



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

FOURTH SECTION

CASE OF MARINAŞ AND OTHERS v. ROMANIA

*(Application nos. 18270/14 and 18 others –
see appended list)*

JUDGMENT

STRASBOURG

3 May 2018

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

In the case of Marinaş 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 12 April 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. Some 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 application no. 18270/14 the Government raised a preliminary objection of failure to comply with the six-month time-limit claiming that the part of the applicant’s complaint concerning transport conditions between prisons or between prisons and the domestic courts’ premises had been lodged out of time. The Court observes that the transfers took place between 1999 and 2010, the complaint having been submitted to the Court more than four years later, on 3 July 2014. This part of the complaint was thus raised more than six months after the relevant events took place. Accordingly, the Courts accepts the Government’s objection in this respect and finds that this part of the application no. 18270/14 has been introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

8. 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).

9. 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.

10. 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 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.

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

III. REMAINING COMPLAINTS

12. The applicants in applications nos. 72102/14, 31116/15, 34586/15 and 36027/15 also raised other complaints under Article 3 of the Convention.

13. The Court has examined the applications listed in the appended table 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

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 complaints concerning the inadequate conditions of detention, as set out in the appended table, admissible and the remainder of the applications nos. 18270/14, 72102/14, 31116/15, 34586/15 and 36027/15 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 3 May 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)

N o.	Application no. Date of introduction	Applicant name Date of birth	Representative 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.	18270/14 03/07/2014	Ion Marinaş 18/08/1960		Râmnicu Valcea Police Detention Centre 08/10/1999 to 08/11/1999 1 month and 1 day Penitentiaries of Colibaşi, Jilava, Mărgineni, Poarta Albă, Gherla, Craiova, and Târgu Jiu 08/11/1999 to 03/02/2015 15 years and 2 months and 27 days	1.43-2.53 m ²	lack of or insufficient natural light, lack of or inadequate hygienic facilities overcrowding (save for the periods 23/02/2012 – 06/11/2012 and 29/01/2013 – 03/02/2015 while in Târgu Jiu Penitentiary), no or restricted access to shower, no or restricted access to potable water, lack of or insufficient physical exercise in fresh air, infestation of cell with insects/rodents, lack of or inadequate hygienic facilities, passive smoking in Jilava Penitentiary, lack of or poor quality of bedding and bed linen, poor quality of food, insufficient number of sleeping places (save for Târgu Jiu Penitentiary)	5,000

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

N o.	Application no. Date of introduction	Applicant name Date of birth	Representative 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
2.	52489/14 18/08/2014	Mircea Coruţiu 02/12/1986		Timișoara Penitentiary 13/05/2014 to 25/06/2015 1 year and 1 month and 13 days	1.33-2.63 m ²	Overcrowding (save for the periods 26/05/2014 – 31/05/2014, 18/06/2014 – 22/09/2014, 11/10/2014 – 29/01/2015, 23/03/2015 – 11/05/2015 and 10/02/2015 – 20/02/2015), bunk beds, lack of or poor quality of bedding and bed linen, lack of or inadequate hygienic facilities, no or restricted access to warm water, lack of fresh air, lack of or insufficient natural light, lack of toiletries, lack or inadequate furniture, infestation of cell with insects/rodents, lack of or insufficient physical exercise in fresh air	3,000
3.	72102/14 27/01/2015	Laurențiu-Eduard Nenciu 25/01/1966		Jilava Penitentiary 01/09/2014 to 09/01/2015 4 months and 9 days	1.86-2.48 m ²	overcrowding (save for the period between 10/11/2014-16/12/2014)	1,000
4.	73770/14 14/11/2014	Gil Neșțian 15/11/1973		Constanța Police Inspectorate, Jilava Penitentiary Hospital, Penitentiaries of Poarta Albă, Jilava, Tulcea, and Slobozia 25/06/1998 to 03/03/2015 16 years and 8 months and 7 days	0.6-2.4 m ²	overcrowding (save for the periods of 27/02/2014-10/03/2014 in Slobozia Penitentiary and 01/01/2010-05/07/2011 in Poarta Albă Penitentiary), insufficient number of sleeping places, lack of or inadequate hygienic facilities, infestation of cell with insects/rodents, no or restricted access to running water, lack of or	5,000

N o.	Application no. Date of introduction	Applicant name Date of birth	Representative 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
						insufficient electric light, inadequate temperature, mouldy or dirty cell, poor quality of food, lack of privacy for toilet	
5.	76745/14 06/04/2015	Ionel Mitran 07/04/1981		Poarta Alba Penitentiary 23/03/2015 – pending More than 2 years and 11 months and 14 days	1.68-2 m ²	overcrowding, poor quality of food, mouldy or dirty cell, infestation of cell with insects/rodents, lack of toiletries, inadequate temperature, no or restricted access to shower, lack of or inadequate hygienic facilities, lack or inadequate furniture, lack of or insufficient natural light	3,000
6.	12853/15 22/08/2015	Florian Vlad 31/07/1962	Irina Maria Peter Bucharest	Bucharest Police Inspectorate no. 12, Bucharest Police Inspectorate no. 4, Rahova Penitentiary, Colibași Penitentiary, Târgu Jiu Penitentiary, Jilava Penitentiary 27/11/2009 – pending More than 8 years and 2 months and 14 days	1.01-2.15 m ²	overcrowding (save for the periods 25/08/2011-08/12/2011, 19/12/2012-14/02/2013 in Colibași Penitentiary), poor quality of food, lack of privacy for toilet, lack of or poor quality of bedding and bed linen, infestation of cell with insects/rodents, lack of or insufficient physical exercise in fresh air, bunk beds, lack of or inadequate hygienic facilities, poor quality of potable water	5,000
7.	18870/15 30/03/2015	Gabriel Ciacâru 21/09/1954		Mărgineni Penitentiary, Rahova Penitentiary, Jilava Penitentiary and Găești Penitentiary 13/04/2012 to 30/09/2014 2 years and 5 months and 18 days	1.83-2.63 m ²	overcrowding (only in Rahova, save for the period 08/05/2012-18/05/2012, and in Jilava for the period 17/02/2014 -01/04/2014), inadequate	3,000

N o.	Application no. Date of introduction	Applicant name Date of birth	Representative 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
						temperature, infestation of cell with insects/rodents, lack of or inadequate hygienic facilities, lack of or insufficient physical exercise in fresh air, lack of or poor quality of bedding and bed linen, lack of toiletries, lack or inadequate furniture, bunk beds, poor quality of food, mouldy or dirty cell, poor quality of potable water in Jilava Penitentiary	
8.	31116/15 02/11/2015	Gheorghe Pitică 20/04/1983		Aiud Penitentiary 15/10/2010 to 01/11/2016 6 years and 18 days	1.25-2.95 m ²	overcrowding (save for the periods 05/01/2011 – 19/03/2011, 07/05/2011 – 21/02/2013, 08/03/2013 - 23/03/2015, 10/04/2015 – 02/06/2015, 18/06/2015 – 26/09/2015 and from 16/10/2015 onwards), infestation of cell with insects/rodents, lack of or insufficient natural light, mouldy or dirty cell	5,000
9.	31993/15 19/08/2015	Ioan Alin Bugeag 15/05/1988		Timișoara Penitentiary 26/03/2015 – pending More than 2 years and 10 months and 21 days	1.65-1.68 m ²	overcrowding, infestation of cell with insects/rodents, lack of or insufficient physical exercise in fresh air, lack or inadequate furniture, lack of or poor quality of bedding and bed linen	3,000
10.	32009/15 28/08/2015	Sebastian Popa 12/10/1990		Codlea Penitentiary 19/03/2015 – pending More than 2 years and 10 months and 22 days	1.72-1.91 m ²	Overcrowding, poor quality of food, lack of or inadequate hygienic facilities, lack of or insufficient	3,000

N o.	Application no. Date of introduction	Applicant name Date of birth	Representative 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
						physical exercise in fresh air, lack of or insufficient natural light, lack of fresh air	
11.	34586/15 24/08/2015	Gheorghe Lăcătuș 11/06/1965		Baia Mare Police Inspectorate and Gherla Penitentiary 15/05/2014 – pending More than 3 years and 8 months and 26 days	1.92-2.72 m ²	Overcrowding (save for the period 15/05/2014 – 12/06/2014 in Baia Mare Police Inspectorate), lack of fresh air, poor quality of food	3,000
12.	36027/15 17/08/2015	Marian Ciotea 03/03/1982		Jilava Penitentiary Hospital 23/05/2014 to 21/12/2016 2 years and 6 months and 29 days	3.16-25.01 m ²	inadequate temperature, lack of or inadequate hygienic facilities, lack of privacy for toilet, poor quality of potable water, lack or inadequate furniture, lack of toiletries, no or restricted access to shower, no or restricted access to running water	3,000
13.	36032/15 10/08/2015	Costică Onicel 13/06/1977		Miercurea Ciuc Penitentiary 26/02/2015 to 29/12/2015 10 months and 4 days	1.48-2.75 m ²	Overcrowding, poor quality of food, bunk beds, lack of fresh air, lack of or insufficient natural light, no or restricted access to warm water, lack of or insufficient physical exercise in fresh air, lack of or poor quality of bedding and bed linen, lack of toiletries, infestation of cell with insects/rodents, lack of or insufficient electric light	1,000

N o.	Application no. Date of introduction	Applicant name Date of birth	Representative 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
14.	36067/15 10/08/2015	Adrian-Dorin Stroe 20/10/1982		Miercurea Ciuc Penitentiary 06/03/2014 to 24/12/2015 1 year and 9 months and 19 days	1.48-2 m ²	Overcrowding, poor quality of food, bunk beds, lack of fresh air, lack of or insufficient natural light, no or restricted access to warm water, lack of or insufficient physical exercise in fresh air, infestation of cell with insects/rodents, lack of toiletries	3,000
15.	36127/15 19/08/2015	Vasile Călin 06/10/1956	Julieta Toflea Călin	Focşani Penitentiary 07/03/2013 – pending More than 5 years and 2 days	1.27-1.77 m ²	overcrowding, poor quality of food, lack of or inadequate hygienic facilities	5,000
16.	39102/15 25/08/2015	Florin Ali 26/05/1978		Giurgiu Police Inspectorate 30/05/2006 to 21/06/2006 23 days Giurgiu Penitentiary 21/06/2006 to 01/10/2006 3 months and 11 days 27/02/2007 to 01/10/2014 7 years and 7 months and 5 days Jilava Penitentiary 01/10/2006 to 27/02/2007 4 months and 27 days 01/10/2014 – pending More than 3 years and 4 months and 9 days	3.64 m ² 3.76 m ² 1.65-2.71 m ²	poor quality of food, infestation of cell with insects/rodents, no or restricted access to warm water, lack of or inadequate hygienic facilities poor quality of food, infestation of cell with insects/rodents, inadequate temperature, no or restricted access to warm water overcrowding, poor quality of food, inadequate temperature, lack of or poor quality of bedding and bed linen, no or restricted access to warm water, lack of or inadequate hygienic facilities, poor quality of potable	5,000

N o.	Application no. Date of introduction	Applicant name Date of birth	Representative 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
						water, bunk beds, infestation of cell with insects/rodents	
17.	39195/15 28/08/2015	Ionuț-Daniel Anton 28/08/1985		Rahova Penitentiary 28/05/2015 to 12/02/2016 8 months and 16 days	1.93-2.78 m ²	overcrowding, infestation of cell with insects/rodents, lack of or poor quality of bedding and bed linen, lack of or inadequate hygienic facilities, no or restricted access to potable water, lack or inadequate furniture	1,000
18.	40083/15 31/08/2015	Gheorghe-Cătălin Cheroiu 08/04/1979		Colibași Penitentiary 14/10/2014 to 23/12/2015 1 year and 2 months and 10 days	1.67-2.69 m ²	overcrowding (save for the period 22/05/2015-04/06/2015), lack of or insufficient natural light, lack of or insufficient electric light, lack of fresh air, lack of or inadequate hygienic facilities	3,000
19.	40247/15 07/08/2015	Dănuț Tudor 08/09/1972	Cătălina Florescu Bucharest	Giurgiu Penitentiary 24/10/2014 to 20/07/2015 8 months and 27 days	3.31-4.66 m ²	poor quality of food, no or restricted access to potable water, infestation of cell with insects/rodents	1,000