

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

FOURTH SECTION

DECISION

Applications nos. 62846/16 and 54289/17
Petru BURCĂ against Romania
and Claudiu DANCĂ against Romania
(see appended table)

The European Court of Human Rights (Fourth Section), sitting on 1 February 2024 as a Committee composed of:

Anja Seibert-Fohr*, President*,
Anne Louise Bormann,
Sebastian Răduleţu*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above applications lodged on the various dates indicated in the appended table,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The list of applicants is set out in the appended table.

The applicants' complaints under Article 3 of the Convention concerning the inadequate conditions of detention were communicated to the Romanian Government ("the Government").

THE LAW

A. Joinder of the applications

Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

B. Complaints under Article 3 of the Convention (inadequate conditions of detention)

Having examined all the material before it, the Court considers that for the reasons stated below, the applications are inadmissible.

The Court reiterates that Article 35 § 2 (b) of the Convention provides that it should not deal with any application submitted under Article 34 that is substantially the same as a matter that has already been examined by the Court and contains no relevant new information. In verifying whether two cases are essentially the same, it takes into account the identity of the parties in both proceedings, the legal provisions on which they are based, the nature of the complaints and the compensation which they seek to obtain (see *Verein gegen Tierfabriken Schweiz (VgT) v. Switzerland (no. 2)* [GC], no. 32772/02, § 63, ECHR 2009, and, *mutatis mutandis*, *Smirnova and Smirnova v. Russia* (dec.), nos. 46133/99 and 48183/99, 3 October 2002; and *Folgerø and Others v. Norway* (dec.), no. 15472/02, 14 February 2006).

In the instant cases, the Court notes that the applicants lodged other applications before it, registered under nos. 12835/15 and 16169/16, raising, under Article 3, complaints similar to those raised in the context of the present applications.

Application no. 12835/15, adducing evidence which has also been submitted in application no. 62846/16, was struck out of the Court's list of cases in accordance with Article 39 of the Convention, on the basis of a friendly settlement between the Government and the applicant (see *Burcă and Others v. Romania* (dec.), nos. 12835/15 and 4 others, 16 March 2017).

Application no. 16169/16, adducing evidence which has also been submitted in application no. 54289/17, was struck out of the Court's list of cases in accordance with Article 37 § 1 (c) of the Convention, on the basis of a unilateral declaration (see *Minea and Others v. Romania*, nos. 31812/15 and 10 others, 28 November 2019).

The Court must therefore determine whether, in the present cases, the complaints raised by the applicants are "substantially the same" as the matters submitted to it in applications nos. 12835/15 and 16169/16.

By comparing the applications, the Court notes that the same applicants raised the same complaints with regards to the conditions of detention in the Romanian prisons during the same periods (see the appended table for the relevant dates), and that they have not submitted any evidence that would constitute a new fact within the meaning of Article 35 § 2 (b) of the Convention (see, *a contrario*, *C.G. and Others v. Bulgaria* (dec.), no. 1365/07, 13 March 2007).

It follows that since the present applications raise "essentially the same" complaints as the ones examined by the Court in applications nos. 12835/15 and 16169/16 lodged by the applicants, they fall within the ambit of Article 35 § 2 (b) of the Convention and must therefore be rejected, pursuant

to Article 35 §§ 2 and 4, in the part which had already been examined by the Court in applications nos. 12835/15 and 16169/16.

The applicants also raised other complaints under Article 3 of the Convention with regards to the conditions of detention during other periods.

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.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 22 February 2024.

Viktoriya Maradudina Acting Deputy Registrar	Anja Seibert-Fohr 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 Year of birth	Representative's name and location	Facility Start and end date Duration
1.	62846/16 12/10/2016	**Petru BURCĂ** 1961		Brăila, Galați, Jilava and Poarta Albă Prisons 01/03/2006 to 26/07/2016 10 year(s) and 4 month(s) and 26 day(s)
2.	54289/17 11/07/2017	**Claudiu DANCĂ** 1980	Andreea-Gabriela Cadar Galati	Focşani, Bacău, Botoşani, Aiud, Miercurea Ciuc, Poarta Albă, Iaşi, Brăila and Vaslui Prisons 12/11/2003 to 12/09/2017 13 year(s) and 10 month(s) and 1 day(s)