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Meeting: 1577th meeting (December 2026) (DH)

Item reference: Action Report (04/11/2026)

Communication from Romania concerning the case of Flămînzeanu v. Romania (Application No. 56443/11)

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Réunion : 1577e réunion (décembre 2026) (DH)

Référence du point : Bilan d'action (04/11/2026)

Communication de la Roumanie concernant l'affaire Flămînzeanu c. Roumanie (Requête n° 56443/11)
[anglais uniquement]

DH-DD(2026)1571: Communication from Romania
Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

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SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

Action Report in the case of

Flămînzeanu v. Romania

(Application no. 56443/11, judgment of 19 March 2019, final)

I. Introductory summary of the case

The case concerns the applicant's exclusion from compulsory secondary education during the 2010/2011 school year while detained in Jilava Prison. The refusal was based principally on the alleged failure to reach the minimum number of pupils required to establish a secondary-school class (§§ 36-48 of the judgment).

The European Court of Human Rights found a violation of Article 2 of Protocol No. 1. It noted, in particular, that the domestic authorities had not taken the necessary steps to enrol the applicant, had not adequately explained the practical or resource-related obstacles relied upon, and had not examined available alternatives, including the possibility of derogating from the ordinary minimum class-size requirement. The restriction was not shown to be foreseeable, to pursue a legitimate aim or to be proportionate.

The present report updates the information submitted in the Government's action plan of 7 February 2024 and describes the legislative, institutional and practical developments since the events giving rise to the violation and, in particular, since the Court's judgment.

II. Individual measures

The just satisfaction awarded by the Court was paid within the time limit set in the judgment. The applicant was conditionally released on 30 August 2011 (§ 5 of the judgment). In view of the lapse of time and the applicant's release, no further individual measures are necessary.

III. General measures

A. Translation and publication of the judgment

The judgment has been disseminated to the National Prison Administration on 14.05.2019 and, to further raise awareness of the Court's findings, it has been translated to Romanian and published on the websites of the Superior Council of Magistracy[1] and of the European Institute of Romania[2].

B. Legislative and regulatory framework

The domestic framework governing education in places of detention has undergone substantial development. The legal and institutional arrangements now in place are materially more detailed than those applicable in the 2010/2011 school year examined by the Court. In particular, the legislation now expressly addresses inter-institutional cooperation, the designation of schools, the allocation and remuneration of teaching staff, the national curriculum, the organization of classes with reduced numbers of pupils and the development of teachers' professional competencies.

1. Law no. 254/2013 on the execution of sentences and custodial measures

Law no. 254/2013[3] on the execution of sentences and measures involving deprivation of liberty ordered by judicial bodies in criminal proceedings provides the general statutory framework for the execution of custodial sentences. Its provisions on the rights and rehabilitation of persons deprived of their liberty, including access to education and vocational training, form part of the broader legal basis for educational activities in the penitentiary system.

2. Cooperation Protocol between the Ministry of Education, the Ministry of Justice and the National Administration of Penitentiaries (2022)

A significant institutional development was the conclusion of the Cooperation Protocol between the Ministry of Education, the Ministry of Justice and the National Administration of Penitentiaries (ANP)[4]. The Protocol establishes a practical framework for cooperation in organizing and delivering schooling and vocational training in prisons, prisons for women, detention centres and educational centres.

[1] https://www.csm1909.ro/Pages/321.
[2] https://ier.gov.ro/trad-cedo/.
[3] Law no. 254 of 19 July 2013 on the execution of sentences and measures involving deprivation of liberty ordered by judicial bodies in criminal proceedings, Official Gazette of Romania, Part I, no. 514 of 14 August 2013.
[4] Cooperation Protocol between the Ministry of Education, the Ministry of Justice and the National Administration of Penitentiaries, registered with the Ministry of Justice under no. 39635/18.11.2022 and with the Ministry of Education under no. 15081/22.11.2022.

The Protocol provides, *inter alia*, for:

- the organization of schooling and vocational training through special education establishments or special classes affiliated with establishments in the national special education system operating in places of detention;
- the possibility of providing primary, lower-secondary, upper-secondary, vocational (including dual vocational) and post-secondary non-tertiary education;
- full-time or reduced-frequency attendance, with compulsory education normally organized on a full-time basis and a reduced-frequency arrangement available in specified circumstances;
- the organization of classes normally comprising 8 to 12 pupils, with the possibility of forming groups of 4 to 6 pupils in exceptional circumstances and of increasing class size with the approval of the competent school inspectorate;
- coordination between the education authorities and the penitentiary administration concerning school enrolment, continuity of education, teaching staff, the integration of lessons into the daily prison regime and arrangements for upper-secondary and post-secondary education.

The Protocol also provides for continuity arrangements for persons arriving in detention after the ordinary enrolment deadline, including remedial, revision or catch-up courses until the beginning of the following school year. It further addresses the continuation of studies following release.

3. Law no. 198/2023 on pre-university education

The most important legislative development after the judgment is Law no. 198 of 4 July 2023 on pre-university education[5], which entered into force on 3 September 2023. Section 11 (Articles 53-57) is specifically dedicated to education in prisons, educational centres and detention centres.

Article 53 expressly provides that the schooling of persons deprived of their liberty is to be organized and conducted in accordance with the Law. It also establishes that the delivery of educational instruction in places of detention is to be based on a joint order of the Minister of Education and the Minister of Justice setting out the cooperation framework between the two ministries and their subordinate or coordinated institutions. The same Article provides for cooperation protocols between the Ministry of Education and the Ministry of Justice – ANP.

Article 54 requires courses to be organized for compulsory forms of education and permits courses for other educational programmes provided for by law. It requires the schooling of adults, minors and young persons in detention to comply with the national curriculum and to be delivered through mainstream or special education establishments, or through special classes affiliated with establishments in the national special education system operating in places of detention.

[5] Law no. 198 of 4 July 2023 on pre-university education, Official Gazette of Romania, Part I, no. 613 of 5 July 2023.

Article 55 assigns the county school inspectorates / Bucharest Municipal School Inspectorate (DJIP/DMBIP) responsibility for designating the educational establishments that provide schooling to persons in detention, at the request of the relevant detention facility.

Teaching staff are assigned by the inspectorates and remunerated by the pre-university educational establishment to which the study groups are affiliated. School records must not indicate that courses were completed during the enforcement of a custodial sentence or educational measure.

Article 56 is particularly relevant to the violation found in the present case. It provides that study groups/classes for persons deprived of liberty may normally comprise 8 to 12 pupils. In duly justified cases, with the approval of the DJIP/DMBIP, classes may be organized with 4 to 6 pupils or with an increased number of pupils, depending on the logistical capacity of the detention facility, but not exceeding 20 pupils. The provision thus expressly accommodates the particular circumstances of detention and provides a statutory mechanism for organising classes with fewer than eight pupils.

Finally, Article 57 requires the Ministry of Justice – ANP and the Ministry of Education to cooperate in developing the professional competencies required of teaching staff who provide education to persons in detention.

4. "Second Chance" programme – Order of the Minister of Education no. 3.062/2022

Order of the Minister of Education no. 3.062 of 25 January 2022[6] approved the methodologies for the "Second Chance" programme at both primary and secondary levels. The programme provides an educational pathway for persons who have not completed their schooling at the usual age and wish to resume their studies.

The methodology contains specific arrangements for persons in detention. In particular, Article 24(2) of the primary-level methodology permits the transfer of a learner enrolled in the "Second Chance" programme to another school unit in the same form of education during the school year, upon the end of the period of deprivation of liberty, on the basis of the relevant school documents. This facilitates continuity of education following release.

[6] Order of the Minister of Education no. 3.062 of 25 January 2022 approving the methodologies for the "Second Chance" program – primary education and secondary education, Official Gazette of Romania, Part I, no. 127 of 8 February 2022; see in particular Article 24(2) of the primary-level methodology.

5. General regulatory framework for pre-university schools

Order of the Minister of Education no. 5;726 of 6 August 2024 approving the Framework Regulation on the Organization and Operation of Pre-University Education Establishments (ROFUIP)[7] has applied since 1 September 2024. It provides the general organisational framework for pre-university education establishments, including those involved in delivering education to persons deprived of liberty, insofar as its provisions are applicable and subject to the specific rules governing prison education.

6. National reintegration policy

Government Decision no. 430 of 27 May 2020[8] approved the National Strategy for the Social Reintegration of Persons Deprived of their Liberty 2020-2024. The Strategy promoted inter-institutional cooperation and access to educational and vocational training activities as part of the rehabilitative intervention and social reintegration of persons deprived of liberty.

B. Practical implementation and statistical developments

The information reported by ANP[9] demonstrates that schooling is organized both through mainstream education and through the "Second Chance" programme. The figures below concern formal schooling enrolment and should be distinguished from participation in vocational workshops, employment counselling and other rehabilitative activities.

The number of persons deprived of liberty enrolled in formal education has increased over the four most recent school years:

School year	Primary	Lower secondary	Upper secondary / vocational	University	Total
2022/2023	643	773	510	1	1.927
2023/2024	691	978	604	2	2.275
2024/2025	704	976	612	0	2.292
2025/2026	742	1,176	847	3	2.768

[7] Order of the Minister of Education no. 5,726 of 6 August 2024 approving the Framework Regulation on the Organisation and Operation of Pre-University Education Establishments, Official Gazette of Romania, Part I, no. 795 of 12 August 2024

[8] Government Decision no. 430 of 27 May 2020 approving the National Strategy for the Social Reintegration of Persons Deprived of their Liberty 2020–2024, Official Gazette of Romania, Part I, no. 494 of 11 June 2020.

[9] ANP, Activity Report 2022, p. 29 (2022/2023 enrolment); ANP, Activity Report 2023, p. 36 (2023/2024 enrolment); ANP, Activity Report 2024, p. 41 (2024/2025 enrolment); ANP, Activity Report 2025, p. 30 (2025/2026 enrolment).

Accordingly, total formal-education enrolment rose from 1.927 in 2022/2023 to 2.768 in 2025/2026, an increase of approximately 43.7%. Pre-university enrolment increased from 1.926 to 2.765 over the same period (approximately 43.6%). In the 2025/2026 school year, 2.765 of the 2.768 persons enrolled in formal education were in pre-university education. The most pronounced increases were recorded in lower-secondary education (from 773 to 1.176) and upper-secondary/vocational/high-school education (from 510 to 847). The figures for 2025/2026 represent enrolment for that school year, rather than a final count of successful completions.

The information submitted in the 2024 action plan had already identified a positive trend: 2.273 persons were enrolled in 2023/2024, including 978 in lower-secondary education. The authorities also reported an increase in the number of lower-secondary and high-school classes in 16 prisons, initial steps to organize schooling in two additional prisons, and school activities financed through European Union projects in three prisons. The subsequent ANP reports show that this upward trend continued, with 2.292 enrolments in 2024/2025 and 2.768 in 2025/2026.

Separate data on vocational and employment-related activities further illustrate the broader educational and reintegration offer. In 2024, 4.418 prisoners (approximately 18% of the prison population) participated in employment-related and vocational activities, including 811 in vocational qualification, requalification and professional development courses and 1.189 in practical occupational projects. In 2025, 3.854 prisoners (15% of the prison population) participated in the corresponding categories of vocational and employment-related activities. These figures are not added to the formal-schooling figures, as they concern different activities and statistical categories[10].

C. Safeguards addressing the specific shortcomings identified by the Court

The Government considers that the legal and practical developments described above directly address the shortcomings identified in the judgment:

- Class size is no longer governed solely by the ordinary minimum threshold. Article 56 of Law no. 198/2023 expressly permits groups of 4 to 6 pupils in duly justified cases, subject to approval by the competent school inspectorate.
- The institutional responsibilities are expressly allocated. The school inspectorates designate the educational establishments, teaching staff are assigned by the inspectorates and paid by the affiliated school, and the penitentiary administration cooperates in organising the educational process.
- The applicable curriculum and educational pathway are specified. Article 54 of Law no. 198/2023 requires compliance with the national curriculum and permits the organization of courses for compulsory education and other educational programmes provided for by law.

[10] ANP, Activity Report 2024, p. 42; ANP, Activity Report 2025, p. 31. These statistics concern vocational/employment-related activities, not formal school enrolment.

- Continuity of education is addressed through the "Second Chance" programme and transfer arrangements, including where a person is released during the school year.
- The Protocol provides for practical coordination, including the integration of classes into the daily prison regime, enrolment procedures, remedial arrangements for late arrivals and the organization of upper-secondary and post-secondary education.

The Government emphasises that the central issue in *Flămînzeanu* was not the existence of a particular minimum class size as such, but the failure to examine and use available alternatives and the absence of a reasoned assessment of the applicant's individual circumstances. **The current framework provides an express and more flexible legal basis for smaller groups, together with a clearer allocation of institutional responsibilities**. Its effective application requires the competent authorities to assess each request individually, to identify feasible organisational alternatives and, where access is refused or postponed, to provide specific reasons based on the circumstances of the case.

IV. Conclusions

The Government considers that the legislative and institutional framework governing education in places of detention has been significantly strengthened since the events giving rise to the violation and further developed after the Court's judgment. The 2022 Cooperation Protocol establishes a detailed inter-institutional framework; Law no. 198/2023 now contains a dedicated statutory section on prison education, including an express possibility to organize classes of 4 to 6 pupils in duly justified cases; and the "Second Chance" programme and the applicable school regulations provide pathways for access and continuity of education.

The statistical information supplied by ANP also shows a sustained increase in formal-schooling enrolment, from 1.927 persons in 2022/2023 to 2.768 in 2025/2026, including an increase in pre-university enrolment to 2.765 persons. The figures, together with the reported expansion of classes and educational activities across penitentiary establishments, indicate concrete progress in the availability of schooling.

In these circumstances, the Government considers that the measures adopted provide adequate safeguards against the repetition of the specific violation found in the present case. It therefore invites the Committee of Ministers to close its supervision of the execution of the judgment in *Flămînzeanu v. Romania*.