



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

FOURTH SECTION

CASE OF BOLDIJAR AND OTHERS v. ROMANIA

*(Application no. 46831/14 and 15 others -
see appended list)*

JUDGMENT

STRASBOURG

29 March 2018

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

In the case of Boldijar 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 8 March 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.”

A. Admissibility

7. In application no. 51850/15, the Government raised a preliminary objection of non-compliance with the six-month time-limit. They observed that, from 18 November 2014 to 25 May 2015, the applicant disposed of 5.04 sq. m of personal space, arguing that this period interrupted the continuity of his situation. For this reason, the Government further argued that the applicant’s complaint concerning his detention in Giurgiu Prison from 13 October 2014 to 25 May 2015 was lodged out of time. Consequently, the Government asked the Court to examine the applicant’s complaint regarding the inadequate conditions of his detention in Giurgiu and Jilava Prisons only as of 25 May 2015.

8. The Court notes that, even though the applicant disposed of more than 4 sq. m of personal space, other aspects of the physical conditions of detention remain relevant for the Court’s assessment of the adequacy of the applicant’s conditions of detention under Article 3 of the Convention (see, for example, *Muršić v. Croatia* [GC], no. 7334/13, § 140, ECHR 2016). In the applicant’s case, such aspects included, in particular, an infestation of the cell with insects, poor quality of bedding and bed linen, poor quality of food and a lack of adequate furniture. In this regard, the Court further notes that it is not convinced by the Government’s observations on the adequacy of the aforementioned aspects of the physical conditions of the applicant’s detention and finds that, overall, the conditions of the applicant’s detention in Giurgiu Prison remained inadequate. It follows that the Government’s preliminary objection must be rejected.

9. The Court therefore finds that the applications listed in the appended table are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

10. 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*, cited above, §§ 96-101). 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).

11. 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.

12. 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. Having regard to its case-law on the subject, the Court considers that in the instant case the applicants' conditions of detention were inadequate.

13. These complaints therefore disclose a breach of Article 3 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

14. 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.”

15. 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.

16. 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 29 March 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	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.	46831/14 04/08/2014	Remus Boldijar 04/05/1975	Miercurea-Ciuc Prison 13/02/2014 to 20/02/2015 1 year(s) and 8 day(s) Codlea Prison 20/02/2015 pending More than 2 year(s) and 11 month(s) and 4 day(s)	0.87-2.04 m ²	overcrowding, lack of or insufficient physical exercise in fresh air, poor quality of food, lack of fresh air, lack of or inadequate hygienic facilities, inadequate temperature, infestation of cell with insects/rodents lack of or inadequate hygienic facilities, poor quality of food, mouldy or dirty cell, lack of or restricted access to leisure or educational activities, lack of toiletries	3,000
2.	541/15 28/01/2015	Remus-Nicușor Moldovan 10/03/1988	Bistrița Prison 30/05/2014 to 05/02/2015 8 month(s) and 7 day(s)		infestation of cell with insects/rodents, lack of or poor quality of bedding and bed linen, lack or inadequate furniture, lack of or inadequate hygienic facilities, no or restricted access to warm water, lack of or insufficient physical exercise in fresh air	1,000
3.	15555/15 09/05/2015	Vasile Meterez 17/10/1971	Ialomița County Police Arrest 26/02/2014 to	3.80-7.60 m ²	lack of or inadequate hygienic facilities, mouldy or dirty cell, no or restricted access to warm water, lack of or insufficient physical exercise in fresh air, passive smoking	3,000
4.	27174/15					

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

No.	Application no. Date of introduction	Applicant name Date of birth	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
	02/11/2015	Represented by Peter Irina Maria BUCHAREST	26/05/2014 3 month(s) and 1 day(s) Poarta Albă Prison Hospital 05/05/2014 to 16/05/2014 12 day(s) Slobozia Prison 26/05/2014 to 23/03/2015 9 month(s) and 26 day(s) Rahova Prison 23/03/2015 to 02/07/2015 3 month(s) and 10 day(s) Slobozia Prison 02/07/2015 to 19/05/2016 10 month(s) and 18 day(s)	5.06-12.54 m ² 2.1-2.32 m ² 2.44-2.73 m ² 1.97-2.2 m ²	lack of or poor quality of bedding and bed linen, infestation of cell with insects/rodents, poor quality of food overcrowding, insufficient number of sleeping places, passive smoking, mouldy or dirty cell, infestation of cell with insects/rodents, no or restricted access to shower, inadequate temperature, lack of fresh air, lack of or insufficient physical exercise in fresh air, lack of or inadequate hygienic facilities, lack or inadequate furniture, lack of or poor quality of bedding and bed linen overcrowding, lack of or poor quality of bedding and bed linen, infestation of cell with insects/rodents, lack or inadequate furniture, lack of or inadequate hygienic facilities, no or restricted access to warm water, passive smoking, lack of or restricted access to leisure or educational activities, mouldy or dirty cell overcrowding, passive smoking, lack of or insufficient physical exercise in fresh air, lack of or poor quality of bedding and bed linen, infestation of cell with insects/rodents, lack or inadequate furniture, poor quality of food, poor quality of potable water, lack of or inadequate hygienic facilities	

No.	Application no. Date of introduction	Applicant name Date of birth	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
5.	23681/15 07/07/2015	Romeo Gabriel Ardelean 18/10/1979	Miercurea-Ciuc Prison 26/02/2014 to 06/09/2016 2 year(s) and 6 month(s) and 12 day(s)	0.87-2.14 m ²	overcrowding, lack of or inadequate hygienic facilities, mouldy or dirty cell, lack of inadequate furniture, infestation of cell with insects/rodents, poor quality of food	3,000
6.	34879/15 13/07/2015	Igor Podhraški 06/11/1970 Represented by Cornoiu Teodorian CLUJ-NAPOCA	Cluj County Police Arrest 29/12/2014 to 27/01/2015 30 day(s) Gherla Prison 27/01/2015 to 18/09/2015 7 month(s) and 23 day(s)	3.77 m ² 2.07-2.43 m ²	no or restricted access to toilet, lack of or inadequate hygienic facilities, no or restricted access to warm water, mouldy or dirty cell, lack of fresh air, lack of or insufficient natural light, lack of or insufficient electric light, lack of or insufficient physical exercise in fresh air, poor quality of food, lack of or poor quality of bedding and bed linen overcrowding, lack of or inadequate hygienic facilities, mouldy or dirty cell, poor quality of food, lack of fresh air	1,000
7.	41903/15 09/09/2015	Robert Andreas Bedners 10/01/1990	Miercurea Ciuc Prison 26/02/2015 to 30/05/2017 2 year(s) and 3 month(s) and 5 day(s)	0.87-2.14 m ²	overcrowding, lack of fresh air, lack of or insufficient natural light, lack of or inadequate hygienic facilities, lack of or inadequate furniture, poor quality of food, infestation of cell with insects/rodents, lack of or insufficient physical exercise in fresh air	3,000
8.	43383/15 15/09/2015	Ionuț Prața 28/07/1976	Colibași Prison 13/11/2014 to 08/08/2016 1 year(s) and 8 month(s) and 27 day(s)	1.88-1.96 m ²	overcrowding, lack of or inadequate hygienic facilities, mouldy or dirty cell, lack of or insufficient electric light, lack of or insufficient natural light, inadequate temperature	3,000

No.	Application no. Date of introduction	Applicant name Date of birth	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
9.	46074/15 15/10/2015	Grigore Bîrzava 01/12/1985	Bucharest General Police Arrest 06/06/2013 to 04/07/2013 29 day(s)	2.33 m ²	overcrowding, infestation of cell with insects/rodents, poor quality of food, lack of or insufficient natural light, lack of fresh air, mouldy or dirty cell, lack of or poor quality of bedding and bed linen, lack or inadequate furniture, lack of or restricted access to leisure or educational activities, lack of or inadequate hygienic facilities, no or restricted access to shower	3,000
			Craiova Prison 04/07/2013 to 12/11/2014 1 year(s) and 4 month(s) and 9 day(s)	1.21-1.7 m ²	overcrowding, lack or inadequate furniture, 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 natural light, lack of fresh air, no or restricted access to shower, lack of or restricted access to leisure or educational activities, poor quality of potable water	
			Drobeta Turnu Severin Prison 12/11/2014 to 15/12/2014 1 month(s) and 4 day(s)	1.85 m ²	overcrowding, lack of fresh air, infestation of cell with insects/rodents, lack of or inadequate hygienic facilities, lack or inadequate furniture, poor quality of food, lack of or insufficient physical exercise in fresh air	
			Târgu-Jiu Prison 15/12/2014 to 28/07/2016 1 year(s) 7 month(s) and 14 day(s)	1.91-1.97 m ²	overcrowding, 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 insufficient physical exercise in fresh air	
10.	46887/15 19/10/2015	Grigore-Alin Gornoavă 01/12/1981	Gorj County Police Arrest 06/03/2013 to 28/08/2013	4 m ²	lack of or inadequate hygienic facilities, no or restricted access to toilet, inadequate temperature, lack or inadequate furniture, lack of or insufficient natural light, lack of fresh air, poor quality of food, lack of or insufficient physical	3,000
11.	33600/16 30/05/2016					

No.	Application no. Date of introduction	Applicant name Date of birth	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 2 year(s) and 6 month(s) and 27 day(s)		lack of or poor quality of bedding and bed linen	
13.	51850/15 06/11/2015	Sandu Curt 24/08/1978 Represented by Peter Irina Maria BUCHAREST	Giurgiu Prison 13/10/2014 to 05/10/2015 11 month(s) and 23 day(s) Jilava Prison 05/10/2015 to 15/09/2016 11 month(s) and 11 day(s)	3.39-9.2 m ² 1.13-1.98 m ²	poor quality of food, lack or inadequate furniture, lack of or poor quality of bedding and bed linen, infestation of cell with insects/rodents overcrowding, lack of or poor quality of bedding and bed linen, infestation of cell with insects/rodents, no or restricted access to shower, lack of or inadequate hygienic facilities, poor quality of food, lack or inadequate furniture	3,000
14.	52333/15 10/11/2015	Costel Păun 01/07/1974 Represented by Peter Irina Maria BUCHAREST	Bucharest Police Section no. 6 Arrest 13/01/2010 to 02/03/2010 1 month(s) and 18 day(s) Rahova Prison 01/03/2010 to 25/05/2011 1 year(s) and 2 month(s) and 25 day(s) Giurgiu Prison 21/05/2011 to	2.37 m ² 1.95-2.44 m ² 3.39-3.88 m ²	overcrowding, lack of privacy for toilet, lack of or inadequate hygienic facilities, no or restricted access to warm water overcrowding, insufficient number of sleeping places, lack of or poor quality of bedding and bed linen, infestation of cell with insects/rodents, lack of or inadequate hygienic facilities, poor quality of food, poor quality of potable water, lack or inadequate furniture lack of or poor quality of bedding and bed linen, infestation of cell with insects/rodents, lack of or inadequate hygienic	5,000

No.	Application no. Date of introduction	Applicant name Date of birth	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
			24/01/2013 1 year(s) and 8 month(s) and 4 day(s) Jilava Prison 26/01/2013 to 14/01/2016 2 year(s) and 11 month(s) and 20 day(s)	1.44-1.72 m ²	facilities, poor quality of food, poor quality of potable water overcrowding, lack of or poor quality of bedding and bed linen, infestation of cell with insects/rodents, lack of or inadequate hygienic facilities, poor quality of food, poor quality of potable water, lack or inadequate furniture	
15.	61992/15 08/01/2016	Claudiu-Florian Isac 31/01/1982	Jilava and Ploiești prisons 29/04/2015 to 27/05/2016 1 year(s) and 29 day(s)	1.57-2.52 m ²	overcrowding, infestation of cell with insects/rodents, lack of or restricted access to leisure or educational activities	3,000
16.	2763/16 24/12/2015	Florin Șumăndan 16/08/1976 Represented by Șumăndan Petru VLADIMIRESCU	Arad Prison 11/06/2015 to 07/01/2016 6 month(s) and 28 day(s)	3.48-8.70 m ²	poor quality of food, infestation of cell with insects/rodents	1,000