



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

FOURTH SECTION

CASE OF PLETOSU-HALUNGESCU AND OTHERS v. ROMANIA

*(Applications nos. 38238/13 and 5 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 Pletosu-Halungescu 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

2. The list of applicants and the relevant details of the applications are set out in the appended table.

3. The applicants complained of the inadequate conditions of their detention. In application no. 38238/13, the applicant also raised other complaints under the Article 3 of the Convention.

THE LAW

I. JOINDER OF THE APPLICATIONS

4. 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

5. 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.”

6. In application no. 47861/13 the Government raised a preliminary objection claiming that the application was not complying with Rule 47 of the Rules of Court pointing out that the allegations of the applicant concerning the detention conditions in Timiș Police Inspectorate were not sufficiently substantiated in the application form.

7. The Court reiterates that, in accordance with its established practice and Rule 47 § 5 of the Rules of Court, as in force at the relevant time, it normally considered the date of introduction of an application to be the date of the “first communication” indicating an intention to lodge an application and giving some indication of the nature of the application (see *Avanesyan v. Russia*, no. 41152/06, § 20, 18 September 2014). In the current case, the applicant set out in his application form sent on 18 July 2013 a description of his conditions in Timiș Police Inspectorate which raised a *prima facie* issue concerning the compliance by the State authorities with the criteria set forth in Article 3 of the Convention in this respect. It was therefore sufficient to warrant examination by the Court (see, *mutatis mutandis*, *Brândușe v. Romania* (no. 2), no. 39951/08, § 19, 27 October 2015, and, to contrast, *Nicolescu v. Romania* (dec.), no. 38566/04, §§ 10-11, 14 January 2014).

8. In applications nos. 38238/13 and 47861/13 the Government raised a preliminary objection of non-exhaustion of domestic remedies, in so far as the applicants had not raised their complaints as regard an alleged lack of adequate medical assistance before the domestic courts. The Court has already had the opportunity to examine similar objections raised by the Government in a number of cases and decided that in the applicants’ situation there was an effective remedy for their complaints (see *Petrea v. Romania*, no. 4792/03, §§ 33-36, 29 April 2008, and *Toma Barbu v. Romania*, no. 19730/10, §§ 74-76, 30 July 2013). The Court notes that there is no evidence in the files to show that the applicants raised this complaint before the domestic authorities. Therefore, the applicants’ complaint concerning the lack of adequate medical treatment while in detention is inadmissible for non-exhaustion of domestic remedies. Consequently, it must be rejected in accordance with Articles 35 §§ 1 and 4 of the Convention.

9. 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).

10. 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.

11. 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.

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

III. REMAINING COMPLAINTS

13. In application no. 38238/13 the applicant also raised other complaints under Article 3 of the Convention.

14. The Court 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 application must be rejected in accordance with Article 35 § 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

15. 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.”

16. 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 and to dismiss the remainder of the applicants’ claims for just satisfaction. The Court further notes that the applicants’ claims for cost and expenses in applications nos. 38238/13 and 47861/13 were either not properly substantiated or not related to the

applications submitted to the Court. Consequently, the Court makes no award in this respect.

17. 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 application nos. 38238/13 and 47861/13 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 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

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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	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.	38238/13 06/06/2013	Valentin Pletosu-Halungescu 09/05/1968		Bacău, Iași and Vaslui Penitentiaries 04/05/2010 to pending	1.3-2.45 m ²	Overcrowding (save for the period 21/07/2010-06/10/2010 in Bacău Penitentiary), lack of or inadequate hygienic facilities, inadequate temperature, infestation of cell with insects/rodents, lack of or poor quality of bedding and bed linen, poor quality of food, bunk beds (in Vaslui Penitentiary).	5,000
2.	51280/16 19/09/2016			7 year(s) and 10 month(s) and 18 day(s)			
3.	47861/13 18/07/2013	Sorin Corcoman 08/11/1968		Timiș Police Inspectorate 11/02/2013 to 14/02/2013 4 day(s)	2.34 m ²	Inadequate temperature, poor quality of food, lack of or inadequate hygienic facilities, lack of or poor quality of bedding and bed linen;	3,000
			Timișoara Penitentiary 14/02/2013 to 03/03/2015 2 year(s) and 18 day(s)	Overcrowding, poor quality of food, lack of or insufficient natural light, lack of or insufficient physical exercise in fresh air, lack of or inadequate hygienic facilities, lack of or restricted access to leisure or educational activities.			

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

No.	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
4.	65513/13 11/10/2013	Claudiu-Laurențiu Păvălucă 27/05/1981	Alexandru Bogdan Păvălucă Roznov	Bacău Police Inspectorate and Bacău Penitentiary 15/02/2011 to 22/10/2013 2 year(s) and 8 month(s) and 8 day(s)	1.89-2.24 m ²	Overcrowding, lack of or inadequate hygienic facilities, no or restricted access to shower, no or restricted access to warm water, inadequate temperature.	3,000
5.	3786/14 27/01/2014	József Zoltán Sütő 26/05/1976	Ioan Petru Demeter Satu Mare	Satu Mare Police Inspectorate 28/04/2010 to 21/05/2010 24 day(s) Oradea Penitentiary 21/05/2010 to 21/02/2013 2 year(s) and 9 month(s) and 1 day(s) Satu Mare Penitentiary 21/02/2013 pending More than 5 year(s) and 2 day(s)	1.91-2.13 m ² 1.22-2.06 m ²	Lack of or inadequate hygienic facilities, no or restricted access to running water, lack of or insufficient physical exercise in fresh air, lack of fresh air, no or restricted access to shower; Overcrowding (save for the period 01/09/2011 - 01/06/2012), no or restricted access to warm water, infestation of cell with insects/rodents, lack of fresh air, lack of or insufficient natural light, poor quality of food, inadequate temperature; Overcrowding, no or restricted access to warm water, infestation of cell with insects/rodents, lack of or inadequate hygienic facilities, lack of toiletries, inadequate temperature, lack of or insufficient physical exercise in fresh air, lack or inadequate furniture, poor quality of food.	5,000

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No.	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
6.	27763/14 27/05/2014	Gabriel Sorin Popa 30/04/1969		Timișoara Penitentiary 10/03/2004 pending More than 13 year(s) and 10 month(s) and 28 day(s)	1.7-2.8 m ²	Overcrowding, no or restricted access to warm water, poor quality of food, lack of or inadequate hygienic facilities, infestation of cell with insects/rodents, bunk beds, lack of toiletries.	5,000