



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

FOURTH SECTION

CASE OF ANDRONACHE AND OTHERS v. ROMANIA

(Application no. 3567/16 and 16 others - see appended list)

JUDGMENT

STRASBOURG

20 September 2018

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

In the case of Andronache 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 30 August 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.

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. In application no. 32363/16 the Government raised a preliminary objection of non-compliance with the admissibility criteria established by Article 35 § 2 (b) of the Convention, claiming that the applicant’s complaint regarding his initial detention period refers to the same subject-matter as in his previous application no. 71196/13.

8. The Court notes that the applicant in application no. 32363/16 has previously lodged an application with the Court (no. 71196/13) in which he complained about the poor conditions of his detention in Galați Prison. This application was struck out of the list by the Court on 17 March 2016 as the Court found that, since the applicant had failed to reply to the Court’s letters following communication of the application to the Government, he could be regarded as no longer wishing to pursue his application. Noting that the applicant’s present application includes the period of detention, from 11 March 2013 to 17 March 2016, already examined in his previous application, the Court accepts the Government’s objection and finds that this part of the application no. 32363/16 is essentially the same as a matter that has already been examined by the Court and must be rejected in accordance with Article 35 § 2 (b) of the Convention

9. In applications nos. 7915/16, 16210/16 and 19702/16 the Government raised a preliminary objection of non-compliance with the six-month time-limit, claiming that the applicants’ complaints regarding their initial detention period were lodged out of time.

10. The Court observes that in application no. 7915/16 the applicant’s complaint regarding his initial detention in Aiud Prison, which ceased on 30 January 2015 by his transfer to another prison facility in respect of which he did not raise any complaint, was lodged with the Court on 5 May 2016, that is, more than six months after the transfer.

11. The Court further observes that in application no. 16210/16 the applicant’s complaint regarding his initial detention in Brașov County Police Arrest, Codlea, Jilava and Miercurea Ciuc Prisons, which ceased on 30 September 2014 by his transfer to another prison facility in respect of which he did not raise any complaint, was lodged with the Court on 18 April 2016, that is, more than six months after the transfer.

12. The Court further notes that in application no. 19702/16 the applicant’s complaint regarding his initial detention in Codlea Prison, which ceased on 11 April 2008 by his release, was lodged with the Court on 23 May 2016, that is, more than six months after the release.

13. Therefore, the Court accepts the Government’s objection and finds that these parts of the applications nos. 7915/16, 16210/16 and 19702/16 were lodged outside the six-month time-limit and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

14. 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).

15. In the leading 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.

16. Having examined all the material submitted to it, as well as the Government's objection concerning the continuous situation of the applicant's conditions of detention in some of the cases, 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.

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

III. REMAINING COMPLAINTS

18. In application no. 4201/16, the applicant also raised another complaint under Article 3 of the Convention, concerning overcrowding in Bacău County Police Arrest.

19. The Court notes that it appears from the case-file that the applicant was never detained in this facility. It follows that this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

20. 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.”

21. Regard being had to the documents in its possession and to its case-law (see, in particular, *Rezmiveş and Others v. Romania*, nos. 61467/12 and 3 others, 25 April 2017), the Court considers it reasonable to award the sums indicated in the appended table.

22. 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. 4201/16, 7915/16, 16210/16, 19702/16 and 32363/16 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.

Done in English, and notified in writing on 20 September 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's name Date of birth	Representative's name and location	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) ¹
1.	3567/16 04/05/2016	Marius-Cosmin Andronache 14/09/1987		Codlea Prison 03/11/2015 to 26/04/2016 5 months and 24 days	1.4 m ²	overcrowding, bunk beds, no or restricted access to toilet, no or restricted access to shower	1,000
2.	4201/16 09/03/2016	Mircea Frunză 07/06/1972		Vaslui and Iași Prisons 07/08/2015 to 04/04/2017 1 year and 7 months and 29 days	1.5-2.6 m ²	overcrowding (save for the periods of 25/09/2015-19/11/2015, 21/11/2015-04/12/2015, 22/12/2015-07/03/2016, 04/04/2016-04/04/2017), lack of an individual bed (save for the periods of 07/08/2015-26/08/2015, 25/09/2015-19/11/2015, 21/11/2015-07/03/2016, 04/04/2016-04/04/2017, and save for Iași Prison), lack of or inadequate hygienic facilities, lack or inadequate furniture, poor quality of food	3,000
3.	7915/16 05/05/2016	Péter-Pál Pete 18/04/1973		Aiud Prison 05/05/2015 to 04/05/2018 3 years	2.3-2.9 m ²	overcrowding (save for the periods of 11/01/2016-02/02/2016, 05/05/2016, 05/12/2016, 30/09/2016-05/10/2016, 10/06/2016), poor quality of food, lack of or insufficient physical exercise in fresh air, no or restricted access to toilet, no or restricted access to potable water, no or restricted access to shower, infestation of cell with insects/rodents, lack of or inadequate	3,000

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

No.	Application no. Date of introduction	Applicant's name Date of birth	Representative's name and location	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) ¹
						hygienic facilities, lack or inadequate furniture, inadequate temperature, lack of or insufficient natural light, lack of fresh air, lack of or poor quality of bedding and bed linen, no or restricted access to warm water	
4.	16210/16 18/04/2016	Claudiu Coşcodar 25/11/1978		Miercurea Ciuc Prison 05/03/2015 Pending More than 3 years and 3 months and 23 days	1.5-2.7 m ²	overcrowding, bunk beds, lack of or inadequate hygienic facilities, poor quality of food, infestation of cell with insects/rodents, lack of fresh air	3,000
5.	17019/16 18/04/2016	Constantin Purcaru 01/04/1986		Craiova Prison 17/06/2010 pending More than 8 years and 5 days	1.1-2.2 m ²	overcrowding (save for the period of 28/04/2014-19/05/2014), infestation of cell with insects/rodents	5,000
6.	17039/16 18/04/2016	Mihai Radu Ion 28/05/1977		Craiova Prison 29/10/2014 to 31/10/2016 2 years and 3 days	1.1-1.7 m ²	overcrowding, lack of or inadequate hygienic facilities, infestation of cell with insects/rodents, poor quality of food	3,000
7.	17096/16 04/05/2016	Hans-Benungio Gereben 11/10/1984		Satu Mare County Police Arrest, Satu Mare, Oradea, Arad and Gherla Prisons 09/02/2007 pending More than 11 years and 4 months and 11 days	2-2.8 m ²	overcrowding (save for the period of 09/02/2007-05/07/2007), lack of fresh air, no or restricted access to toilet, no or restricted access to potable water, lack of or insufficient physical exercise in fresh air, lack or inadequate furniture, poor quality of food, no or restricted access to shower, infestation of cell with insects/rodents	5,000

No.	Application no. Date of introduction	Applicant's name Date of birth	Representative's name and location	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) ¹
8.	19088/16 09/05/2016	Neculai Iftime 02/12/1969		Iași Police Arrest, Iași Prison 16/09/2014 pending More than 3 years and 9 months and 4 days	1.3-2.3 m ²	overcrowding, no or restricted access to toilet, no or restricted access to running water, lack of or inadequate hygienic facilities, lack of fresh air, lack of or insufficient natural light, no or restricted access to shower, lack of or insufficient physical exercise in fresh air, lack or inadequate furniture, infestation of cell with insects/rodents, mouldy or dirty cell, bunk beds	3,000
9.	19201/16 17/05/2016	Costel Simioneasa 30/03/1987		Poarta Albă, Rahova, Slobozia and Tulcea Prisons 06/12/2010 to 02/03/2017 6 years and 2 months and 25 days	1.7-2.9 m ²	overcrowding (save for the periods of 06/12/2010-14/12/2010, 17/12/2010-28/12/2010, 05/06/2011-08/06/2011, 27/02/2012-05/03/2012, 04/04/2012-09/04/2012, 20/04/2012-02/05/2012, 16/05/2012-23/05/2012, 11/06/2012-13/06/2012, 18/06/2012-20/06/2012, 21/07/2012-25/07/2012, 24/09/2012-08/10/2012, 22/02/2013-01/03/2013, 04/03/2013-09/03/2013, 31/03/2013-01/04/2013, 14/08/2013-22/08/2013, 24/10/2013-28/10/2013, 16/12/2013-19/12/2013, 16/06/2014-23/06/2014, 18/05/2015-25/05/2015, 07/04/2016-21/04/2016, 16/08/2016-22/08/2016), insufficient number of sleeping places, mouldy or	5,000

No.	Application no. Date of introduction	Applicant's name Date of birth	Representative's name and location	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) ¹
						dirty cell, lack of or insufficient natural light, lack of fresh air, lack of or poor quality of bedding and bed linen, infestation of cell with insects/rodents, poor quality of food, no or restricted access to shower, no or restricted access to warm water, inadequate temperature	
10.	19702/16 23/05/2016	Nicolae Gândac 07/09/1987		Codlea, Mărgineni and Miercurea Ciuc Prisons 12/01/2010 pending More than 8 years and 5 months and 9 days	1.4-2.1 m ²	overcrowding, insufficient number of sleeping places, bunk beds, lack of or inadequate hygienic facilities, no or restricted access to toilet, no or restricted access to warm water, lack of or insufficient natural light, constant electric light, no or restricted access to shower, lack of or poor quality of bedding and bed linen, infestation of cell with insects/rodents, poor quality of food, no or restricted access to potable water	5,000
11.	20365/16 10/05/2016	Vasile Cornea 12/11/1982		Pitești Police Arrest, Colibași and Craiova Prisons 23/03/2004 pending More than 14 years and 2 months and 30 days	0.8-2.8 m ²	overcrowding (save for the periods of 08/07/2011-18/07/2011, 19/09/2011-27/10/2011, 04/06/2014-05/06/2014), mouldy or dirty cell, lack of or inadequate hygienic facilities, lack or inadequate furniture	5,000
12.	21721/16 09/05/2016	Constantin Romanescu 24/08/1982		Călărași County Police Arrest, Slobozia, Rahova, Giurgiu and Poarta Albă Prisons 21/07/2010 pending More than 7 years and 11 months	1.6-2.8 m ²	overcrowding (save for Călărași County Police Arrest), poor quality of food, no or restricted access to toilet, no or restricted access to shower, lack of or insufficient electric light, infestation of cell with insects/rodents, lack or inadequate furniture, lack of or poor quality of bedding and bed linen, lack of or insufficient natural light, lack of fresh air, lack of or insufficient physical	5,000

No.	Application no. Date of introduction	Applicant's name Date of birth	Representative's name and location	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) ¹
						exercise in fresh air, no or restricted access to warm water, mouldy or dirty cell	
13.	22561/16 23/05/2016	Marius Cosmin Ursaru 23/05/1991		Miercurea Ciuc Prison 30/01/2014 to 25/10/2016 2 years and 8 months and 26 days	1.5-2.3 m ²	overcrowding (save for the period of 31/03/2016-01/04/2016), bunk beds, lack of or inadequate hygienic facilities, lack or inadequate furniture, infestation of cell with insects/rodents	3,000
14.	26097/16 13/06/2016	Adrian-Puiu Tripon 01/06/1991		Baia Mare Prison 24/03/2016 to 08/08/2016 4 months and 16 days	1.9-2.2 m ²	overcrowding, lack of fresh air, lack of or insufficient natural light, lack or inadequate furniture, lack or insufficient quantity of food	1,000
15.	26764/16 04/05/2016	Cosmina Dana Shelton 13/02/1967	Nicolae-Florin Neagu Bucharest	Târgșor Prison 05/03/2015 pending More than 3 years and 3 months and 16 days	1.9-2.4 m ²	overcrowding, no or restricted access to toilet, lack of or inadequate hygienic facilities, lack or inadequate furniture, bunk beds, lack of or poor quality of bedding and bed linen, infestation of cell with insects/rodents, lack of or insufficient natural light, lack of or insufficient electric light, lack of fresh air, mouldy or dirty cell, no or restricted access to shower, no or restricted access to warm water, lack of or insufficient physical exercise in fresh air, poor quality of food	3,000
16.	29084/16 16/06/2016	Lucian Crăciun 16/08/1978		Jilava, Mărgineni and Ploiești Prisons 21/08/2006 to 26/12/2017 11 years and 4 months and 6 days	1.5-2.2 m ²	overcrowding (save for the period of 18/12/2012-26/03/2014), insufficient number of sleeping places (save for Jilava Prison), lack of or inadequate hygienic facilities, lack or inadequate furniture, no or restricted access to potable water, infestation of cell with insects/rodents, poor quality of food	5,000

No.	Application no. Date of introduction	Applicant's name Date of birth	Representative's name and location	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros) ¹
17.	32363/16 01/07/2016	George Grădinaru 24/09/1985		Galați Prison 17/03/2016 pending More than 2 years and 3 months and 18 days	1.2-2.2 m ²	overcrowding, bunk beds, lack of fresh air, lack of or insufficient natural light, lack or inadequate furniture, infestation of cell with insects/rodents, poor quality of food	3,000