



MINISTERUL JUSTIȚIEI



Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purposes of their enforcement

COUNTRY OVERVIEW - ROMANIA

**EuroPris Framework Decision 909 Expert Group
Wednesday 26 and Thursday 27 September 2018
Brussels**



THANK YOU FOR THE INVITATION!

EMANUELA MIRITA

Counsellor for European Affairs

Ministry of Justice of Romania

www.just.ro



MINISTERUL JUSTIȚIEI



The **MINISTRY OF JUSTICE OF ROMANIA**
is located in Bucharest, 17 Apolodor Street





MINISTERUL JUSTIȚIEI



MoJ is located right in front of the House of Parliament! the 2nd largest building in the world after the Pentagon, with 2% larger in volume than the Great Pyramid of Giza in Egypt





MINISTERUL JUSTIȚIEI



Human resources and organization of the Ministry of Justice of Romania

- As part of the Romanian Government, the Ministry of Justice contributes to the good functioning of the judicial system ensuring the conditions for achieving the justice as public service, for defending the law order and rights and liberties of the citizens.
- The Ministry of Justice has its own administrative staff, organized in Directorates and Divisions known also as administrative compartments.
- The directorate dealing with international judicial cooperation within the Ministry of Justice of Romania is **THE DIRECTORATE OF INTERNATIONAL LAW AND JUDICIAL COOPERATION**, lead by - Director **Mrs. Viviana ONACA** and our Head of Unit **Mrs. Dana ROMAN**.
- The Ministry of Justice is designated by the law as central authority for Extraditions, MLAs, Transfer of sentenced persons, Financial Penalties, (etc.) all forms of judicial cooperation requests during trial stage and enforcement stage.

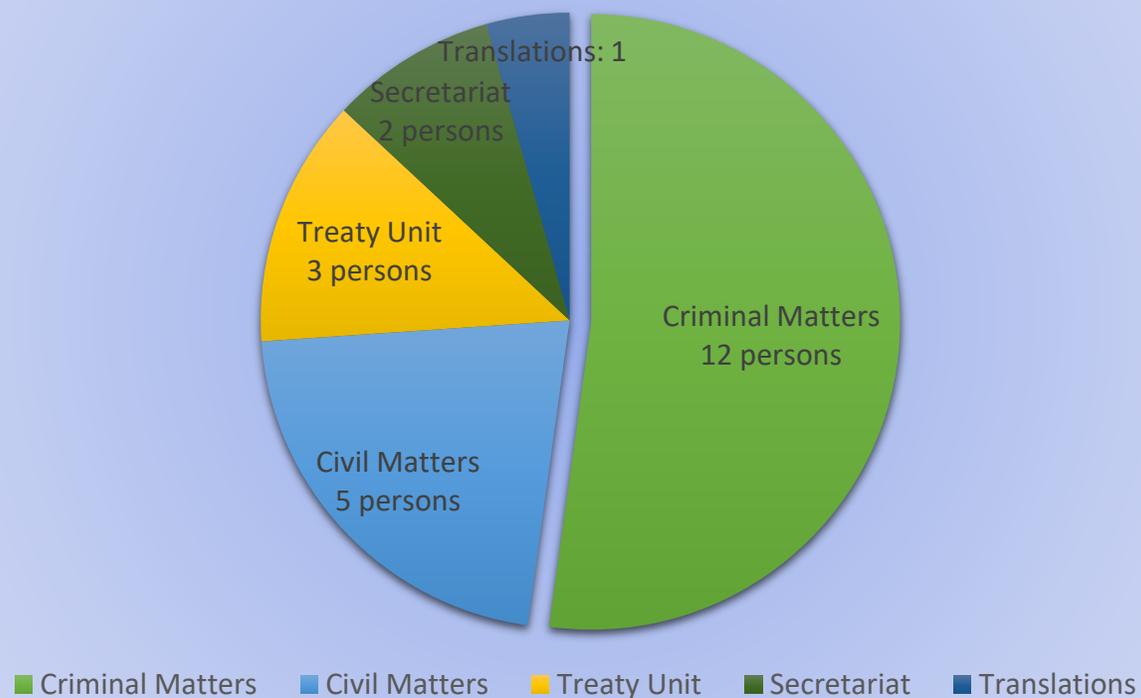


MINISTERUL JUSTIȚIEI



DILJC – Directorate of International Law and Judicial Cooperation

Human Resources of the Directorate:





MINISTERUL JUSTIȚIEI



Council Framework Decision 2008/909/JHA of 27 November 2008

Since 5 December 2011, the Framework Decision 2008/909 replaces the CoE Convention and its Additional Protocol among EU Member States.

Romania transposed this FD into the national legislation (Law no.302/2004) and is applying this instrument since 26 December 2013.



MINISTERUL JUSTIȚIEI



COMPETENCE OF ROMANIAN AUTHORITIES

Competence of Romanian judicial authorities

Whenever Romania is the executing State, and the sentenced person is detained in another Member State of the European Union, **recognition and enforcement**, on Romanian territory, shall fall under the competence of the **COURT OF APPEAL** having jurisdiction over their domicile.

Competence of Romanian administrative authorities

The Ministry of Justice - (MoJ) competent to issue the Certificate/ to receive the Certificate

The Centre for International Police Co-operation (Interpol) - competent to escort the sentenced person (NCB Bucharest)

The National Prison Administration (NAP) - competent to place the person in detentin



MINISTERUL JUSTIȚIEI



ROMANIA ISSUING STATE

According to the Notification made by Romania sent to the General Secretariat of the Council of the European Union, the competent Romanian authority **for forwarding the certificate and the judgment** to another Member State of the European Union is:

Ministry of Justice

Directorate for International Law and Judicial Cooperation

Division for international judicial cooperation in criminal matters

Phone: +40.37.204.1077

Fax: +40.37.204.1079

E-mail: transfer@just.ro



MINISTERUL JUSTIȚIEI



ROMANIA ISSUING STATE

Ministry of Justice is competent to:

- a) to receive the request / petition for the initiation of the procedure to transfer to the executing State the court decision and the certificate
- b) to fill-in the certificate and to deliver it together with the court decision, to the competent authorities of the executing State;
- c) to appoint a certified translator to translate the certificate and, if appropriate, the Romanian court decision, as well as any other additional information
- d) to notify to the sentenced person the decision referring to the delivery of the court decision and certificate;

After the final decision of the executing State is taken, the sentenced person shall be transferred from Romania to the executing State, within no more than 30 days after the date when the final decision of the executing State has been delivered to the Ministry of Justice.



MINISTERUL JUSTIȚIEI



ROMANIA EXECUTING STATE

According to the Notification made by Romania sent to the General Secretariat of the Council of the European Union, the competent authority to receive the judgments and certificates issued by the other European Union member states is:

Ministry of Justice

Directorate for International Law and Judicial Cooperation

Division for international judicial cooperation in criminal matters

Phone: +40.37.204.1077

Fax: +40.37.204.1079

E-mail: transfer@just.ro

The competent authorities to recognize and enforce the sentences or other measures involving deprivation of liberty are the **courts of appeal** within whose jurisdiction the sentenced person lives or is permanently resident. **(15 Courts of Appeal)**.



MINISTERUL JUSTIȚIEI



ROMANIA EXECUTING STATE

Therefore the Ministry of Justice is competent to:

- a) to receive the decision and certificate
- b) in the case of sentenced persons, who are, in other Member States of the European Union, serving a sentence, to receive their requests for the initiation of the procedure for the issuing State delivering the court decision and the certificate;
- c) to request the issuing State, ex officio or upon the request of the sentenced person, to deliver the court decision and the certificate
- d) to consult, ex officio or upon the request of the competent court, with the competent authority in the issuing State;
- e) to perform regularity control and to request, as the case may be:
 - (i) the supplementation or rectification of the certificate;
 - (ii) the statement of the sentenced person
 - (iii) the notification
 - (iv) when the imposed sentence is a measure involving deprivation of liberty, a copy of any report or of any medical forensics finding or any other medical documents attesting to the physical and mental health of the person, the treatment underwent in the territory of the issuing State and any potential recommendations for the treatment to be continued in Romania



MINISTERUL JUSTIȚIEI



ROMANIA EXECUTING STATE

- f) to suspend the delivery to the competent Romanian court of the decision and of the certificate, when the certificate is incomplete or does not comply with the decision or one of the documents referred to in sub-paragraph e) (iii) and (iv) is missing;
- g) to return the decision and the certificate, if the issuing State failed to deliver the documents referred to in sub-paragraph f), by the expiry of a 60-day period;
- i) to refuse to initiate the procedure for the recognition of the foreign decision, when, on the date of its receipt, there is less than 6 months still to be served from the penalty imposed against the sentenced person, save for the case where the sentenced person is in Romanian territory;



MINISTERUL JUSTIȚIEI



ROMANIA EXECUTING STATE

IN PRACTICE:

The MoJ receives

1. the petition of the sentenced person and afterwards informs the sentencing State or
2. the Certificate and judgment from the sentencing State (issuing State)

After a regularity check the documents are forwarded to the competent **Prosecutor's Office of the Court of Appeal**. Afterwards, the prosecutor decides if the case is sent before the competent **Court of Appeal**.

The Court of Appeal recognises or refuses to recognise the judgment (and orders for the person to be transferred to Romania if the foreign judgment is recognized). The Romanian judgment is transmitted to the sentenced person directly by the Court (most of the times in Romanian) and the sentenced person has the right to appeal this decision within **10 days** from communication (in case he/she does not agree with the decision). If he/se does not appeal the decision, the judgment remains final and the Court issues a Warrant of imprisonment penalty. This warrant together with the final decision is transmitted to the issuing state, Interpol and NAP and the person is transferred from the issuing state to Romania.



MINISTERUL JUSTIȚIEI



Competence related to art.14 - Provisional arrest

The competent authority to receive the requests for provisional arrest (article 14) is:

Parchetul de pe lângă Curtea de Apel București

The Prosecution Office of the Court of Appeal of Bucharest

Str. Scaune nr. 1-3, sector 3, 030243

Phone +40- 21-3111276 / +40- 21-3111557

Fax +40-21-3124553 / +40-21-3111557

E-mail: pca_bucuresti@mpublic.ro



MINISTERUL JUSTIȚIEI



Competence related to art.16 - Transit requests

The competent authority to decide on requests for transit (article 16) is:

Ministry of Justice

Strada Apolodor 17, Sector 5 București, Cod 050741

Directorate for International Law and Judicial Cooperation

Division for international judicial cooperation in criminal matters

Phone: +40.37.204.1077

Fax: +40.37.204.1079

E-mail: transfer@just.ro

The request shall be submitted in writing and shall be accompanied by the copy of the certificate. Where the certificate is not accompanied by a translation into Romanian, the requesting State may request permission to deliver the translation into Romanian afterwards.



MINISTERUL JUSTIȚIEI



Transfer of the sentenced person under escort

Transfer of a sentenced person from the issuing State to Romania shall take place on the date mutually agreed upon between the competent Romanian authorities and the authorities of the issuing State, within no more than 30 days after the decision became final.

Transfer from Romania to the executing State of the sentenced person, who is serving a sentence in a prison in Romania, shall take place on the date mutually agreed upon between the Centre for International Police Co-operation within the Romanian General Police Inspectorate and the competent authority of the executing State, within no more than 30 days after the decision ruled by the competent authority of the executing State became final.

Statistics for 2018: To Romania: 179 From Romania: 5



MINISTERUL JUSTIȚIEI



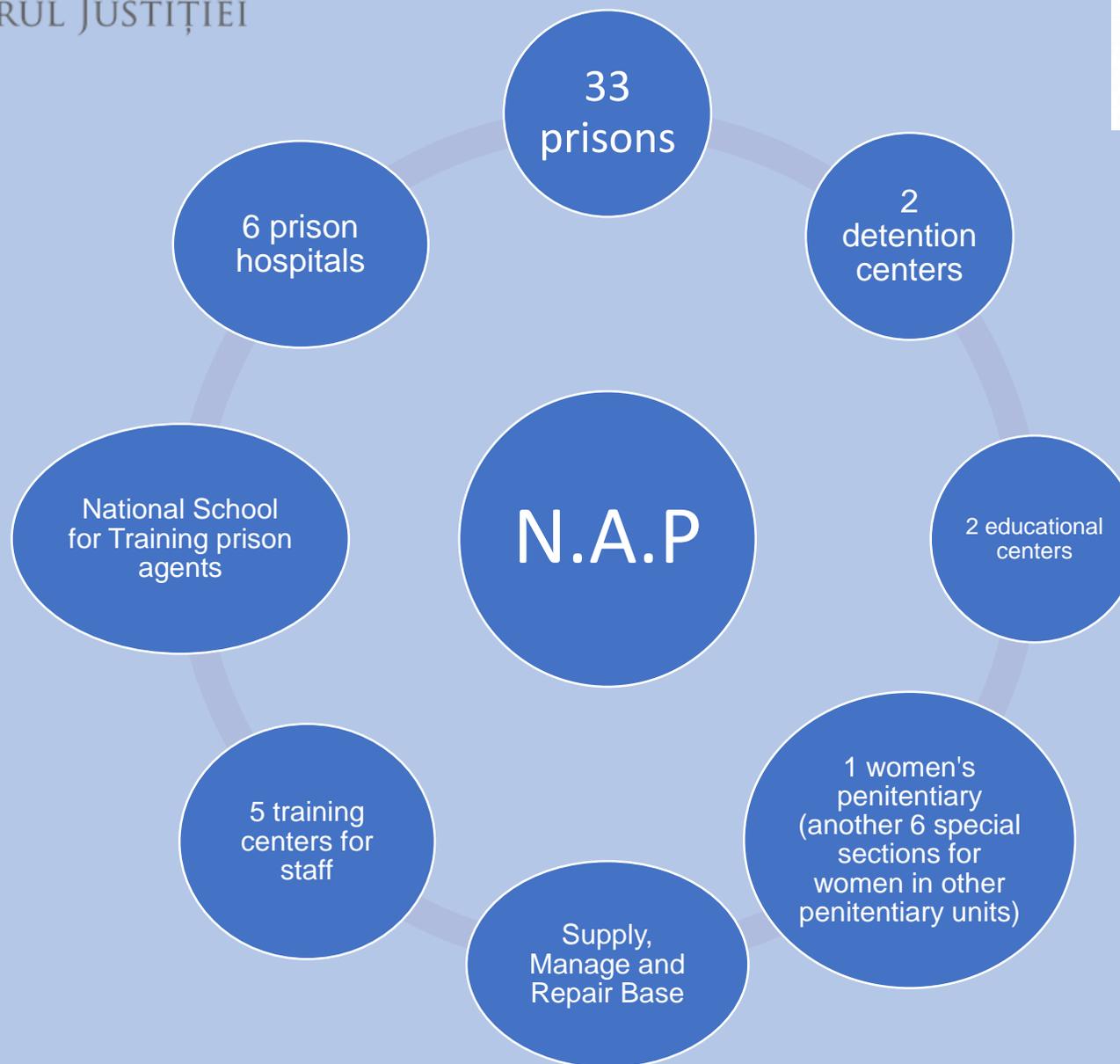
Other relevant information:

NATIONAL ADMINISTRATOR OF PENITENTIARIES:

(N.A.P.) and the subordinated units are part of the public defense, public order and national security institutions of the state and constitute the system of the penitentiary administration



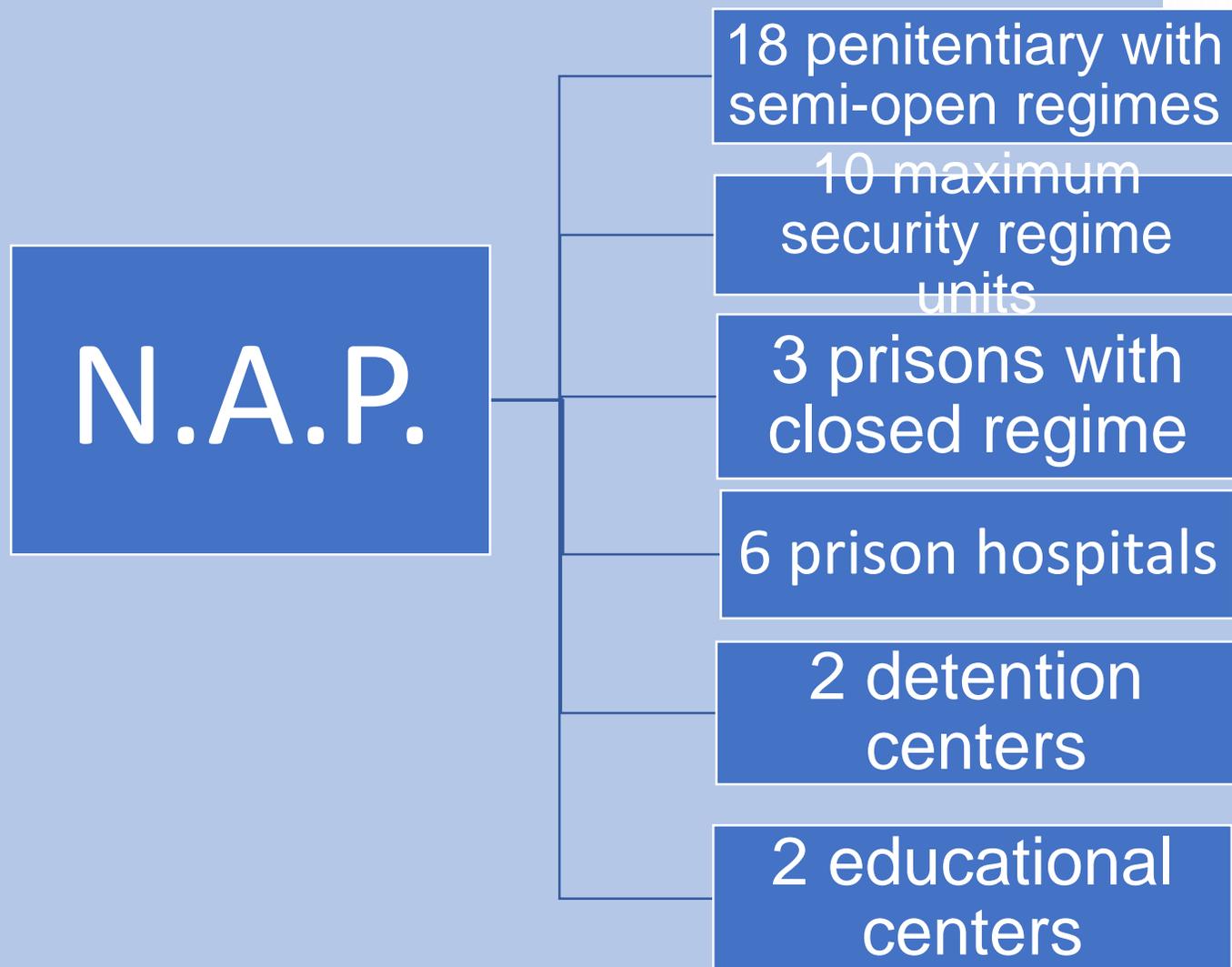
MINISTERUL JUSTIȚIEI





MINISTERUL JUSTIȚIEI

DETENTION PROFILE OF PRISON UNITS:





THANK YOU FOR YOUR ATTENTION

EMANUELA MIRITA

emanuela.mirita@just.ro