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Imprisonment in Romania

Dubrovnik

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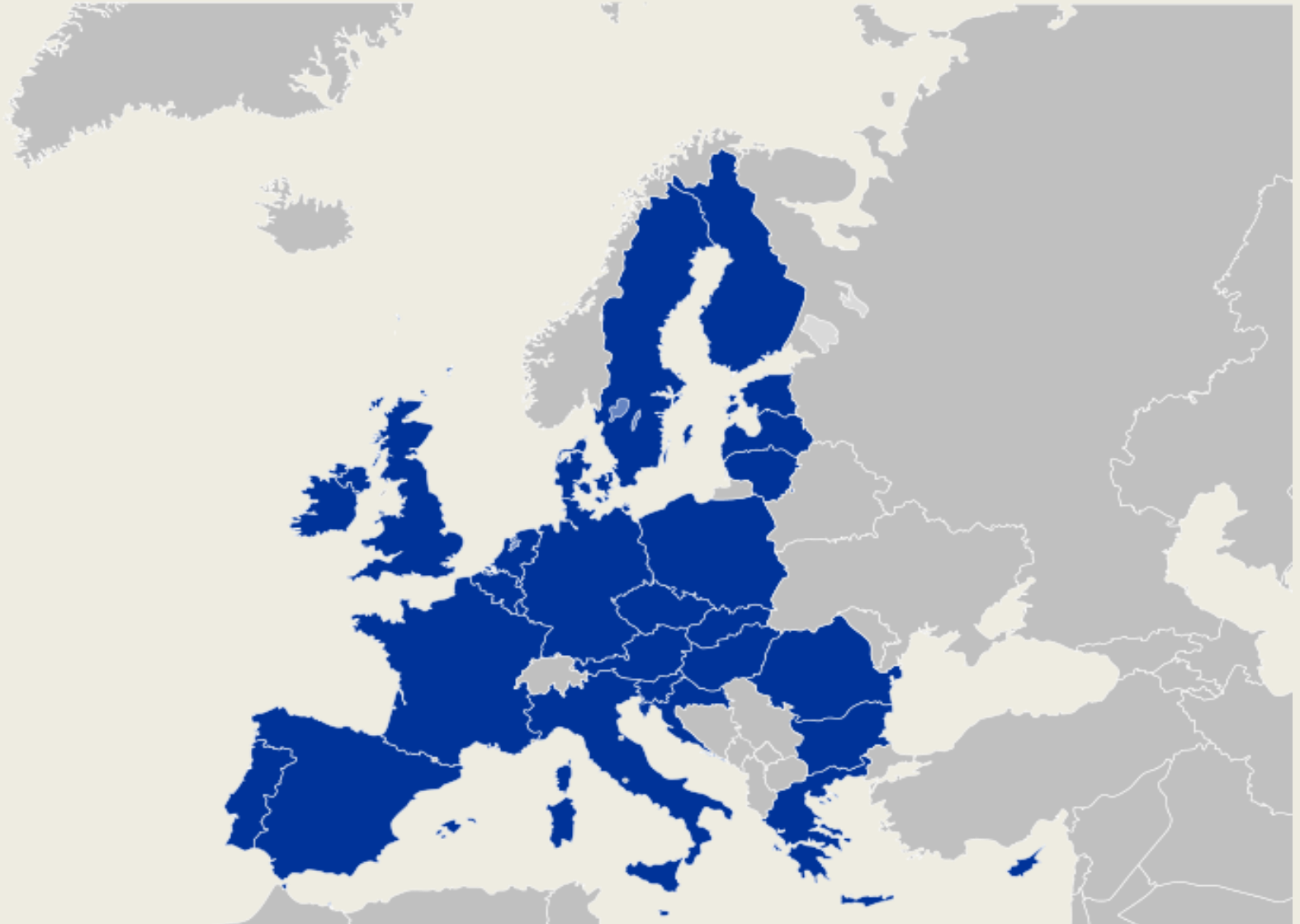
Plan

1. General background about Romania
2. Evolution of Criminal Codes
3. Evolution of rules regarding enforcement
4. Current state
 - A. Regulations
 - B. Applied penalties
 - C. Prisons
 - D. ECHR case law on detainees



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I. Romania within the EU





Romania – population

1.01.2015 – 19.870.647 and approx. 3 million living abroad





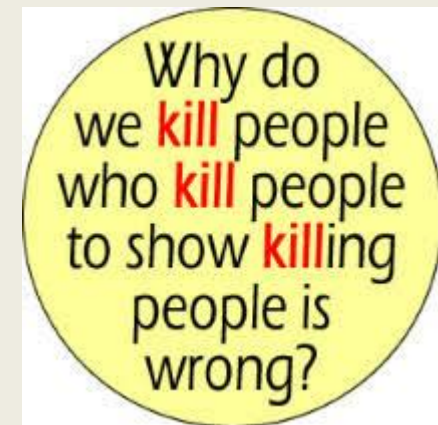
Romania – important dates

- December 1989: end of communism
- 1991: adoption of Constitution
- 1996: major modification of the criminal legislation
- 2003: major modification of Constitution
- 2004: Romania joined NATO
- January 1st, 2007: Romania became member of EU
- February 1st, 2014: new Criminal Code and Criminal Procedure Code



II. Evolution of Romanian Criminal Codes – death penalty

- 1865 – no death penalty, until 1924
- 1937 – no death penalty, just one year -> royal dictatorship, many executions
- 1969 – death penalty, including economic crimes and crimes against property
 - 104 executions during Ceausescu's regime (1965-1989), last execution
 - 1990 – abolishment
 - 1991 - Constitution
 - 1994 – ECHR
- 2014 – no death penalty
 - population
 - legislative initiatives





II. Evolution of Romanian Criminal Codes – life imprisonment

- Provided by all Criminal Codes
- CP 2014: alternative penalty with imprisonment between 15-25 years (i.e. aggravated homicide)
- Sole penalty in case of wartime genocide and wartime crimes against humanity
- Very rarely applied by courts
- Almost never for *lifetime*



II. Evolution of Romanian Criminal Codes – imprisonment

Principles

- imprisonment was always limited in time (generally, up to 30 years)
- it can be provided alone for a specific crime or as an alternative to fine or life imprisonment (depending on the severity of crimes)
- it is chosen by the judge within the limits of the law
- it can be suspended or suspended under service
- the convict can be conditionally released



III. Enforcement of sentences

- 1380: first mention on a penitentiary facility in Romania - *Ocna Trotuşului*
 - *ocna* = a salt mine, where workers were convicted people for burglary, homicides or other violent crimes
 - such prison was not available for boyards or nobles, who served sentences within a monastery
- 1788: in Transylvania (under Austrian-Hungarian surveillance), emperor Joseph II had issued a criminal procedure law which stated expressly that prisons must be clean, dry, have natural light and windows, so that the health of the prisoner would not be endangered.
 - Within the Romanian Countries (Valahia), a law was mentioning that women should not be imprisoned together with men
 - If such thing was not possible, women were housed by a married honest man.



III. Enforcement of sentences

- 1851: Regulation of Iasi prison provided for the first time that prisoners should not be insulted or beaten.
- 1874 : first general regulation of prisons in Romania, which was into force until 1930, when law on penitentiaries entered into force.
 - this law and the subsequent regulations were considered to be quite modern.
 - once the communists came to power in 1944, Romania has ruptured with the modern European regulation of the penitentiary.
 - the situation in communist prisons, especially that of political inmates, was particularly tragic, with thousands of people dying from torture, malnutrition, lack of medical treatment and imprisonment conditions.
- Law 23/1969 on enforcement of penalties took into consideration international recommendations.
- Law no. 276/2006 aligned the Romanian legislation to the modern European ones
- 2013: new law on enforcement of penalties



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IV. Current state

- A. Regulations
- B. Applied penalties
- C. Prisons
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A. Regulations

- **Criminal Code (2014)**: general framework of penalties (i.e. category, general and special limits)
- **Criminal Procedure Code (2014)**: necessary measures in order to enforce them (i.e. only the immediate phase after the conviction)
- **Law no. 254/2013** on enforcement of penalties and precautionary measures involving deprivation of liberty: general conditions of detention and prisoners' rights.



A. Imprisonment in the Criminal Code

- life imprisonment
- imprisonment from 15 days-30 years

Art. 2 par. 3 of the Code: **no penalty** (provided by the Criminal Code or by other laws) **can be established outside the general limits provided by the Code.**

Special limits: i.e. 10-20 years (homicide), 6 months to 3 years or fine (theft)



A. Rules in applying penalties

- the judge applies the penalty between the special limits
- the actual penalty applicable to an offender can go under or beyond these limits as an effect of mitigating circumstances, aggravated circumstances, attempt, recidivism
- multiple crimes, the Romanian Criminal Code provides that the highest penalty shall be applied and 1/3 of the other penalties shall be added => huge penalties
- recidivism and multiple crimes: if the total penalty is higher than 30 years with more than 10 years and for one of the crimes the penalty provided by the law is 20 years or more, the judge can decide to apply the life imprisonment
- life imprisonment cannot be applicable to persons aged more than 65 years
 - in such case, the penalty will be 30 years of imprisonment
 - in case the convicted person turns 65 during life imprisonment, this penalty can be replaced with the 30 years' penalty.

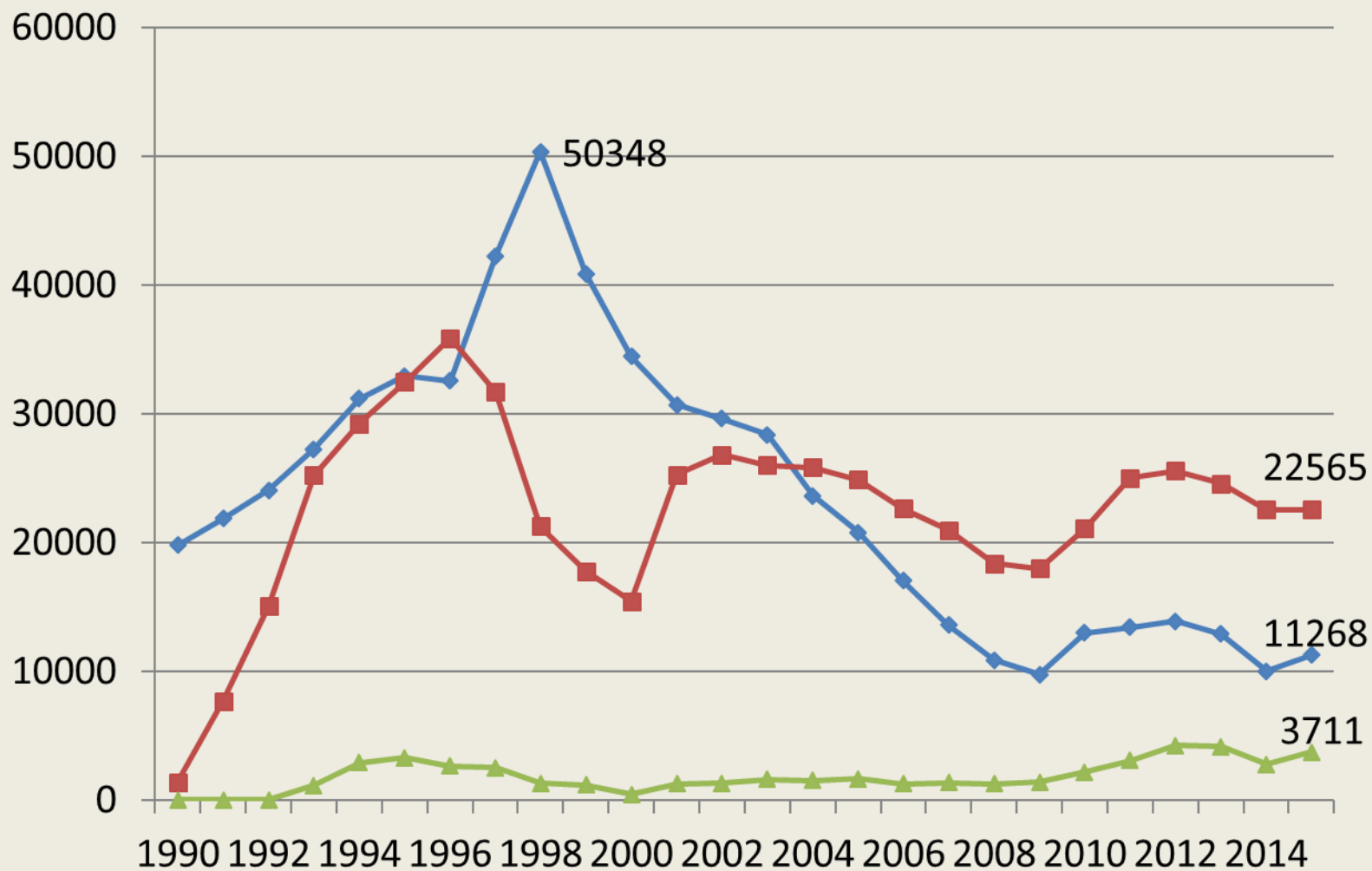


A. Customization

- waiver of the enforcement of the sentence
- postponement of the enforcement of the penalty
- suspension of the service of a sentence under supervision
- conditional release

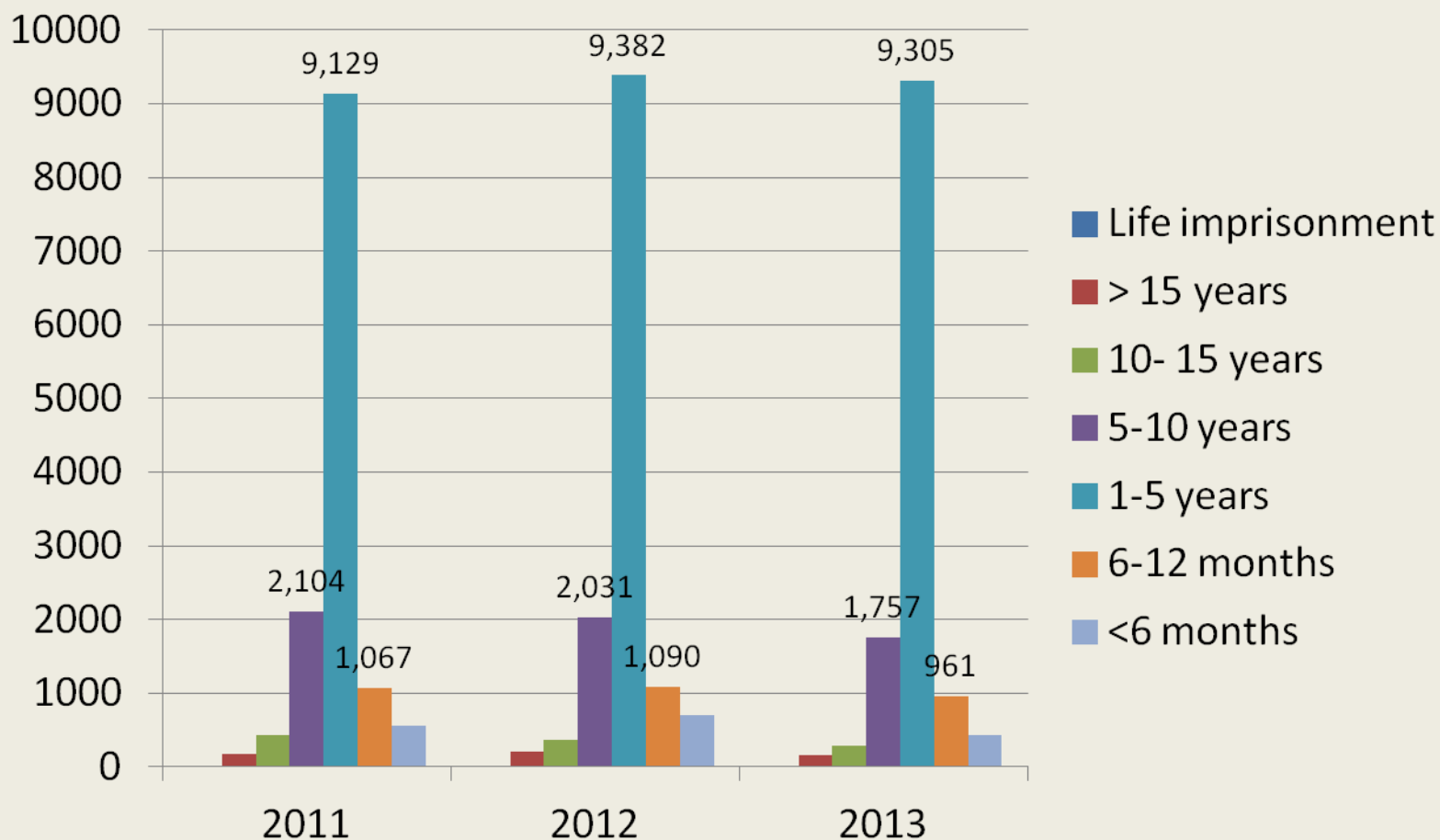


B. Applied penalties 1990-2015





B. Convictions according to the length of the imprisonment sentence imposed (absolute numbers), 2011-2013





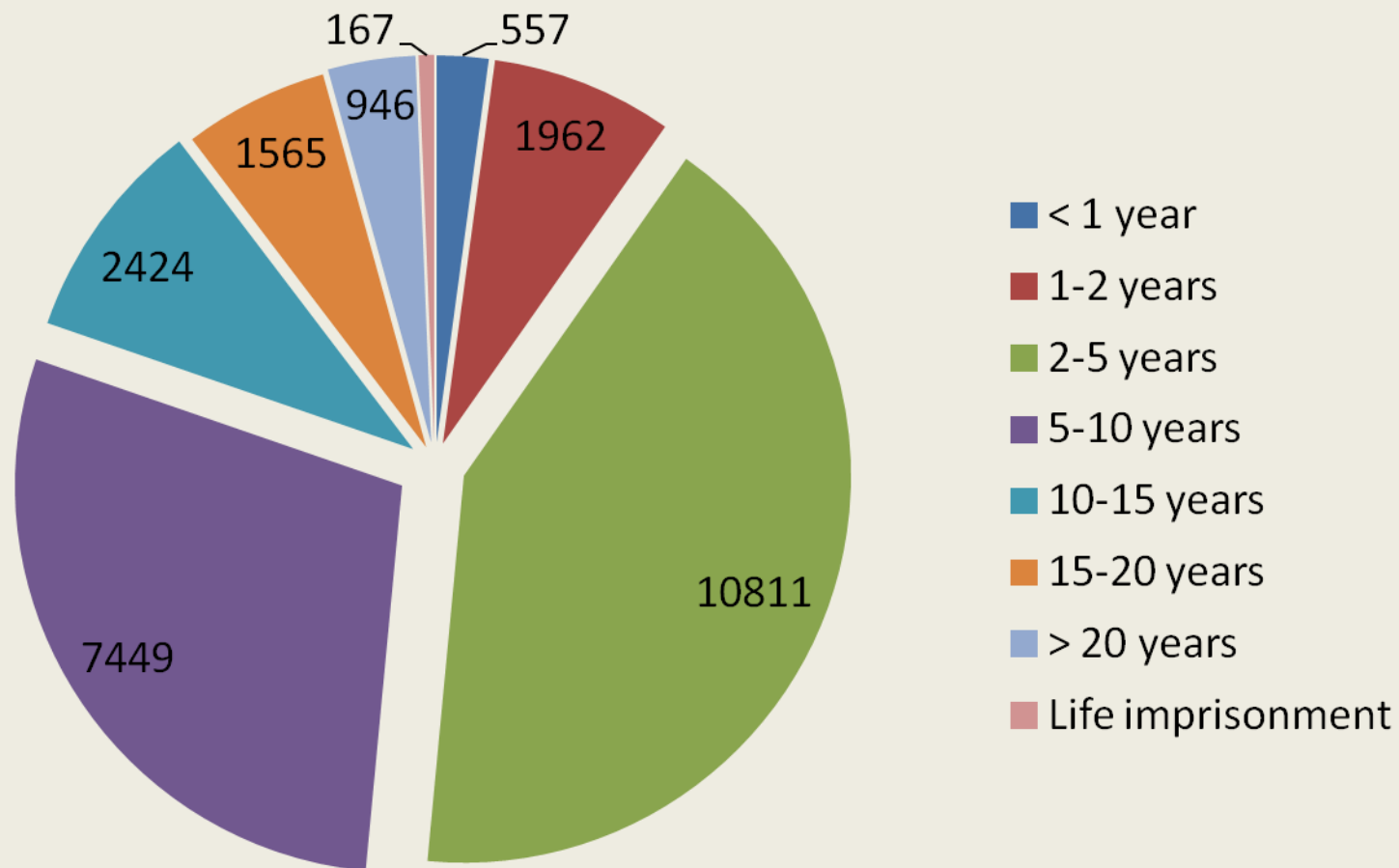
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C. Prison regime

- High security regime
- Close regime
- Semi-open regime
- Open regime

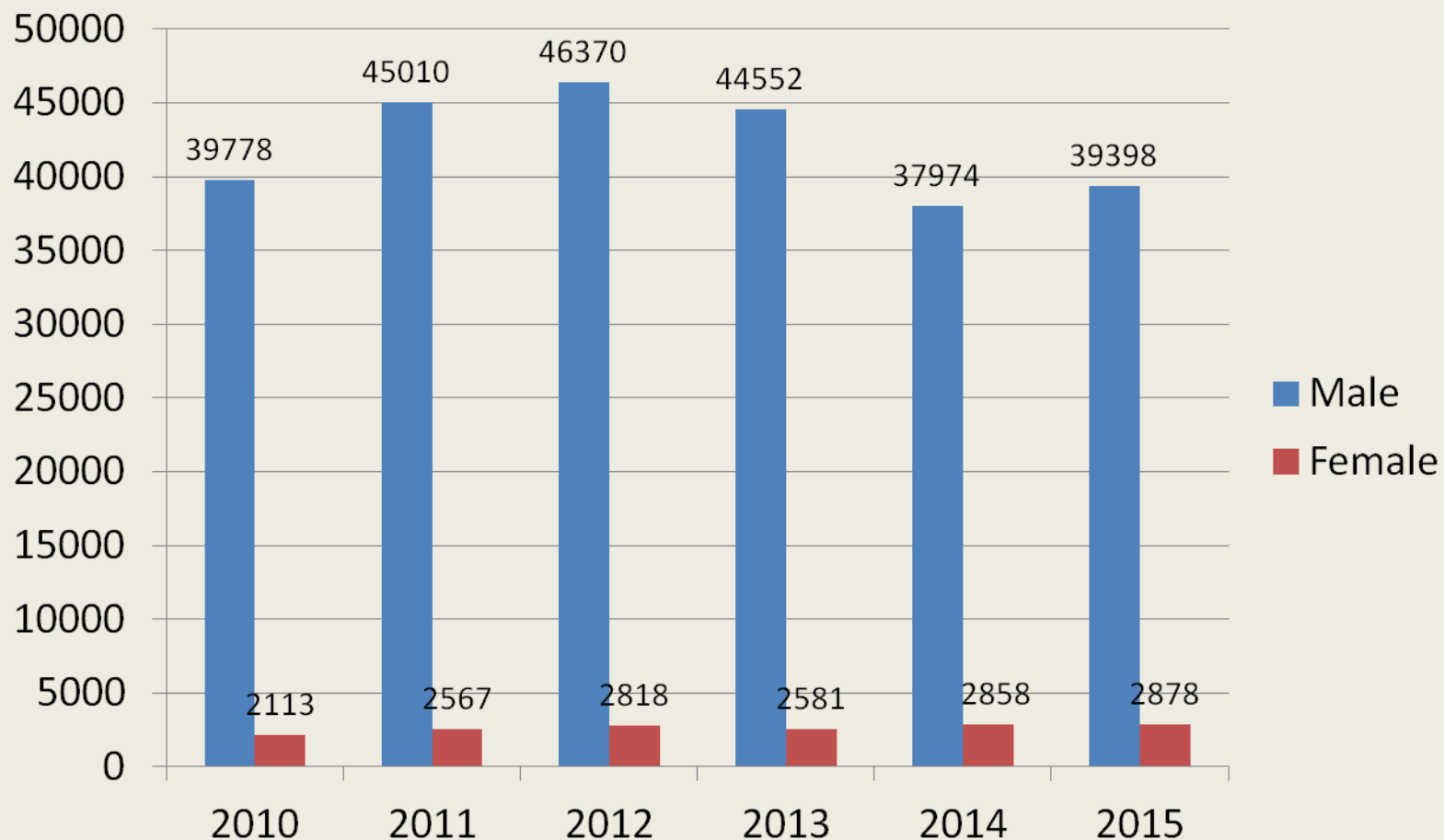


C. Persons in penitentiary facilities based on the duration of penalties (2015)



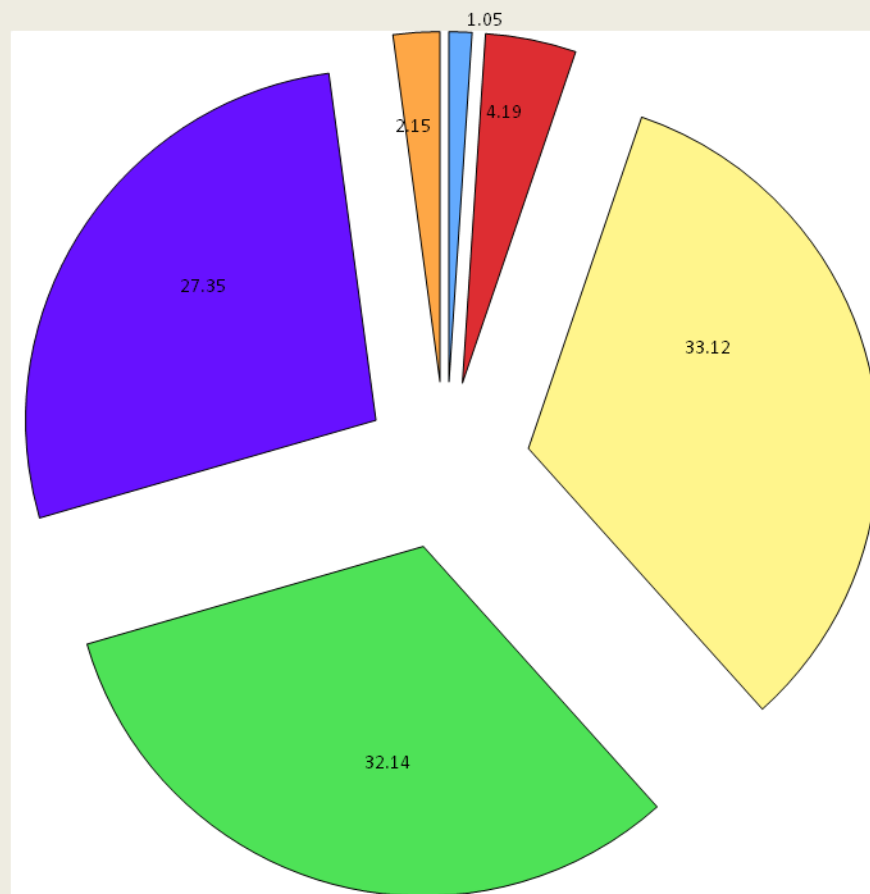


C. Convicted persons by sex





C. Detainees and age



■ 14-less than 18 years

■ 18-less than 21 years

■ 22-less than 30 years

■ 31- less than 40 years

■ 41- less than 60 years

■ Over 60 years



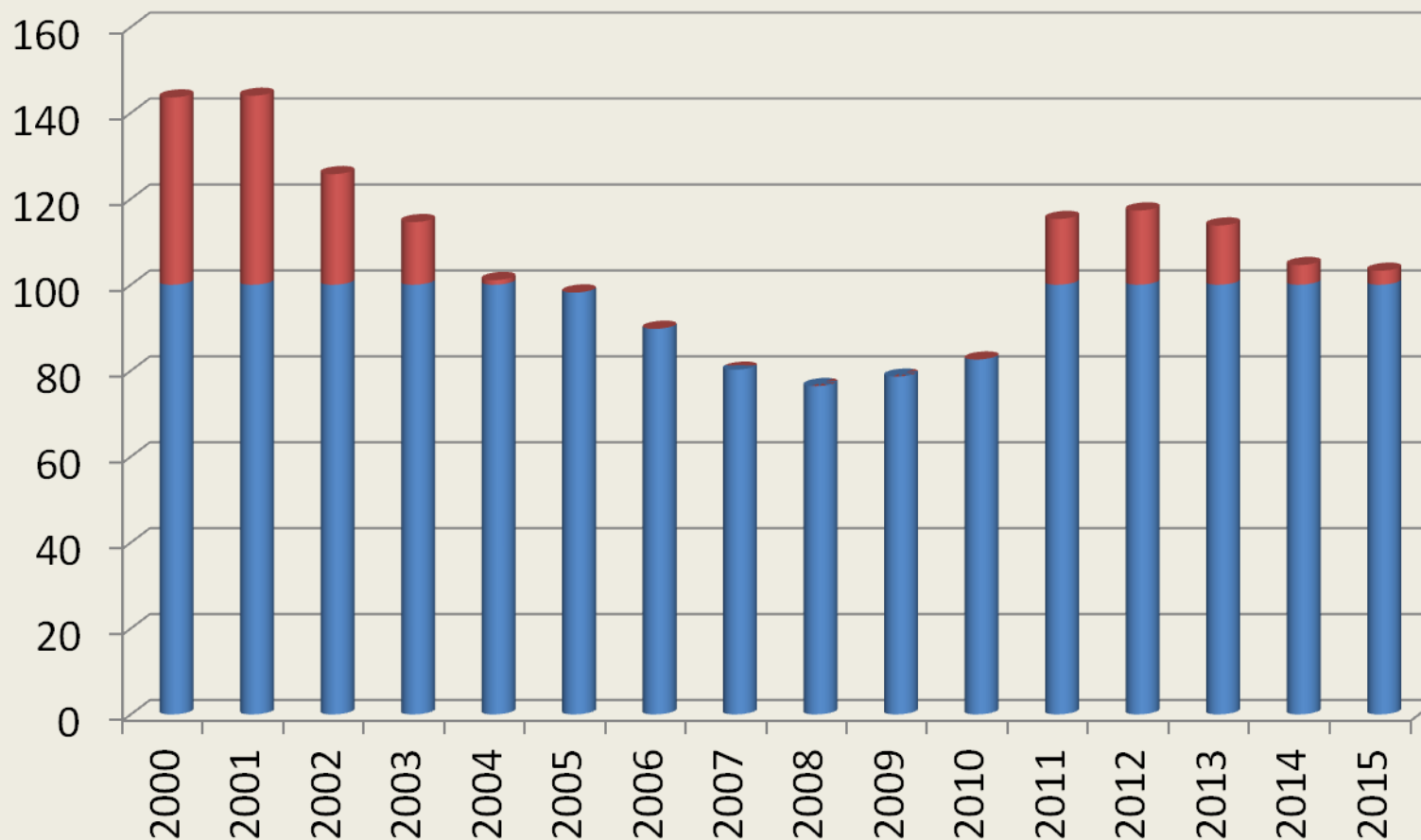
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C. Number of prisons

- 1 female prison and 6 female wings in other prisons;
- 3 detention centres;
- 2 educational centres;
- 16 semi-open and open prisons;
- 16 closed and high security prisons;
- 6 prison hospitals.



C. Prison overcrowding rate





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C. Gherla Penitentiary





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C. Jilava Penitentiary





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D. Detainees and ECHR

- 2008-2015: 90 Romanian cases in which the European Court of Human Rights found, *inter alia*, deficiencies in ensuring material detention conditions, which have an impact on the way in which Article 3 of the European Convention on Human Rights is guaranteed and complied with
- 2012: Iacov Stanciu case – general problem
- 25.04.2017 – Rezmives and others - 6 months to provide a plan



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Thank you for your attention!

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