



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

FOURTH SECTION

CASE OF ȘTEFĂNESCU AND OTHERS v. ROMANIA

(Applications nos. 11408/16 and 11 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 Ștefănescu 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. In applications nos. 13684/16, 19026/16, 19942/16 and 19944/16, the Government raised a preliminary objection of non-compliance with the six-month time-limit rule, arguing that the applicants' complaint regarding their initial detention was lodged out of time.

8. The Court observes that in application no. 13684/16 the applicant's complaint regarding his initial detention from 22 December 2010 to 14 September 2012, which ceased on the latter date by his transfer to another detention facility in respect of which he did not raise any complaint, was lodged with the Court on 6 April 2016, that is, more than six months after the transfer.

9. The Court further observes that in application no. 19026/16 the applicant's complaint regarding his initial detention from 2 October 2007 to 22 November 2007, which ceased on the latter date by his transfer to another detention facility in respect of which he did not raise any complaint, was lodged with the Court on 13 August 2016, that is, more than six months after the transfer.

10. Furthermore, the Court notes that in application no. 19942/16 the applicant's complaint regarding his initial detention from 22 March 2012 to 13 February 2014, which ceased on the latter date by his transfer to another detention facility in respect of which he did not raise any complaint, was lodged with the Court on 23 June 2016, that is, more than six months after the transfer.

11. Lastly, the Court notes that in application no. 19944/16 the applicant's complaint regarding his initial detention from 4 July 2011 to 3 August 2012, which ceased on the latter date by his transfer to another detention facility in respect of which he did not raise any complaint, was lodged with the Court on 13 July 2016, that is, more than six months after the transfer.

12. Therefore, the Court accepts the Government's preliminary objection and finds that the above-mentioned parts of applications nos. 13684/16, 19026/16, 19942/16 and 19944/16 were lodged outside the six-month time-limit and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

13. 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).

14. 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.

15. 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.

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

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

17. 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.”

18. Regard being had to the documents in its possession and to its case-law (see, in particular, *Rezmiveș 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.

19. 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. 13684/16, 19026/16, 19942/16 and 19944/16 concerning the applicants' detention periods which ended on 14 September 2012, 22 November 2007, 13 February 2014 and 3 August 2012, respectively, 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.	11408/16 07/07/2016	Aurel-Dumitru Ștefănescu 15/03/1971	Irina Maria Peter Bucharest	Bucharest Central Arrest Facilities and Penitentiaries of Rahova, Jilava and Giurgiu 26/04/2010 pending More than 8 year(s) and 1 month(s) and 17 day(s)	1.8- 2.79 m ²	Overcrowding (save for the periods from 26/11/2010 to 17/01/2011, 22/03/2011 to 04/04/2011, 30/01/2013 to 20/08/2015, 23/12/2015 to 25/12/2015 and starting from 12/02/2016), lack of or inadequate hygienic facilities, infestation of cell with insects/rodents, lack of or poor quality of bedding and bed linen, poor quality of food, inadequate temperature.	5,000
2.	13684/16 06/04/2016	Constantin Davidov 29/05/1967	Irina Maria Peter Bucharest	Giurgiu Penitentiary Tulcea Penitentiary 14/01/2013 pending More than 5 year(s) and 5 month(s) and 6 day(s)	3.39- 10.17 m ² 1.81- 2.53 m ²	no or restricted access to shower, lack of or poor quality of bedding and bed linen, infestation of cell with insects/rodents, mouldy or dirty cell, poor quality of food Overcrowding (save for the periods from 28/02/2013 to 04/03/2013, 06/06/2013 to 27/06/2013, 28/08/2014 to 11/09/2014 and 25/09/2014 to	5,000

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
						23/10/2014), bunk beds, lack of or poor quality of bedding and bed linen, poor quality of food, lack of or insufficient physical exercise in fresh air, mouldy or dirty cell.	
3.	13775/16 10/06/2016	Constantin-Daniel Sfarac 09/05/1987		Iași Penitentiary 06/04/2011 to 26/07/2016 5 year(s) and 3 month(s) and 21 day(s)	1.3- 2.18 m ²	Overcrowding (save for the period from 29/01/2015 to 03/02/2015), infestation of cell with insects/rodents, lack of or insufficient electric light, lack of storing facilities.	5,000
4.	14281/16 06/04/2016	Petru Bordianu 15/06/1989		Bacău Penitentiary 13/04/2010 to 06/08/2010 3 month(s) and 25 day(s) Iași Penitentiary 06/08/2010 to 17/02/2015 4 year(s) and 6 month(s) and 12 day(s) Vaslui Penitentiary 17/02/2015 Pending	1.65- 2.73 m ² 1.28- 2.18 m ² 2.44- 2.79 m ²	Overcrowding (save for the period from 15/06/2010 to 26/07/2010), lack of or insufficient natural light, lack of or inadequate hygienic facilities, lack or inadequate furniture, mouldy or dirty cell, infestation of cell with insects/rodents. Overcrowding (save for the periods from 15/11/2010 to 21/11/2010 and 26/02/2014 to 07/03/2014), lack of or inadequate hygienic facilities, poor quality of food, mouldy or dirty cell, infestation of cell with insects/rodents; Overcrowding, lack of or insufficient natural light, lack of or insufficient electric light, poor quality of food, lack of or insufficient physical exercise in	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
				More than 3 year(s) and 3 month(s) and 26 day(s)		fresh air, no or restricted access to toilet, no or restricted access to running water.	
5.	14569/16 06/04/2016	Liviu-Marian Duca 13/06/1990	Ovidiu Chiriac Brașov	Codlea Penitentiary 15/12/2015 to 14/01/2016 and 21/10/2016 pending More than 1 year(s) and 8 month(s) and 22 day(s) Miercurea Ciuc Penitentiary 14/01/2016 to 21/10/2016 9 month(s) and 8 day(s)	1.43- 2.1 m ² 1.72- 1.88 m ²	Overcrowding, poor quality of food, lack of or poor quality of bedding and bed linen, bunk beds, no or restricted access to toilet, no or restricted access to shower, lack of storing facilities, infestation of cell with insects/rodents; Overcrowding, poor quality of food, lack of or restricted access to leisure or educational activities, bunk beds, lack of storing facilities, no or restricted access to toilet, lack of or insufficient physical exercise in fresh air.	3,000
6.	15619/16 04/05/2016	Ion Miriță 20/11/1972		Penitentiaries of Mărgineni, Ploiești and Găești 03/03/2015 to 28/06/2016 1 year(s) and 3 month(s) and 26 day(s)	1.3- 2.5 m ²	Overcrowding (save for the periods from 13/11/2015 to 19/11/2015 and 14/12/2015 to 28/06/2016), lack of or inadequate hygienic facilities, lack or inadequate furniture, insufficient number of sleeping places, bunk beds, no or restricted access to shower, no or restricted access to toilet.	3,000
7.	15667/16 06/04/2016	Ioan Bujorică 14/09/1988		Gherla Penitentiary 03/04/2014 pending More than 4 year(s) and 2 month(s) and 9 day(s)	1.89- 2.69 m ²	Overcrowding (save for the periods from 25/04/2014 to 01/06/2014 and 06/05/2015 to 11/05/2015), lack of storing facilities, lack or inadequate furniture, lack of or poor quality of	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
						bedding and bed linen, poor quality of food, lack of or insufficient physical exercise in fresh air, no or restricted access to running water, no or restricted access to toilet.	
8.	15704/16 01/08/2016	Aurel Csortan 14/02/1974		Penitentiaries of Târgu Mureș and Aiud 25/05/2015 pending More than 3 year(s) and 18 day(s)	1.64- 2.60 m ²	Overcrowding, bunk beds, infestation of cell with insects/rodents, constant electric light, lack of or inadequate hygienic facilities, lack of or insufficient physical exercise in fresh air.	3,000
9.	18910/16 11/07/2016	Vlăduț-Alexandru Agapi 24/03/1990		Tulcea Penitentiary 23/05/2015 pending More than 3 year(s) and 20 day(s)	2.60 m ²	Overcrowding, lack of or insufficient natural light, mouldy or dirty cell, lack of storing facilities, lack of or inadequate hygienic facilities, lack or inadequate furniture.	3,000
10.	19026/16 13/08/2016	Grigore Iacob 04/02/1969		Penitentiaries of Jilava, Giurgiu and Iași 11/07/2008 pending More than 9 year(s) and 11 month(s) and 2 day(s)	1.18- 2.19 m ²	Overcrowding (save for the periods from 10/07/2009 to 26/08/2009, 20/06/2011 to 05/07/2011, 06/08/2014 to 14/08/2014 and the period spent in Giurgiu Penitentiary), lack of or poor quality of bedding and bed linen, bunk beds (Penitentiaries of Jilava and Iași), lack of or inadequate hygienic facilities, no or restricted access to warm water, no or restricted access to potable water (Penitentiaries of Jilava and Giurgiu), infestation of cell with insects/rodents, lack of or insufficient physical exercise in fresh air.	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
11.	19942/16 23/06/2016	Daniel Ciobanu 04/11/1992	Andreea-Gabriela Cadar Galați	Iași Penitentiary 11/06/2014 pending More than 4 year(s) and 1 day(s)	2.18 m ²	Overcrowding, lack of or insufficient natural light, lack or inadequate furniture.	3,000
12.	19944/16 13/07/2016	Iulian Romașcanu 12/06/1979		Iași Penitentiary 16/11/2012 pending More than 5 year(s) and 6 month(s) and 27 day(s)	1.28- 2.19 m ²	Overcrowding (save for the periods from 20/08/2013 to 13/09/2013 and 02/10/2013 to 07/10/2013), lack of or insufficient natural light, lack of fresh air, lack or inadequate furniture.	5,000