



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF RACOLTEA AND OTHERS v. ROMANIA

*(Application no. 70116/13 and 17 others -
see appended list)*

JUDGMENT

STRASBOURG

8 February 2018

This judgment is final but it may be subject to editorial revision.

In the case of Racoltea and Others v. Romania,

The European Court of Human Rights (Fourth Section), sitting as a Committee composed of:

Vincent A. De Gaetano, *President*,

Georges Ravarani,

Marko Bošnjak, *judges*,

and Liv Tiggerstedt *Acting Deputy Section Registrar*,

Having deliberated in private on 18 January 2018,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in applications against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on the various dates indicated in the appended table.

2. The applications were communicated to the Romanian Government (“the Government”).

THE FACTS

3. The list of applicants and the relevant details of the applications are set out in the appended table.

4. The applicants complained of the inadequate conditions of their detention. Some applicants also raised other complaints under the provisions of the Convention.

THE LAW

I. JOINDER OF THE APPLICATIONS

5. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

6. The applicants complained principally of the inadequate conditions of their detention. They relied on Article 3 of the Convention, which reads as follows:

Article 3

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

7. The Court notes that the applicants were kept in detention in poor conditions. The details of the applicants’ detention are indicated in the appended table. The Court refers to the principles established in its case-law regarding inadequate conditions of detention (see, for instance, *Muršić v. Croatia* [GC], no. 7334/13, §§ 96-101, ECHR 2016). It reiterates in particular that a serious lack of space in a prison cell weighs heavily as a factor to be taken into account for the purpose of establishing whether the detention conditions described are “degrading” from the point of view of Article 3 and may disclose a violation, both alone or taken together with other shortcomings (see *Muršić*, cited above, §§ 122 -141, and *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, §§ 149-159, 10 January 2012).

8. In the pilot case of *Rezmiveş and Others v. Romania*, nos. 61467/12 and 3 others, 25 April 2017, the Court already found a violation in respect of issues similar to those in the present case.

9. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that in the instant case the applicants’ conditions of detention were inadequate.

10. These complaints are therefore admissible and disclose a breach of Article 3 of the Convention.

III. REMAINING COMPLAINTS

11. The applicants in applications nos. 78594/14, 49885/15, 52028/15, 52162/15, 52225/15, 52388/15, 56194/15, 4225/16, 4416/16, 5599/16, 6769/16 also raised other complaints under Article 3 of the Convention.

12. The Court has examined the applications listed in the appended table and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

It follows that this part of the applications must be rejected in accordance with Article 35 § 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

13. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

14. In application no. 70116/13 the applicant claimed 20,000 EUR for non-pecuniary damage. Regard being had to the documents in its possession and to its case-law (see, in particular, *Rezmiveş and Others*, cited above), the Court considers it reasonable to award the sums indicated in the appended table and to dismiss the remainder of the applicant’s claim for just satisfaction in application no. 70116/13.

15. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the complaints concerning the inadequate conditions of detention, as set out in the appended table, admissible, and the remainder of the applications nos. 78594/14, 49885/15, 52028/15, 52162/15, 52225/15, 52388/15, 56194/15, 4225/16, 4416/16, 5599/16, 6769/16 inadmissible;
3. *Holds* that these complaints disclose a breach of Article 3 of the Convention concerning the inadequate conditions of detention;
4. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

5. *Dismisses* the remainder of the applicant's claim for just satisfaction in application no. 70116/13.

Done in English, and notified in writing on 8 February 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt
Acting Deputy Registrar

Vincent A. De Gaetano
President

APPENDIX

List of applications raising complaints under Article 3 of the Convention
(inadequate conditions of detention)

No.	Application no. Date of introduction	Applicant name Date of birth	Representative name and location	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Amount awarded for non-pecuniary damage per applicant (in euros) ¹
1.	70116/13 09/10/2013	Mannix-Mihai Racoltea 30/09/1972		Codlea Penitentiary 16/08/2012 to 02/08/2013 11 month(s) and 18 day(s)	1.7 m ²	overcrowding, lack of a proper place for serving food - there was a table for 4 people, not enough space for all 15	5,000
2.	77833/14 20/03/2015			Rahova Penitentiary 02/08/2013 to 02/10/2013 2 month(s) and 1 day(s)	2 m ²	overcrowding, lack of a proper place for serving food, lack of ventilation	
				Codlea Penitentiary 02/10/2013 to 11/10/2013 10 day(s)	1.7 m ²	overcrowding, lack of a proper place for serving food - there was a table for 4 people, not enough space for all 15	
				Rahova Penitentiary 11/10/2013 to 20/01/2014 3 month(s) and 10 day(s) Miercurea Ciuc Penitentiary 20/01/2014 to 14/12/2015 1 year(s) and 10 month(s) and 25 day(s)	2 m ²	overcrowding, lack of a proper place for serving food, lack of ventilation overcrowding, insufficient places to serve meals, insufficient sanitary facilities, lack of privacy for toilet, no or restricted access to warm water, no or restricted access to shower, lack of an adequate place to store goods	

¹ Plus any tax that may be chargeable to the applicants.

No.	Application no. Date of introduction	Applicant name Date of birth	Representative name and location	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Amount awarded for non-pecuniary damage per applicant (in euros) ¹
				Codlea Penitentiary 14/12/2015 pending More than 1 year(s) and 10 month(s) and 17 day(s)	1.4-6 m ²	insufficient places to serve meals, lack of an adequate place to store goods, no or restricted access to toilet, no or restricted access to warm water, lack of or insufficient natural light	
3.	78594/14 16/02/2015	Costel-Lucian Stoica 17/06/1979		Rahova Penitentiary 21/05/2004 to 21/01/2009 4 year(s) and 8 month(s) and 1 day(s) Giurgiu Penitentiary 21/01/2009 to 01/09/2014 5 year(s) and 7 month(s) and 12 day(s)	1.9 - 2.4 m ² 2.6 m ²	overcrowding Overcrowding (save for the period 20/06/2012 - 01/09/2014), infestation of cell with insects/rodents, poor quality of food, lack of or inadequate hygienic facilities	5,000
4.	41101/15 28/10/2015	Bogdan-Eugen Nițoi 16/05/1978		Mărgineni, Rahova, Jilava, Ploiești, Găești Penitentiaries 09/08/2010 pending More than 7 year(s) and 3 month(s) and 7 day(s)	1.1 - 2.7 m ²	overcrowding, lack of or inadequate hygienic facilities, no or restricted access to running water, no or restricted access to shower, mouldy or dirty cell, infestation of cell with insects/rodents, no or restricted access to warm water, lack of fresh air, lack or inadequate furniture, lack of or insufficient physical exercise in fresh air, poor quality of food, lack of an adequate isolation of the cell (infiltration of rain in the cell)	5,000
5.	49885/15 28/09/2015	Marian Lupașcu 26/05/1985		Iași, Miercurea Ciuc, Vaslui Penitentiaries 01/10/2013 pending More than 4 year(s) and	1,2 - 2,4 m ²	overcrowding, lack of or inadequate hygienic facilities, mouldy or dirty cell, infestation of cell with insects/rodents, poor quality of food, lack of or insufficient natural light, lack of fresh air, lack of or	3,000

No.	Application no. Date of introduction	Applicant name Date of birth	Representative name and location	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Amount awarded for non-pecuniary damage per applicant (in euros) ¹
				1 month(s) and 16 day(s)		insufficient physical exercise in fresh air, lack or inadequate furniture, lack of or restricted access to leisure or educational activities	
6.	52028/15 28/12/2015	Gheorghe Prusel 04/11/1977	Peter Irina Maria Bucharest	Bucharest Central Police Arrest, Mărgineni, Rahova, Giurgiu, Aiud, Gherla, Jilava Penitentiaries 08/06/2004 pending More than 13 year(s) and 5 month(s) and 10 day(s)	1,3 - 2,6 m ²	Overcrowding (save for the period of 07/02/2013 - 06/03/2014), insufficient number of sleeping places, lack or inadequate furniture, lack of or inadequate hygienic facilities, lack of or insufficient natural light, inadequate temperature, mouldy or dirty cell, infestation of cell with insects/rodents, poor quality of food	5,000
7.	52162/15 30/11/2015	Mihai-Marin Apreotesei 19/09/1969		Bacău Police Inspectorate, Bacău, Iași, Rahova, Focșani, Vaslui Penitentiaries 12/10/2011 pending More than 6 year(s) and 1 month(s) and 5 day(s)	1,2 - 2,4 m ²	overcrowding, lack or inadequate furniture, lack of or inadequate hygienic facilities, infestation of cell with insects/rodents, lack of or insufficient natural light, inadequate temperature, mouldy or dirty cell, poor quality of food	5,000
8.	52225/15 24/11/2015	Homer-Cornel Dumitru 27/09/1982		Mărgineni, Ploiești Penitentiaries 14/07/2010 pending More than 7 year(s) and 4 month(s) and 3 day(s)	1,4 - 2,6 m ²	Overcrowding (save for the period of 30/11/2011 – 20/04/2015), insufficient number of sleeping places, lack or inadequate furniture, infestation of cell with insects/rodents, lack of or inadequate hygienic facilities, mouldy or dirty cell	5,000
9.	52388/15 09/11/2015	Vasile Neagu 03/01/1981		Miercurea-Ciuc Penitentiary 21/09/2015 pending More than 2 year(s) and 1 month(s) and 21 day(s)	1.5 - 2.7 m ²	overcrowding, lack of or insufficient natural light, lack of fresh air, lack of or inadequate hygienic facilities, lack or inadequate furniture	3,000

No.	Application no. Date of introduction	Applicant name Date of birth	Representative name and location	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Amount awarded for non-pecuniary damage per applicant (in euros) ¹
10.	56194/15 27/11/2015	Ion Iordache 20/07/1950		Craiova Penitentiary 24/03/2014 to 16/08/2016 2 year(s) and 4 month(s) and 24 day(s)		overcrowding, infestation of cell with insects/rodents, lack of or inadequate hygienic facilities, lack or inadequate furniture	3,000
11.	59433/15 19/11/2015	Gabriel-Darie Aculov 29/06/1973		Codlea, Mărgineni, Miercurea-Ciuc Penitentiaries 27/05/2013 pending More than 4 year(s) and 5 month(s) and 22 day(s)	1.6 - 1.9 m ²	overcrowding, lack of fresh air, inadequate temperature, poor quality of food, infestation of cell with insects/rodents	3,000
12.	1281/16 26/02/2016	Cristinel Nergeș 08/06/1972		Bistrița-Năsăud, Gherla, Miercurea-Ciuc Penitentiaries 04/05/2006 pending More than 11 year(s) and 6 month(s) and 17 day(s)	1,2 - 2,5 m ²	overcrowding, lack of fresh air, poor quality of food, infestation of cell with insects/rodents, lack of or insufficient physical exercise in fresh air, lack of or inadequate hygienic facilities, mouldy or dirty cell, lack or inadequate furniture	5,000
13.	1742/16 24/02/2016	Costel Dinescu 21/07/1976		Craiova Penitentiary 06/02/2014 to 28/04/2016 2 year(s) and 2 month(s) and 23 day(s)	1.2 m ²	overcrowding, lack of fresh air, poor quality of food, infestation of cell with insects/rodents, lack of or inadequate hygienic facilities	3,000
14.	4225/16 25/02/2016	Inspector Cîrpaci 02/07/1971		Dolj Police Inspectorate, Craiova, Pelendava Penitentiaries 28/03/2014 to 24/10/2017 3 year(s) and 6 month(s) and 27 day(s)	1.1 - 2.9 m ²	overcrowding, infestation of cell with insects/rodents, lack of or inadequate hygienic facilities, mouldy or dirty cell	3,000

No.	Application no. Date of introduction	Applicant name Date of birth	Representative name and location	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Amount awarded for non-pecuniary damage per applicant (in euros) ¹
15.	4416/16 29/02/2016	Gabriel Zaharia 26/10/1978	Peter Irina Maria Bucharest	Bucharest Central Police Arrest, Rahova, Giurgiu, Jilava Penitentiaries, Jilava Penitentiary Hospital 14/05/2009 – 31/10/2017 8 year(s) and 5 month(s) and 18 day(s)	1.7 - 2.8 m ²	Overcrowding (save for the periods of 20/04/2012 - 27/02/2014, 06/03/2014 - 10/07/2015), lack of privacy for toilet, lack of or insufficient physical exercise in fresh air, lack of or inadequate hygienic facilities, mouldy or dirty cell, poor quality of food, infestation of cell with insects/rodents	5,000
16.	5599/16 29/02/2016	Silviu-Mugurel Dicea 27/10/1989	Peter Irina Maria Bucharest	Rahova, Giurgiu, Jilava, Tulcea Penitentiaries 24/11/2009 pending More than 7 year(s) and 11 month(s) and 25 day(s)	1.4 - 2.9 m ²	Overcrowding (save for the period of 19/02/2012 – 16/02/2015), poor quality of food, infestation of cell with insects/rodents, lack of or inadequate hygienic facilities, lack of fresh air, inadequate temperature, mouldy or dirty cell	5,000
17.	6674/16 29/02/2016	George Dima 04/01/1980	Peter Irina Maria Bucharest	Bucharest Central Police Arrest, Bucharest 9th Police Section, Rahova, Jilava Penitentiaries 19/02/2015 to 07/06/2016 1 year(s) and 3 month(s) and 20 day(s)	1.8 - 2.7 m ²	overcrowding, poor quality of food, insufficient number of sleeping places, infestation of cell with insects/rodents, lack of or inadequate hygienic facilities, lack of fresh air, inadequate temperature, mouldy or dirty cell	3,000
18.	6769/16 26/02/2016	Bogdan Gheorghe Șalapa 24/01/1988		Gorj Police Inspectorate, Craiova Penitentiary 01/09/2015 to 14/10/2016 1 year(s) and 1 month(s) and 14 day(s)	1.2 - 1.9 m ²	Overcrowding (save for Gorj Police Inspectorate), lack of or insufficient natural light, lack of or insufficient physical exercise in fresh air, lack of or inadequate hygienic facilities, lack or inadequate furniture	3,000