



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

FOURTH SECTION

**CASE OF BANU AND OTHERS v. ROMANIA**

*(Applications nos. 1262/16 and 10 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 Banu 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 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 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.

9. Having examined all the material submitted to it, as well as the Government’s objection concerning the continuous situation of the applicants’ condition 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.

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

### III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

11. 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.”

12. 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.

13. 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 applications admissible;
3. *Holds* that these applications 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) <sup>1</sup>
1.	1262/16 18/12/2015	<b>Dragoş Cosmin Banu</b> 16/03/1984		Bucharest 15 <sup>th</sup> Police Section and Penitentiaries of Rahova, Mărgineni, Oradea and Aiud 23/04/2014 to 14/07/2016 2 year(s) and 2 month(s) and 22 day(s)	1.37-2.88 m <sup>2</sup>	Overcrowding (save for the periods from 23/04/2014 to 27/05/2014, 29/08/2014 to 15/09/2014 and 09/12/2014 to 14/07/2016), no or restricted access to potable water, lack of or insufficient natural light, lack of or insufficient electric light, lack of fresh air, inadequate temperature, mouldy or dirty cell, lack or inadequate furniture, poor quality of food, infestation of cell with insects/rodents, lack of or insufficient physical exercise in fresh air.	3,000
2.	1415/16 08/03/2016	<b>Cristian Duţu</b> 11/06/1983		Bucharest Central Arrest Facilities, Bucharest 8 <sup>th</sup> Police Section, Jilava Penitentiary Hospital and Penitentiaries of Jilava, Rahova, Giurgiu, Mărgineni, Bacău, Iaşi, Slobozia, Timișoara and Găeşti 29/10/2002 to 12/07/2016 13 year(s) and 8 month(s) and 14 day(s)	1.19-2.76 m <sup>2</sup>	Overcrowding (save for the periods from 28/02/2007 to 02/03/2007, 27/07/2010 to 02/08/2010, 18/02/2012 to 10/07/2012 and 14/10/2015 to 12/07/2016), lack of or insufficient natural light, lack of or insufficient electric light, mouldy or dirty cell, inadequate temperature, infestation of cell with insects/rodents, no or restricted access to toilet, poor quality of food, no or restricted access to shower, lack of or inadequate hygienic facilities, lack of fresh air, no or restricted access to potable water, insufficient number of sleeping places, lack of or insufficient physical exercise in fresh air.	5,000

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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) <sup>1</sup>
3.	5545/16 15/04/2016	<b>Ion Ilie</b> 20/09/1974		Bacău Police Inspectorate, Jilava Penitentiary Hospital and Penitentiaries of Bacău, Jilava, Rahova, Giurgiu and Colibași 06/02/2008 to 03/05/2017 9 year(s) and 2 month(s) and 28 day(s)	1.06-2.80 m <sup>2</sup>	Overcrowding (save for the periods from 24/06/2009 to 02/07/2009, 17/02/2012 to 24/02/2012, 05/04/2012 to 08/04/2013, 01/10/2015 to 11/10/2015 and 20/10/2016 to 12/12/2016), no or restricted access to toilet, 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, inadequate temperature, lack of or insufficient physical exercise in fresh air.	5,000
4.	9617/16 05/04/2016	<b>Dumitru Ungureanu</b> 08/07/1984		Botoșani Police Inspectorate 08/05/2005 to 02/06/2005 and 07/07/2005 to 04/08/2005 1 month(s) and 25 day(s)  Jilava Penitentiary Hospital and Penitentiaries of Botoșani, Jilava, Iași and Tulcea 02/06/2005 to 07/07/2005 and 09/08/2005 pending More than 12 year(s) and 11 month(s) and 4 day(s)	1.5 m <sup>2</sup>          1.28-2.91 m <sup>2</sup>	Overcrowding, lack of or inadequate hygienic facilities, lack of or insufficient natural light, lack or inadequate furniture, lack of or insufficient physical exercise in fresh air, no or restricted access to toilet;  Overcrowding (save for the periods from 16/04/2014 to 18/04/2014, 20/01/2016 to 29/01/2016 and 15/04/2016 to 26/04/2016), bunk beds, infestation of cell with insects/rodents, mouldy or dirty cell, lack of or insufficient natural light, no or restricted access to toilet, lack of storing facilities, poor quality of food, lack of or poor quality of bedding and bed linen, lack of or inadequate hygienic facilities, lack of or insufficient physical exercise in fresh air.	5,000
5.	10344/16 11/05/2016	<b>Dumitru-Robertino Boacă</b> 10/09/1975		Rahova Penitentiary 06/01/2009 to 07/08/2017	1.63-2.79 m <sup>2</sup>	Overcrowding (save for the periods from 21/11/2012 to 05/03/2013, 13/08/2013 to 21/11/2013 and 16/01/2017 to 07/08/2017), mouldy or dirty cell, inadequate temperature, lack of or poor quality of bedding and bed	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) <sup>1</sup>
				8 year(s) and 7 month(s) and 2 day(s)		linen, lack or inadequate furniture, infestation of cell with insects/rodents, lack of or inadequate hygienic facilities, no or restricted access to toilet, no or restricted access to potable water, no or restricted access to warm water, no or restricted access to shower, poor quality of food.	
6.	11194/16 05/04/2016	<b>Bogdan Fulger</b> 04/05/1972	Ana Fulger Bucharest	Rahova Penitentiary 07/12/2015 pending More than 2 year(s) and 6 month(s) and 1 day(s)	1.93- 2.45 m <sup>2</sup>	Overcrowding, poor quality of food, lack of or poor quality of bedding and bed linen, mouldy or dirty cell, infestation of cell with insects/rodents, lack of or inadequate hygienic facilities.	3,000
7.	13019/16 28/03/2016	<b>Costel-Valentin Minzu</b> 26/11/1985		Penitentiaries of Jilava, Giurgiu, Colibași, Mărgineni and Gherla 11/06/2008 to 23/06/2017 9 year(s) and 13 day(s)	1.26- 2.83 m <sup>2</sup>	Overcrowding (save for the periods from 04/11/2008 to 23/12/2008, 19/02/2012 to 21/06/2012, 05/08/2013 to 22/08/2013, 13/08/2015 to 01/10/2015, 13/01/2016, 01/02/2016 to 18/02/2016, 13/06/2016 to 13/09/2016 and 19/09/2016 to 23/06/2017), lack of or inadequate hygienic facilities, no or restricted access to toilet, lack of or poor quality of bedding and bed linen, infestation of cell with insects/rodents, no or restricted access to shower, poor quality of food, lack of or insufficient natural light, lack of fresh air, no or restricted access to warm water, bunk beds, lack or inadequate furniture, lack of or insufficient physical exercise in fresh air.	5,000
8.	15238/16 11/04/2016	<b>Petre Butoi</b> 15/06/1972		Mărgineni Penitentiary 19/07/2011 to 31/10/2013 2 year(s) and 3 month(s) and 13 day(s)	1.46- 1.65 m <sup>2</sup>	Overcrowding, poor quality of food, lack of or inadequate hygienic facilities, no or restricted access to running water, no or restricted access to shower, no or restricted access to warm water, lack of dining and storing facilities, lack of or poor quality of bedding and bed linen.	3,000



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) <sup>1</sup>
				Miercurea Ciuc Penitentiary 31/10/2013 to 03/11/2015 2 year(s) and 4 day(s)	1.47- 1.80 m <sup>2</sup>	Overcrowding, poor quality of food, lack of fresh air, lack of or insufficient natural light, no or restricted access to shower, lack of dining and storing facilities, lack of or insufficient physical exercise in fresh air.	
9.	17434/16 05/08/2016	<b>Florin-Laurențiu Odică</b> 24/07/1977	Irina Maria Peter Bucharest	Penitentiaries of Poarta Albă and Slobozia 30/12/2014 pending More than 3 year(s) and 5 month(s) and 7 day(s)	1.42- 2.40 m <sup>2</sup>	Overcrowding (save for the periods from 30/12/2014 to 15/07/2015, 07/08/2015 to 05/10/2015, 04/02/2016 to 11/02/2016, 01/04/2016 to 04/04/2016, 11/08/2016 to 12/08/2016 and 09/01/2017 to 11/01/2017), bunk beds, no or restricted access to warm water, infestation of cell with insects/rodents, lack of storing facilities, lack of or poor quality of bedding and bed linen, poor quality of food, lack of or inadequate hygienic facilities, lack of or insufficient physical exercise in fresh air.	3,000
10.	17860/16 12/10/2016	<b>Iulian Costea</b> 08/04/1975		Galați Penitentiary 11/03/2013 pending More than 5 year(s) and 2 month(s) and 26 day(s)	1.20- 2.25 m <sup>2</sup>	Overcrowding (save for the periods from 03/11/2014 to 07/11/2014 and 18/05/2016 to 10/01/2017), bunk beds, lack of or inadequate hygienic facilities, lack of storing facilities, lack of or insufficient natural light, inadequate temperature, lack of or poor quality of bedding and bed linen, lack of or insufficient physical exercise in fresh air.	5,000
11.	18011/16 09/08/2016	<b>Ioan-Vasile Pascu</b> 02/10/1980		Cluj Police Inspectorate, Colibași and Dej Penitentiary Hospitals and Penitentiaries of Gherla and Baia Mare 04/09/2000 pending More than 17 year(s) and 9 month(s) and 1 day(s)	1.63- 2.81 m <sup>2</sup>	Overcrowding (save for the periods from 22/05/2007 to 10/11/2008, 23/09/2011 to 14/11/2012 and 27/08/2014 to 03/09/2014), infestation of cell with insects/rodents, lack of or poor quality of bedding and bed linen, poor quality of food, lack of storing facilities, lack of fresh air, lack or inadequate furniture, lack of or insufficient natural light, lack of or inadequate hygienic facilities, bunk beds, inadequate temperature.	5,000