

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

FOURTH SECTION

DECISION

Application no. 42641/21
Ştefan CUZA against Romania
and 2 other applications
(see appended table)

The European Court of Human Rights (Fourth Section), sitting on 18 April 2024 as a Committee composed of:

Branko Lubarda*, 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 were in detention when the death of their close family members occurred (see attached table). They asked the prison authorities for permission to leave the prison in order to attend the funeral. It appears from the documents sent by the National Prison Administration that the "rewards commission" of the prisons concerned rejected the applicants' requests on the dates and for the reasons indicated in the table attached in the annex.

The applicants' complaints under Article 8 § 1 of the Convention concerning the refusal of leave to prisoner for attending funeral of close relatives 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 8 § 1 of the Convention (refusal of leave to prisoner for attending the funeral of a close relative)

In the present applications, having examined all the material before it, the Court considers that, for the reasons stated below, the applicants' complaints are inadmissible.

In particular, the Court notes that in application no. 42641/21 the main reason behind the commission's decision to reject the applicant's permission to leave was the fact that the applicant had not submitted documents to prove that the deceased was in fact his grandmother. From the documents submitted by the Government it transpires that on 12 April 2021 (a day before the funeral) the prison administration received an email from I.G. (who claimed to be the applicant's aunt). The deceased's death certificate, as well as I.G.'s identity card and birth certificate, were attached to the email. The prison administration followed up with an email explaining that the documents that were submitted did not prove the kinship between the applicant and the deceased. It appears that no further documents were submitted. The applicant has not challenged the Government's submissions in this respect. In view of the applicant's failure to submit the required evidence, the Court finds that the commission's decision not to grant him permission to leave was justified.

In respect of application no. 57155/21, the Government asserted that the prison administration had been informed about the funeral on 28 October 2021 at 12:37, while the funeral was to take place at 3 p.m. on the same day. Therefore, the Government argued that the prison administration was unable to ensure the applicant's presence at the funeral, given that it took place in the Argeș county, some 250 km from the prison where the applicant was detained. The applicant did not challenge the Government's submissions.

In *Razvozzhayev v. Russia and Ukraine and Udaltsov v. Russia*, nos. 75734/12 and 2 others, § 268, 19 November 2019, where the applicant's request to attend his mother's funeral had been denied apparently due to a short notice he had given, the Court stressed that the time constraints complicating the planning of his attendance at the funeral was not a sufficient reason for refusing it. In the Court's view, it was typical for funerals to be fixed at very short notice and they were generally regarded as a matter of urgency. In this case, it would have been physically possible for the applicant to arrive at the funeral, which was held on the following day in the same city.

Thus, the Court found that the refusal to allow the applicant to attend the funeral ran counter to Article 8 of the Convention.

In application no. 57155/21, unlike in the above-mentioned case, the Court finds that the prison authorities had approximately two hours from the moment they received the death certificate, to both assess the applicant's request for leave and to escort him to the place where the funeral was taking place. Keeping in mind the time constraints, the Court finds that it would have been unreasonable, if not impossible, for the prison authorities to make the arrangements on such a short notice. It follows that the applicant's complaint under Article 8 is manifestly ill-founded.

Finally, as regards application no. 19361/22, where the applicant had requested leave to attend the funeral of his uncle, the Government argued that according to the domestic law, permission for leave can only be awarded for the funeral of the following relatives: parents, children, brother/sister, grandmother/grandfather, spouse. The Government thus contended that in the absence of a domestic legal basis, the applicant's request to attend his uncle's funeral could not be granted.

It is the Court's well-established position that the notion of family life is an autonomous concept. Consequently, whether "family life" exists is essentially a question of fact depending upon the real existence in practice of close personal ties (*Paradiso and Campanelli v. Italy* [GC], no. 25358/12, § 140, 24 January 2017). Family ties have been held to exist between uncles and aunts and nieces and nephews, particularly where the natural parents are absent (see *Butt v. Norway*, no. 47017/09, §76 4 December 2012). In the case at hand however, the applicant has not substantiated having a particularly close relationship with his uncle. He also did not dispute the Government's observations with any relevant arguments that would justify the granting of his permission for leave to attend his uncle's funeral, despite there being no legal basis in the domestic law.

In view of the above, the Court finds that these complaints are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 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 16 May 2024.

Viktoriya Maradudina Acting Deputy Registrar	Branko Lubarda President

APPENDIX

List of applications raising complaints under Article 8 § 1 of the Convention (refusal of leave to prisoner for attending funeral of close relatives)

No.	Application no. Date of introduction	Applicant's name Year of birth	Date of prison authorities' refusal of leave	Deceased person
1.	42641/21 07/10/2021	**Ştefan CUZA** 1986	13/04/2021	grandmother
2.	57155/21 24/12/2021	**Marian ANDREI** 1972	28/10/2021	mother
3.	19361/22 23/05/2022	**Ionel BRUMĂ** 1977	04/03/2021	uncle