

1<sup>st</sup> Annual Conference of the Max Planck Partner Group for Balkan Criminology  
„Mapping the Criminological Landscape of the Balkans”

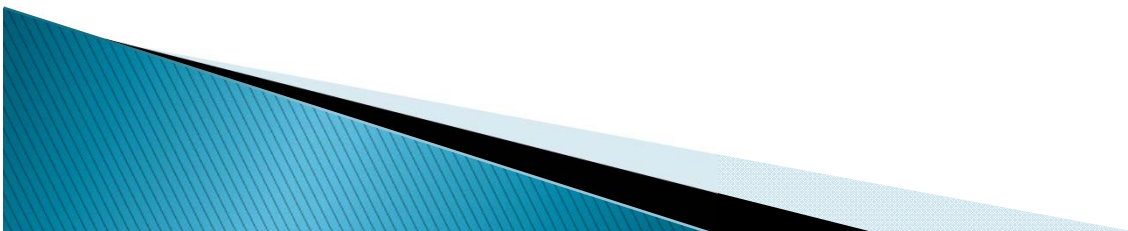
# Criminological Research and Education in Romania with Focus on (De)Criminalization in the new Criminal Code



Assist. Prof. Dr. Andra-Roxana Trandafir  
Faculty of Law, University of Bucharest

# Romania – key dates

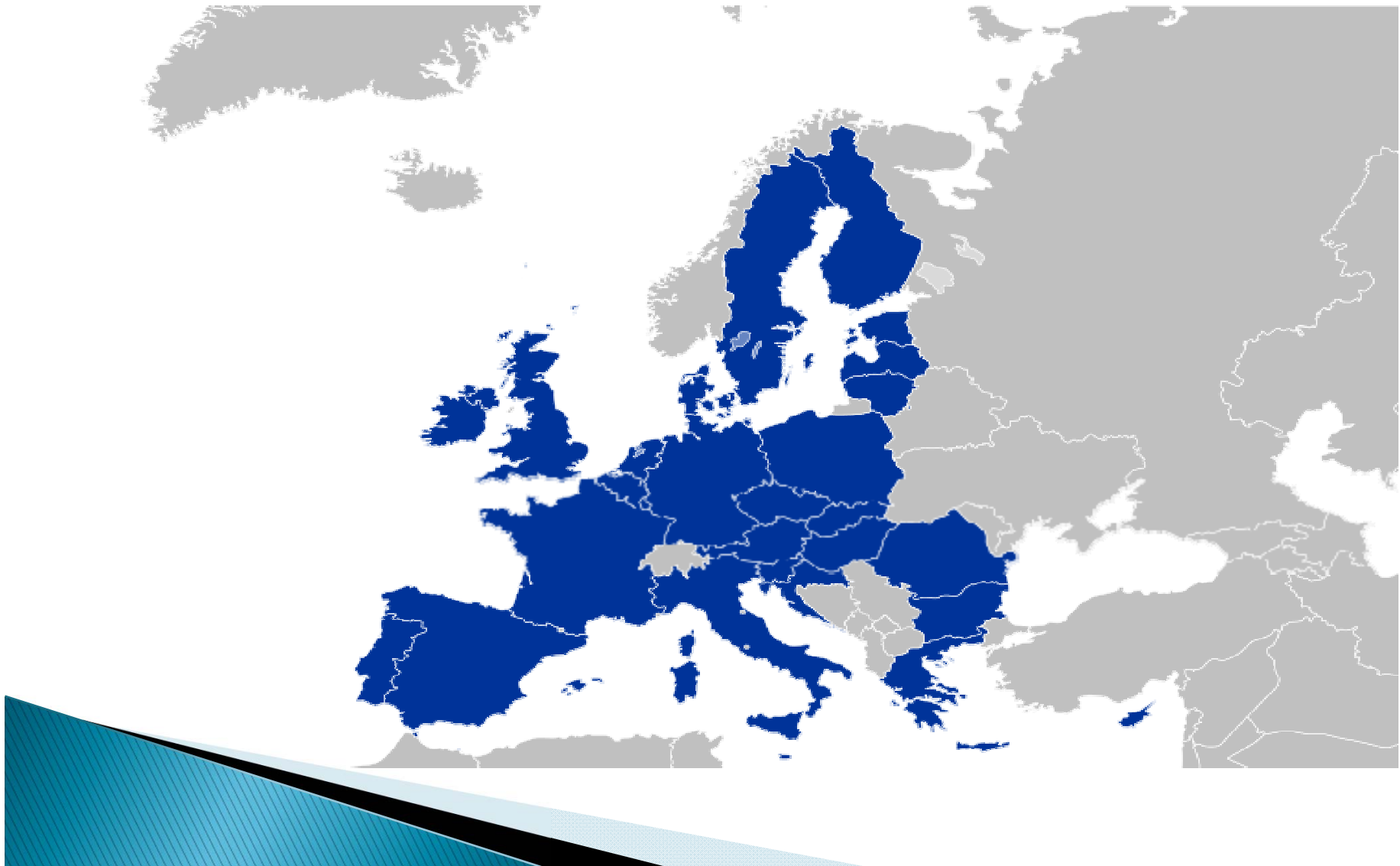
- ▶ December 1989: end of communism
- ▶ 1991: adoption of Constitution
- ▶ 2003: major modification of Constitution
- ▶ 2004: Romania joined NATO
- ▶ January 1, 2007: Romania became member of EU



# Romania – politics, governance and other data

- ▶ 20 million inh. and other 3 million living abroad
- ▶ Unitary state
- ▶ Semi-presidential republic (between 1881–1947: constitutional monarchy)
- ▶ Romanian: Latin language (Romania <= Romanus, citizen of Rome)
- ▶ Flag: Blue, yellow, red = liberty, justice, fraternity
- ▶ Religion: 90% orthodox

# Romania within the EU

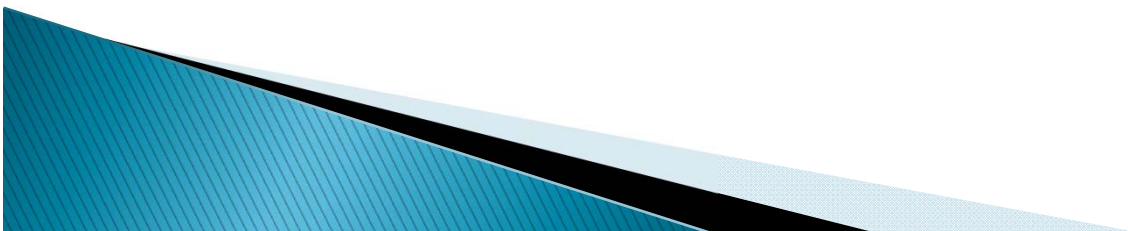


# Romania within the Balkans



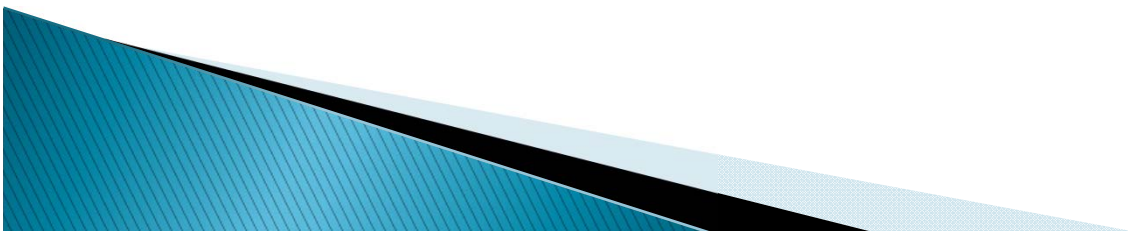
# Romania – economy

- ▶ 2000: significant economic grow
  - ▶ Late 2000s: recession
  - ▶ 2010: biggest debtor of IMF
  - ▶ 2012: political crisis
- 
- ▶ Major problems: infrastructure, medical services, education, corruption, judicial system, emmigration



# Crime and Criminology

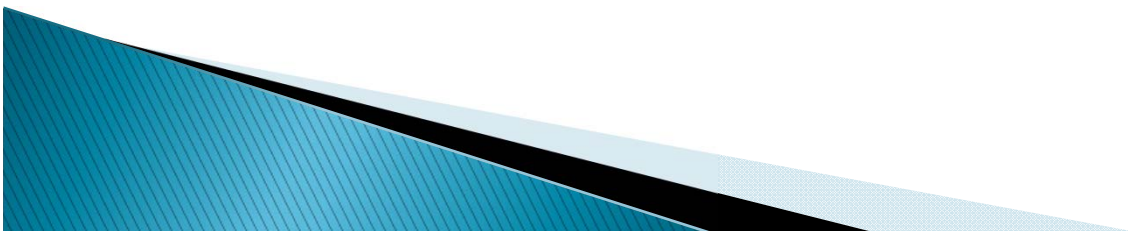
1. Criminological Education and Research
2. Crime Trends and Problems
3. The criminal justice system





# 1.1. Criminological Education

- ▶ Beginning of the 20<sup>th</sup> century: criminology was not taught in law faculties
  - Exception: Faculty of Law in Cluj
- ▶ Communist era: criminology was prohibited in universities
- ▶ 1969: academic discipline, one semester
- ▶ Nowadays: rarely mandatory, usually optional in law faculties; rarely taught in sociology faculties





# 1.1. Criminological Education

- ▶ criminology in law faculties: the second semester of the second year of study
- ▶ Faculty of Law of the University of Bucharest: 28 hours dedicated to the course and 14 hours dedicated to the seminars
- ▶ Course is divided into three parts:
  - criminological research
  - etiological criminology
  - dynamic criminology
- ▶ master degrees, as well as doctoral research schools focus on the criminal law and not on criminology
- ▶ the possibility to draft a thesis in criminology: law faculties and within the Institute of Legal Research
- ▶ two major textbooks



# 1.2. Criminological Research

- ▶ 2002: Romanian National Institute of Criminology
  - study of crime phenomenon
  - undertaking surveys
  - contributing to the designing of strategies and prevention policies
- ▶ Research Focuses:
  - Violence
  - Corruption
  - Juvenile delinquency
  - Crime prevention
  - Victimology
  - Restorative justice
- ▶ Personnel: law graduates, sociologists, psychologists
- ▶ After 4 years, the Institute ceased to exist

## 1.2. Criminological Research

- ▶ Organisations involved in the criminological research
  - Romanian Society for Criminology and Forensic Sciences (affiliated to the International Society of Criminology)
  - Institute of Legal Research of the Romanian Academy
  - Institute of Sociology
  - Institute for Research and Crime Prevention within the Ministry of Interior and Administrative Reform
  - Small unit that concentrates on criminological studies also in the framework of the Prosecutor's Office by the High Court of Cassation and Justice
  - National Institute of Research and Development

# 1.2. Criminological Research

## ▶ Criminological Studies:

- Society for Criminology and Forensic Sciences:
  - violence in the Romanian society
  - corruption in Romania
  - juvenile delinquency
  - restorative justice
  - prevention of crimes
  - suicide as form of delinquency
  - prison studies
  - organized crime
- Ministry of Justice: causes and consequences of corruption – study on convicted persons
- Research Center in the field of Criminal Sciences of the Faculty of Law, University of Bucharest:
  - perception of death penalty among law students
  - perception on police and crime related matters among law students (study conducted by prof. Gorazd Mesko, Slovenia)

## 1.2. Criminological Research

- ▶ Criminological journals or journals where criminological studies can be published:
  - Journal on Criminology, Forensic Sciences and Penology of the Society for Criminology and Forensic Sciences
  - Criminal Law Notebook
  - Legal Currier
  - Law Review
  - Annals of the Bucharest Law University – Law Series

## 2. Crime Trends and Problems

- ▶ Sources of data about crime: courts, prosecutors' offices and police departments annually provide for data regarding crimes to the Superior Council of Magistrates
- ▶ Romanian Institute of Statistics (RIS) gathers all this information
- ▶ Information is published on RIS' website and given to Eurostat
- ▶ Total persons convicted in 2011: 47577 (223 of 100.000 inh.)

## 2. Crime Trends and Problems

**Table 1. Reported persons in 2011**

<b>Reported persons</b>	<b>Total number</b>	<b>Out of 100000 inhabitants</b>
Total persons	<b>212875</b>	998
Urban	109281	515
Rural	102923	483
<u>Foreigns</u>	671	3
Minors	11295	53
Up to 14 years	531	2
14-17 years	10764	5
18-30 years	79453	37
Unemployed	102351	483
Past employees	107	0.5



## 2. Crime Trends and Problems

Table 3. Type of crimes for which conviction sentences were given in 2011

Type of crimes	Total number	Out of 100000 inhabitants
Total number of crimes	47577	223
Crimes against persons – total	7910	3.7
Crimes against persons – homicide	658	0.3
Crimes against persons – manslaughter	120	0.6
Crimes against persons – serious injuries	613	2.9
Crimes against persons – involuntary manslaughter	980	4.6
Crimes against persons – crimes against protection of work	119	0.6
Crimes against persons – rape	483	2.3
Crimes against property – total	17746	83.2
Crimes against property – theft	13416	62.9
Crimes against property – robbery	2490	11.7
Crimes against property – embezzlement	362	1.7
Crimes against property – fraud	1406	6.6
Crimes against forest regime –total	1421	6.7
Crime related to work-offering bribery	82	0.4
Crime related to work –taking bribery	63	0.3
Crime related to work –trafficking influence	107	0.5
Crimes against authority-total	414	1.9
Economic crimes	9	0.04
Crimes related to social life	1765	8.28
Driving related crimes	13682	64.11

## 2. Crime Trends and Problems

**Table 4. Type of sanctions applied in 2011**

Type of sanctions	Total number	Out of 100000 inhabitants
Total number of sanctions	44204	207
Fine	2678	13
Execution at workplace	9	0.04
Imprisonment	13435	63
Suspended sentence	25014	117
Suspended sentence under surveillance	3068	14

## 2. Crime Trends and Problems



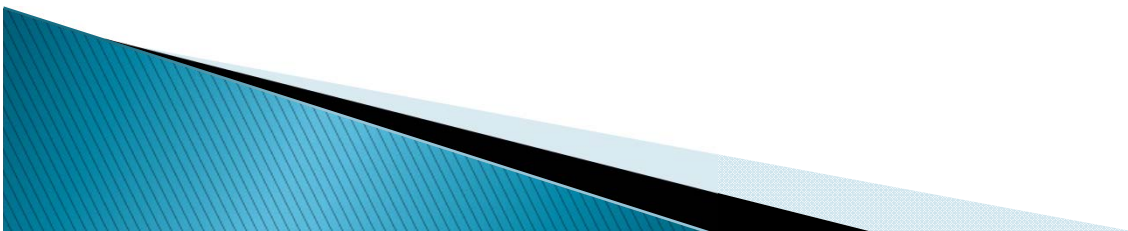
**Table 5. Length of imprisonment. Persons in prisons in 2011**

<b>Length</b>	<b>Total number</b>	<b>%</b>
Total	27381	100
Less than 1 year	884	3.22
1-2 years	2277	8.31
2-5 years	11693	42.7
5-10 years	6925	25.29
10-15 years	2535	9.25
15-20 years	2008	7.33
More than 20 years	910	3.32
Life imprisonment	149	0.54



## 2. Crime Trends and Problems

- ▶ Major problems of criminal justice:
  - corruption
  - prison overcrowding
  - length of trials
  - overburdened court dockets



### 3. The criminal justice system

- ▶ Judicial System:
  - Level 1: Courts of First Instance (178)
  - Level 2: Tribunals (41), Minors and Family Tribunal (1);
  - Level 3: Courts of Appeal (15);
  - Level 4: High Court of Cassation and Justice

## 3.1. Access to Legislation and Justice

- ▶ all legislation is being published in the Romanian Official Journal, available also online
- ▶ there is no free data base for updated legislation

## 3.2. Criminal Regulations

- ▶ Romania's Criminal Code of 1968
  - General Part
    - foundation of penal law
    - general forms of crimes
    - sanctions and their applications
    - juvenile delinquency
    - means of safeguard
    - situations in which there is no criminal responsibility
    - situations in which criminal responsibility and sanctions does not apply
    - description of various criminal terms
  - Special Part



## 3.2. Criminal Regulations

- ▶ Romania's Criminal Procedure Code of 1968
  - General Part
  - Special Part
- ▶ Phases of criminal trial:
  - criminal investigation
  - trial
  - enforcement of decisions

## 3.2. Criminal Regulations

- ▶ 2009: adoption of new Criminal Code
- ▶ 2010: adoption of new Criminal Procedure Code
- ▶ Inspiration: French Codes and legislation of Germany, Italy, Spain, Belgium, but also Northern countries
- ▶ February 1, 2014: entering into force of the two Codes

## 3.2. Criminal Regulations

- ▶ Main modifications of the NCC
  - General Part
    - eliminating social danger as a condition for the existence of a crime
    - introducing two new conditions in this respect (unjustified character of the illicit deed and imputable character)
    - more severe regulations regarding sanctions in case of plurality of crimes and recidivism
    - new complementary penalties
    - elimination of judicial aggravating circumstances
    - giving up on penalties applicable to minors (only educative measures can be taken against them)
    - introducing new ways of individualizing sanctions (adjourning penalty or giving up penalty).

## 3.2. Criminal Regulations

### ▶ Main modifications of the NCC

#### ◦ Special Part

- Code expressly forbids euthanasia (seen as a mitigating form of homicide)
- introduces less severe conditions in order to punish involuntary injuries
- crimes against foetus
- violation of headquarters of a legal person
- violation of private life of a person and harassment
- prostitution is no longer a crime
- penalties are less severe
- many offences were brought from special laws in the new Criminal Code, which makes this regulation easier to read.

## 3.2. Criminal Regulations

- ▶ Major problem of the adoption of the NCC: application of favorable law => conflict between High Court and Constitutional Court

## 3.2. Criminal Regulations

- ▶ New Criminal Procedure Code
  - introduction of the preliminary chamber procedure
  - introduction of house arrest
  - possibility to have a plea agreement.

## 3.3. Prisons and Imprisonment

- ▶ Prison system
  - 21 units for preventive arrest
  - 15 closed and maximum security prisons
  - 16 prisons with open and semi-open regimes
  - two prisons for minors (transformed in educative detention centers)
  - one prison dedicated to women
  - 2013: over 31,800 prisoners
  - Romanian jails fall below European standards



## 3.3. Prisons and Imprisonment

### ▶ Recidivism

- percentage of former inmates that repeat criminal acts is about 54%
- reasons for committing offenses: most recidivists suggested elements associated to poverty, then alcohol consumption, peers and associates, the desire for entertainment, jealousy and others
- shortest period of time spent in prison among recidivists was of 3 years, whilst the longest was 17 years, resulting in an average of 10 years and two months

Thank you for your attention!

