



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

FOURTH SECTION

CASE OF LUNGU AND OTHERS v. ROMANIA

*(Application no. 41744/15 and 9 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 Lungu 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. In applications nos. 5470/16 and 12412/16, the 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. In applications nos. 7290/16, 17935/16 and 26006/16, the Government raise 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.

8. The Court observes that in application no. 7290/16 the applicant's complaint regarding his initial detention in Mărgineni Prison, which ceased on 7 June 2011 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.

9. The Court further observes that in application no. 17935/16 the applicant's complaint regarding his initial detention period in Iași Prison, which ceased on 7 February 2013 by his transfer to other prison facilities in respect of which he did not raise any complaint, was lodged with the Court on 19 April 2016, that is, more than six months after the transfer.

10. Lastly, the Court notes that in application no. 26006/16 the applicant's complaint regarding his initial detention period in Galați Prison, which ceased on 4 September 2015 by his transfer to another prison facility in respect of which he did not raise any complaint, was lodged with the Court on 9 June 2016, that is, more than six months after the transfer.

11. Therefore, the Court accepts the Government's objection and finds that these parts of the applications nos. 7290/16, 17935/16 and 26006/16 were lodged outside the six-month time-limit and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

12. 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).

13. In the leading case of *Rezmiveș 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.

14. Having examined all the material submitted to it, as well as the Government's objections concerning the continuous situation of the applicants' 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.

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

III. REMAINING COMPLAINTS

16. In applications nos. 5470/16 and 12412/16, the applicants also raised other complaints under various Articles of the Convention.

17. The Court has examined the above applications 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

18. 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.”

19. 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.

20. 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. 5470/16, 7290/16, 12412/16, 17935/16 and 26006/16 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 applicants' claims for just satisfaction.

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.	41744/15 19/10/2015	George Lungu 23/08/1973	Irina Maria Peter Bucharest	Bucharest Police Section no. 2, Jilava, Rahova, Giurgiu, Colibași Prisons 26/09/2008 to 02/08/2016 7 years and 10 months and 8 days	1.2-2.7 m ²	overcrowding (save for the periods of 24/11/2010-26/04/2012, 11/06/2012-27/06/2012), no or restricted access to warm water, lack or inadequate furniture, poor quality of food, poor quality of potable water, infestation of cell with insects/rodents, lack of or poor quality of bedding and bed linen, lack of or inadequate hygienic facilities	5,000
2.	2060/16 11/02/2016	Marian Vlad 14/02/1981	Irina Maria Peter Bucharest	Teleorman Police Arrest, Giurgiu and Jilava Prisons 10/07/2010 pending More than 7 years and 10 months and 28 days	2 m ²	overcrowding (save for Jilava Prison), no or restricted access to shower, lack of or poor quality of bedding and bed linen, poor quality of food, lack of or insufficient physical exercise in fresh air, infestation of cell with insects/rodents, inadequate temperature	5,000
3.	5470/16 10/02/2016	Cornel Caloian 14/03/1980		Focșani Police Arrest, Focșani Prison 11/07/2015 pending More than 2 years and 10 months and 27 days	1.4-2.3 m ²	overcrowding (save for the period of 30/07/2015-06/08/2015), lack of or inadequate furniture, no or restricted access to toilet, bunk beds, no or restricted access to shower, lack of or inadequate hygienic facilities	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
4.	7290/16 18/04/2016	George-Dorin Dumitru 15/06/1989	Maria Alexandra Mihalache Viforita	Mărgineni Prison 21/09/2011 pending More than 6 years and 8 months and 15 days	1.2-2.7 m ²	overcrowding (save for the period starting with 13/05/2016 and onward), lack of or inadequate hygienic facilities, no or restricted access to potable water, lack of fresh air, inadequate temperature, poor quality of food, no or restricted access to toilet, no or restricted access to shower, bunk beds, mouldy or dirty cell, lack of or insufficient natural light	5,000
5.	9074/16 15/04/2016	Iulian Puiu 02/04/1976	Irina Maria Peter Bucharest	Bacău County Police Arrest, Jilava Prison Hospital, Bacău, Iași, Rahova and Aiud Prisons 02/05/2010 to 29/11/2016 6 years and 6 months and 28 days	1-2.7 m ²	overcrowding (save for the periods of 02/05/2010-26/05/2010, 16/08/2011-26/08/2011, 23/09/2011-12/01/2012, 28/02/2012-24/07/2012, 14/11/2012-10/10/2013, 25/07/2014-29/07/2014, 24/11/2016-25/11/2016), lack of or inadequate hygienic facilities, 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, inadequate temperature, lack of or insufficient physical exercise in fresh air	5,000
6.	12412/16 15/04/2016	Alfons-Gabriel Arhire 23/07/1981		Bucharest 6th Police Section, Rahova Prison 16/04/2015 to 13/12/2016 1 year and 7 months and 28 days	2.4-2.8 m ²	overcrowding (save for the periods of 11/08/2015-01/09/2015, 12/01/2016-14/01/2016, 21/01/2016-27/06/2016, 06/07/2016-13/12/2016), lack of or inadequate hygienic facilities, no or restricted access to toilet, lack of or insufficient natural light, lack of fresh air, lack of privacy for toilet, lack of or inadequate furniture, lack of or insufficient electric light, mouldy or dirty cell, lack of or insufficient physical exercise in fresh air	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) ¹
7.	16890/16 13/04/2016	Ionel-Ucrain Bican 04/03/1974		Craiova Prison 20/10/2010 pending More than 7 years and 7 months and 16 days	1.2-2.2 m ²	overcrowding (save for the periods of 24/11/2015-07/04/2016, 18/05/2016-20/05/2016), lack of privacy for toilet, infestation of cell with insects/rodents, lack of or inadequate furniture, no or restricted access to toilet	5,000
8.	17935/16 19/04/2016	Vasile Balan 01/01/1987		Iași and Gherla Prisons 23/08/2013 to 21/06/2017 3 years and 9 months and 30 days	1.2-2.5 m ²	overcrowding (save for the period of 05/09/2015-08/09/2015 and on 08/10/2015), no or restricted access to shower, lack of or inadequate furniture, mouldy or dirty cell, infestation of cell with insects/rodents, lack of or insufficient natural light, lack of fresh air, lack of or inadequate hygienic facilities, lack of or insufficient physical exercise in fresh air	3,000
9.	26006/16 09/06/2016	Ionuț Zăușilă 02/10/1983		Galățu Prison 11/03/2016 to 27/10/2016 7 months and 17 days	1.8-2 m ²	overcrowding, lack of or inadequate hygienic facilities, mouldy or dirty cell, bunk beds, lack of or inadequate furniture, lack of or insufficient natural light, lack of fresh air, inadequate temperature, lack of or insufficient physical exercise in fresh air, poor quality of food	1,000
10.	30682/16 23/05/2016	Andrei-Mihai Toma 11/04/1986		Craiova Prison 04/01/2016 pending More than 2 years and 5 months and 3 days	2.1-2.2 m ²	overcrowding, lack of fresh air, lack of or insufficient natural light, lack of or insufficient electric light, no or restricted access to warm water, lack of or inadequate hygienic facilities, lack of toilettries	3,000