Decree No. 318 of 21 July 1958 which improved the content of several crimes and the terms of Decree No. 199/1950, was issued. The fact of initiating or constituting, in the country or abroad, organizations or associations whose purpose was to change the existing public order in the State or the democratic form of government, or acting within such an organization or association, or joining them, was criminalized by Decree No. 469/1957. The fixed penalty eliminated the fear of any conspiracy: "*death and confiscation of property*" in the case of Decree No. 469/1957 and Decree number 318/1958, which explicitly targeted the crime of creating gangs for terrorist or sabotage purposes.²⁹

When Gheorghiu-Dej modified the Penal Code with Decree No. 318 on 17 July which significantly amended the Penal Code, he began a fresh wave of repression even though prominent jurists argued and attempted to abolish the death penalty in 1956.

In 1958, contacting foreigners in order to destabilise state neutrality or an act of war was deemed a capital offence. This was an apparent reference to Nagy Imre's (Hungarian communist politician who later became the leader of the Hungarian Revolution of 1956) efforts during the 1956 Hungarian Revolution that were made more pressing by the retreat of Soviet occupying forces that summer, which caused the state to crack down on internal dissent.³⁰ Decree No. 318/1958 widened the definitions of "*economic*

27 Stancu (2014a): p. 126.

28 Carmen Rijnoveanu (2007): The Impact of Hungarian Revolution of 1956 on Romanian Political "Establishment", in "*The Crisis of the '50s- Political and Military Aspects*" – *Proceedings of the Romania-Israeli seminar*, IDF- Department of History, Tel Aviv, pp. 6–21.

29 Valentin-Stelian Bădescu: Unele considerații privind dreptul penal românesc în perioada regimului comunist. Tranziția postcomunistă și reconstrucția justiției române. Poziții actuale privind identitatea națională și procesul integrării europene, *Acta Universitatis George Bacovia, Juridica*, 1/2019, p. 14.

30 Rijnoveanu (2007): p. 8.

sabotage” and “*hooliganism*”, and a fierce campaign against economic criminality raged for the next two years, with 87 executions recorded, 28 of them for embezzlement.³¹

The decree covered the terms of various prior decrees from 1949 to 1958. However, it also included many political offences that were newly punishable by death, and in most cases, the death sentence was the only punishment. Art. 184–192 defined treason in various manifestations, such as leaking state secrets or any conduct against an allied state. Article 188 dealt with capital offences committed during the war, whereas paragraphs 190–192 dealt with treason committed by public officers and other civilians. Article 194 alluded to espionage cases, but the capital penalty was only imposed on foreigners who had committed most of the above offences.

Another important category of capital offences were the crimes against a state’s internal security. Article 207 referred to terrorist crimes, and Article 209 broadly defined cases of undermining the national economy, which were already punishable by death under Decree No. 202/1953 in more severe cases. Most of these crimes were previously specified in the Penal Code, but not as capital crimes. According to Art. 236, the application for embezzlement was limited to cases with a prejudice of more than 100,000 lei (in this period, the highest banknote printed and issued was the 100 lei, the “*Scântea*”³² newspaper was 30 bani for six, the “*Făclia*”³³ newspaper was 20 bani for four pages. For reference, 100 bani equals 1 lei; from another source, 2500 lei was the price for a cow³⁴ or less if the actions posed a severe social hazard or were repeated). This attempt was punishable by death. In some situations, uprisings were punished by death under Article 210, while rebellions and military usurpation were similarly penalised under Articles 211 and 212. Article 262 defined rebellions against the Legislative Assembly as punishable by death if the activities resulted in a person’s death. Art. 320 provided for the death penalty for crimes committed within Romania by members of a gang formed outside the country “*if robbery or murder were committed or attempted*.”³⁵

Although a new penal code was not enacted until 1969, various pieces of legislation amended the previous code. The death penalty was further extended to particularly serious cases of homicide by Decree No. 469 of 20 September 1957 and at least one individual was executed for this crime that year.

Art. 464(1) provided that

*“[m]urder committed with premeditation, if due to this the deed presents a particularly serious character or murder committed through cruelty or torture, is punishable by death. With the same punishment, the murder of two or more people at once or through different actions is sanctioned.”*³⁶

31 Stancu (2014a): p. 115.

32 Scântea. Organ al Comitetului Central P.M.R., 1958, No. 4277.

33 Făclia. Organ al Comitetului Regional Cluj, al P.M.R. și a Sfatului Poporului Regional, 1958, No. 3497.

34 Anonim interview, made by the author of the article on 28.12.2022.

35 Decree No. 318/1958.

36 Decree No. 469/1957, p. 230.

It is critical to note that this is the first time exceptionally serious cases of homicide have been punished by death during peacetime.

The usage of the death penalty peaked in 1958 and 1959, with 32 executions in 1958 and 55 in 1959. There were 28 executions related to embezzlement and 24 related to terror attacks. The era of direct repression ended in 1962–1964 with the liberation of most political prisoners. Thus, a new death sentence policy was initiated.³⁷

4. The death penalty under Nicolae Ceaușescu's administration

Under Nicolae Ceaușescu's dictatorship, a new Penal Code was enacted in 1969. Romanian authorities paid much more attention to international organisations and conventions during this period. The Economic and Social Council of the United Nations asked member states on 26 November 1968, through Resolution No. 2393, *“to provide careful legal safeguards for those accused of a crime punishable by death.”*³⁸ Two years later, on 20 May 1971, another resolution, No. 1574, stated that

*“the main objective to be pursued is that of progressively restricting the number of offenses for which capital punishment may be imposed with a view to the desirability of abolishing this punishment in all countries.”*³⁹

The 1969 new Code increased the accuracy of the legal provisions. More sophisticated forms of coercion such as house detention and isolation replaced cruel imprisonment, prison camps, and torture.⁴⁰ The death penalty has been used in crimes against state security, public wealth, the battlefield, peace, and humanity. For the first time in Romania, the concept of crime was defined as the deed that constitutes societal danger and is committed with guilt. At that time, the tripartite separation of crimes had been abandoned. However, significant criminal law institutions, such as the plurality of crimes or factors that eliminate the criminal nature of an act, were added. Another breakthrough was the systematisation of criminal law sanctions regarding punishments, safety precautions, and educational programs. This Code was in effect until 31 January 2014 and underwent numerous necessary amendments after 1989 to reflect the new democratic society.

There were 28 capital crimes in the 1969 Penal Code, fewer than in 1952. Seven were wartime crimes (e.g. capitulation, leaving the battlefield, leaving the ship, lowering the flag, and collision). Treason and terrorist attacks—particularly serious cases of

37 Radu Stancu: Ideology and Repression in Romania in the Decade Before the Adoption of the Penal Code of 1969. Case Study: The Economic Criminality and the Application of Capital Punishment, *Revista Economica*, 6/2014b, p. 120.

38 Quinquennial Report of the Secretary-General of the U.N. on Capital punishment (1975), pp. 3–9. Available at: <http://humanrightsdoctorate.blogspot.com/2010/07/secretary-generals-quinquennial-reports.html> (accessed on: 20.11.2022).

39 Quinquennial Report of the Secretary-General of the U.N. on Capital punishment (1975), pp. 3–9.

40 Stancu (2013): p. 126.

homicide, undermining the national economy, and theft of state property—were also punishable by death. The death penalty was reintroduced for embezzlement. The new Code defined legal provisions more accurately than its predecessors.

During the Soviet-type totalitarian regime, the Criminal Code established the death penalty only in theory; there were instances where it was applied only as determined by the legislation in force. Between 1977 and 1988, 96 people were executed, 93 of whom had particularly serious cases of homicide. During the same period, 34 death sentences were commuted over 25 years in jail. No single woman was executed during or before the Soviet-type totalitarianism began.⁴¹

As the regime paid much more attention to international organisations and conventions during this time in 1972, 1981, 1984, and 1988, amnesties were given in connection with the death penalty to prove the humanitarianism of Ceaușescu's regime. Amnesty Decree No. 11 on 26 January 1988 was meant to mark Ceaușescu's 70th anniversary. Many consider these amnesties as the last attempt to keep the regime alive.

According to information provided by the Romanian Government to the United Nations Secretariat,⁴² 22 death sentences were imposed and 16 executions were carried out between 1974 and 1978. In this material, Romanian authorities state that each case was related to crimes against persons.

Nevertheless, Amnesty International has learned of death sentences imposed during this period for crimes other than murder: on 27 August 1976, Radio Bucharest reported that Nicolae Ilies and Bogdan Jordanescu had been sentenced to death by the Military Court of the Bucharest Territory for high treason and revealing state secrets. In 1983, at least 13 people were executed, five of them for stealing large quantities of meat and two others for stealing public property.⁴³ The Supreme Court upheld several sentences, and the Council of States rejected requests for clemency.

Another case was that of Florentin Scaletchi, the captain of the ship “*Uricani*”, who had been sentenced to death by a military court in Bucharest on 28 March 1986 after he tried to sail the ship to Turkey without permission and thus leave the country illegally. He was charged with treason, conspiracy against the security of the state, and exploitation of his position on the navy and of naval property.⁴⁴

Tensions between the regime and the population peaked in 1989. On December 25, with the power shifts, the Ceaușescu couple was the last to be sentenced to death and executed in Romania. An essential milestone in these changing times was the abolition of the death penalty through Decree-Law No. 6 of 7 January 1990, the modification and repeal of some provisions of the Criminal Code, and other normative acts. With this Act, the death penalty ceased to exist under Romanian legislation.

At the time of the adoption of the 1991 Constitution, which is still in force today, the death penalty had already been abolished to emphasise the deeply humanistic character of the regime established in Romania by the revolution and to implement the

41 Duduciuc (2010): p. 49.

42 Amnesty International (1987): *Romania: Human Rights Violations in the Eighties*, Amnesty International Publications, London, p. 32.

43 Amnesty International (1987): p. 32.

44 Amnesty International (1987): p. 32.

proposals made by the citizens in Decree No. 6 of 7 January 1990. The aforementioned decree provides the following.

“Art. 1 – The death penalty provided for some crimes in the Criminal Code and special laws is abolished and replaced by life imprisonment.

Art. 2 – From the date of adoption of this decree-law, all the provisions regarding the death penalty from the Criminal Code, the Code of Criminal Procedure and other normative acts, apart from those provided in art. 4, are considered to refer to the penalty of life imprisonment.

Art. 3 – Death sentences, applied by decisions that have remained final but not executed, are replaced by life imprisonment, according to the procedure regarding the replacement of this punishment.”⁴⁵

The Decree above left no room for interpretation. The death penalty was definitively abolished, its abolition was absolute, and no exceptions could be accepted. At the same time, we can see that the sentences in which the death penalty was imposed and which remained final are replaced by the imposition of a life sentence.

IV. MEANS OF EXECUTION

The means of execution in Romania remained constant throughout the study period. However, the circumstances in which it was applied changed over time.

1. Before the Soviet-type totalitarian regime

The Military Justice Code came into force on 27 April 1873. It included the organisation of military tribunals, their material competence, the trial procedure before the war councils, the trial procedure in absentia and those tried in absentia, and the punishments that could be applied, such as the content of crimes specific to the military. The Council of War pronounced that the death penalty would be executed by a firing squad. *“Every person who is sentenced to death by a council of war shall be shot”*, according to Art. 181 of the Code of Military Justice. This was an important provision because, of all the ways to carry out this sentence, hanging has historically been reserved for criminals.⁴⁶ In 1937 the Code of Military Justice, in its Title I, *“[a]bout punishments and their effects”*, declares in Art. 454 that the death penalty applies only during wartime and is executed by a firing squad.

Regarding the way the executions took place, on 5 February 1940, Decree No. 236 of the Head of the State was promulgated, which prescribed the death penalty executed by a firing squad for persons who committed the crimes of possession of weapons, ammunition, and explosives without authorisation, looting of public warehouses of materials intended for war, theft of ammunition, weapons from barracks, warehouses or factories of the State, exhortation through verbal or by any means at demonstrations or actions of a plotting nature against the existing political or social order in the State,

⁴⁵ Decree No. 6/1990.

⁴⁶ Corciu (2021b): p. 374.

sharing or distributing the wealth of others, tax exemption, the fight with the class, the use of weapons from buildings or shelters on members of the government or public authority, unlawful occupation of public buildings, unlawful destruction of public utility installations, printing, writing, drawing or multiplying manuscripts, manifestos, sketches or anything containing incitements to a plot against state order.⁴⁷

Article 18 of Regulation No. 12 of 27 April 1942 “*on the rules to be followed when executing the death penalty*”, provided that convicts should be tied to the gallows and their eyes should be covered. In Article 19 of the same regulation, the group commander had the power to give orders for the preparation of weapons, aims, and fire, which were executed with military-type weapons.⁴⁸ These articles were also included, with minor changes in subsequent regulations.

2. Under Gheorghe Gheorghiu-Dej

The 1958 execution regulation introduced a few changes compared to the one already in use since 1942. The clemency petition had to be formulated within 24 hours, and not 48 hours after the appeal was rejected. Before 1958, convicts had rights to a priest and to meet their relatives, an opportunity to write a will, and the right to have a glass of alcohol. These were all removed with the introduction of the new 1958 law. From this point on, only a few people were allowed to be present during the execution, such as legal representatives and medical examiners. As previously mentioned, the execution was performed using a firing squad, and the convict had to be blindfolded.⁴⁹

3. Under Nicolae Ceaușescu's administration

In 1969, with the introduction of the new Penal Code, a few details regarding execution changed. After the final sentence was delivered, there was a period of five working days for the filing of a clemency petition (*zile libere*) to be addressed under the new regulations for the execution of the death penalty, which were incorporated into the general law for the execution of penalties in 1969, based on Article 31. Under the 1969 Penal Code, Military Tribunals attempted political cases. The method involved the firing of a squad.

V. EXEMPTIONS

In this chapter, we will see that death penalty exemptions were mainly used for pregnant women, women with young children, and minors. There have also been attempts to widen the exemptions for older persons, but as we will see, this was not in the interest of the governing parties.

47 Ioan Chis, Alexandru Bogdan Chis (2017): *Drept executiional penal – Suport de curs*, Universitatea Nicolae Titulescu, București, p. 31.

48 Gheorge Buzatu (2021): *Maresalul Antonescu la judecata istoriei*, Mica Valahie Press, Buchurești, pp. 28–30.

49 Stancu (2014b): p. 128.

1. Before the Soviet-type totalitarian regime

In the Code of Military Justice from 1937, Art. 454 provides for a delay in the application of the death penalty; it states that pregnant women will be executed after giving birth.

2. Under Gheorghe Gheorghiu-Dej

The 1958 Execution Regulations also provide some exemptions. If the convict was a pregnant woman, the execution was postponed by nine months after the child's birth compared to the previous legislation where the mother was executed immediately after birth. The explanation is that, in this way, the baby is spared from his or her mother's stress and fear of execution, and the baby has a greater chance of survival. However, no cases of executions of women were recorded, although examples of capital sentences exist: in May 1948 Cosma Aurelia's death sentence was commuted in March 1944; Spanu Sabina from Prirogiia also received a commutation of 20 years of forced labour for her capital sentence for murder in 1965.⁵⁰

3. Under Nicolae Ceaușescu's administration

A few exceptions to the use of the death penalty were provided for under the Penal Code of 1969. Art. 54 provided that if an individual was a minor when the offence was committed, they were excluded. The deterrence impact was deemed ineffective, and re-education was possible⁵¹. Pregnant women or women with children under three years could not be executed⁵². In certain situations, the sentence was permanently commuted rather than suspended until the child was born or turned three. The reasoning was that the mother's psychophysical state while awaiting execution would be detrimental to the child's life. In this instance, the sentence was modified to 25 years. According to a report from the Ministry of Justice, Prosecutor General, and President of the Supreme Tribunal, 27 similar proposals for people over 60 years of age were rejected during discussions over the Penal Code.⁵³

VI. COURTS AND PRISONS

As harsh as the death penalty may sound, it was not the only means of oppression. The use of the death penalty increased considerably over the 100 years studied, as had several different methods and techniques of oppression. Examples include

50 Stancu (2014b): p. 128.

51 Vintilă Dongoroz (1976): *Explicații teoretice ale Codului de Procedură Penală Romană. Partea Specială. Volumul II*, Editura Academiei Republicii Socialiste Romania, București, p. 26.

52 Amnesty International (1987): p. 32.

53 Radu Stancu (2017): *Pedeapsa cu moartea în România comunistă*, Editura Cetatea de Scaun, București, p. 165.

extrajudicial punishment, torture, labour camps, and juvenile re-education programs. In many respects, the judge had numerous alternatives to satisfy the regime's needs and extend persecution. The death penalty was widespread in Romania. However, it was sometimes a more humane method than labour camps or re-education programs.

1. Before the Soviet-type totalitarian regime

Based on the 1873 decree, martial courts pronounced death sentences for the first time in 1916. The strategies used by the councils of war and, later, martial courts, sought to deter any potential act of indiscipline by any available means.

The legal system was altered to strip people of any sense of security or prospective support. When new judges were appointed, the entire court system evolved into a governmental weapon.⁵⁴

2. Under Gheorghe Gheorghiu-Dej

Judges from the interwar era who had their legal education overseas, particularly in France and Italy, were replaced by labourers and activists who had completed a six-month legal education. Particularly, with the court's assistance, they nationalized property, made arrests, and imprisoned dissidents. Some rulings mandated the execution of persons possessing large amounts of gold that were allegedly meant to finance acts against the totalitarian state but were not turned over, as well as rulings that confiscated wealth.⁵⁵ As soon as the members of the Communist Party assumed power, the process of subordinating justice, one of the top priorities of the new regime, began. A judicial panel would comprise two professional judges and seven representatives of the people, according to the Law of 31 March 1945 concerning the trial of war criminals. Later, the Law of 24 November on the organisation of the judiciary expanded the employment of such judicial panels.

Law No. 312 of 24 April 1945 relating to the pursuit and punishment of individuals responsible for the country's calamity or war crimes published on April 24, 1945, declared in Article 3 that anyone who committed the acts specified in paragraphs a)–j) of Article 2 will face death or life in prison. The People's Court made factual determinations required by law. According to Article 13, court proceedings were to be conducted in Bucharest. The Minister of Justice could issue judgment panels in cities where other Courts of Appeal were located. Although Bucharest was chosen as the location of the People's Court headquarters, the statute allowed the Minister of Justice to hold additional council meetings where the tribunal was located. However, the Minister of Justice Lucrețiu Pătrășcanu only contributed to the creation of an outsourced council in Cluj, to which he subordinated the cases originally under the jurisdiction of the courts

54 Dragos Calin, Horatius Dumbrava: The Evolution of the Judicial System in Romania During the Past 60 Years, *Revista Forumul Judecatorilor*, 1/2009, p. 1.

55 Calin (2009): p. 2.

in Târgu Mureș, Oradea, Brasov, Sibiu, and Timișoara.⁵⁶ There were two courses in Romania, one in Bucharest and one in Cluj-Napoca. According to the Decree of the Minister of Justice, the construction of the institutional structure of the Peoples' Court of Cluj-Napoca began on 20 July 1945 and was supervised by the State Secretary of Justice Avram Bunaciu.⁵⁷ The legal foundation for these trials was a special war crimes law passed on 21 April 1945 which delegated jurisdiction over responsibility for the country's misfortune and war crimes to two extraordinary *ad hoc* People's Tribunals. Trials have been conducted in the case of several war crime prosecutions. The Courts of Appeal rendered verdicts after the People's Courts were terminated under Statutes 455/1946 and 291/1947.

At this time, in addition to being found guilty, convicts were always subjected to complete property confiscation (*confiscarea averii*), which also applied to any property that the convicts' immediate families acquired after 1 September 1940. They were denied the right to exercise their political rights for a specified period (*degradare civică*).⁵⁸

After the post-war trials, legionaries (members of the militant revolutionary fascist movement and political party founded in 1927) were once again a topic of discussion. Some were re-arrested between 1958 and 1959, and fictitious sham trials were conducted. In 1959, the Military Tribunal of Bucharest issued sentences No. 62 and 83, which resulted in the deaths of ten persons.⁵⁹

In addition to the death penalty, there were other methods of punishing people who opposed the regime. One of these cases was the Pitești prison experiment, which began in 1949, and is a prime example of how the death penalty exploited a repressive climate created by the authorities.⁶⁰ This was the re-education of mainly student members of former opposition parties through extreme torture. The crux of the matter, however, was the forced transformation of victims into the torturers of their colleagues, a brain-washing program that, according to the most conservative estimates, affected more than 1000 prisoners. The experiment was terminated in 1952 after a covert trial.⁶¹

3. Under Nicolae Ceaușescu's administration

Executions took place in the prisons of Jilava and Rahova during the "*ceaușist*" era. Archival documents contain information about Jilava's "*Fort 13*" prison, a facility designed specifically for the execution of death sentences. Fort 13 was part of the military construction for the defence of the capital, built at the beginning of the twentieth century, and later received the destination of a prison after the peasants' revolt of 1907, serving as punishment for the rioters. It was later utilised as a military prison for persons who failed to report for recruitment in World War I or committed crimes

56 Szabolcs Kovács, A romániai népbíraskodás jogi háttere és működésének főbb problémái, *Clio Műhelytanulmányok*, 1/2018, p. 13.

57 Kovács (2018): p. 13.

58 Decree No. 2514/ 1945.

59 Stancu (2014b): p. 36.

60 Stancu (2014b): pp. 30–31.

61 Alin Muresan (2011): *Pitești. Cronica unei sinucideri asistate*, Polirom, Iași, p. 26.

punishable by death, which were killed in the “*valley of peaches*” nearby.⁶² The executions were conducted inside a subterranean firing range in Rahova.

The Council of the Front of National Salvation formed in the wake of the 1989 revolution established a special Military Tribunal for the Ceaușescu pair. Victor Antanasie Stanculescu, Deputy Minister of Defence, presided over it. Following rapid trials, they were charged with committing genocide (indicted for the murder of more than 60000 victims), undermining government power, diverting attention by destroying public property, attempting to flee the country with a sizable sum of money, and harming the national economy.⁶³

4. Penitentiaries

Romania had 44 main penitentiaries and 72 forced labour camps for political prisoners during Soviet-type totalitarian regime. The General Directorate of Penitentiaries oversaw these institutions.

4.1. *Types of prisons*⁶⁴

Re-education penitentiaries – characterised by the application of torture methods in order to convert convicts to communist ideology: Suceava, Pitesti, Gherla, Târgu Ocna, Târgșor, Brașov, Ocnele Mari, Peninsula.

Prisons for the extermination of the political and intellectual elite: Sighet, Râmnicu Sărat, Galați, Aiud, Craiova, Brașov, Oradea, Pitesti.

Labor camps: Danube-Black Sea Canal (Peninsula, Porta Albă, Salcia, Periprava, Constanța, Midia, Capul Midia, Cernavodă), labor colonies in Balta Brăilei.

Triage and transit prisons: Jilava, Văcărești.

Remand prisons: Rahova, Malmaison, Uranus.

Prisons for women: Mărgineni, Mislea, Miercurea Ciuc, Dumbrăveni.

Penitentiaries for minors: Târgșor, Mărgineni, Cluj.

Hospital Penitentiaries: Târgu Ocna and Văcărești.

4.2. *Forced work*

Working conditions in the camps and colonies were the most difficult. The convicts were forced to work until they were exhausted. Approximately 80,000 people “*worked*” in camps at the start of the 1950s and 40,000 along the Danube-Black Sea Canal. Forced labour camps and deportation centres were also present throughout the country, with the majority concentrated in the south-eastern part of the Romanian Plain and southern Dobrogea.⁶⁵

62 Chis, Chis (2017): p. 30.

63 Stancu (2017): pp. 194–196.

64 Ionut Alexandru (2021): *Sistemul Penitenciar din România: 1945–1989*, Institutul de Investigare a Crimelor Comunismului în România, București, pp. 1–3. Available at: https://www.academia.edu/10372110/Sistemul_penitenciar_1945_1989 (accessed on: 20.11.2022).

65 Alexandru (2021): pp. 1–3.

4.3. Numbers

Service “C” of the Ministry of Interior (MAI) provides data on the number of deaths among those under investigation or in detention from 1945 to 1964: deaths in detention – 3,847, of which 203 occurred during investigations, 2,851 occurred during sentence execution, 137 were sentenced to death and executed, and 656 died in labour camps. In this example, it should be noted that the press in the Soviet-type totalitarian regime systematically attempted to conceal the extent of the repression. According to the Presidential Commission for the Analysis of Communist Dictatorship in Romania, over 600,000 people were convicted on political grounds between 1945 and 1989. The overall number of direct victims of repression is estimated to reach 2 million.

“The difficulty of the estimate stems from the Security, Prosecutor’s Office, Militia, Border Guards, Army, and other repressive authorities’ systematic concealment of information regarding the fate of many of these fatalities.”⁶⁶

Although the number of people imprisoned for political reasons decreased dramatically after the 1964 liberalisation, the phenomenon was not completely eliminated. In the 1980s, there were still political prisoners in Aiud, Poarta Albă, and Jilava, and the system began to conceal arrests based on political criteria using common law legal frameworks. Multiple files show convictions against State Security between the late 1960s and 1989.⁶⁷

VII. CONCLUSION

Considering the death penalty in its entirety during the 100 years studied, we can see that it was used most frequently under the Soviet-type totalitarian regime to eradicate those who opposed communist ideology, although we do not have exact figures. The totalitarian period can also be divided into two periods: the period of Gheorghe Gheorghiu-Dej, and the period of Ceaușescu. When Dej was in charge, the death penalty was applied more frequently and dynamically. It started with war criminals and extended to political and economic crimes in 1949. Dej’s position was shaken by Stalin’s death and the Hungarian Revolution of 1956, which created the possibility of abolishing the death penalty, but without success.

Later, Ceaușescu reduced the use of the death penalty by establishing labour camps and using various methods to force people to obey his wishes. The 1969 Penal Code clarified the confusion regarding the death penalty, which also helped reduce the number of deaths. Ceaușescu also wanted to maintain a good image of himself and his regime for the UN and especially the USA because he wanted investors to invest in Romania.

⁶⁶ Alexandru (2021): pp. 1–3.

⁶⁷ Alexandru (2021): pp. 1–3.

Over the past 100 years, crimes have followed a pattern of changes in ideology. Initially, the death penalty was imposed for crimes against the state to consolidate the Soviet-type totalitarian regime. In the late days of Ceaușescu's regime, it degenerated into punishment for stealing meat.

In contrast, the means of execution remained unchanged during the study period. This method of execution was quick and effective, which may explain its immutability. In Ceaușescu's time, much emphasis was placed on "*appearing humane*" and doing things in the spirit of human rights as much as possible, thus, death by firing squad was not changed.

Subsequently, exceptions to the death penalty were added to the penal code, which was a significant step forward for human rights.

Although the death penalty was used less frequently in the last few years of the Soviet-type totalitarian regime, we can see that it was used as a political tool from the beginning of the royal dictatorship in 1938 until the end of totalitarianism in 1989.