

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

FOURTH SECTION

DECISION

Application no. 31865/16
Dorel GAVRILĂ against Romania
and 10 other applications
(see appended table)

The European Court of Human Rights (Fourth Section), sitting on 22 September 2022 as a Committee composed of:

Armen Harutyunyan*, President,*
Jolien Schukking*,*
Ana Maria Guerra Martins*, 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,

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)

The applicants complained principally of the inadequate conditions of their detention. They relied on Article 3 of the Convention, which reads as follows:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

The Government argued mainly that the applicants had lost their victim status because they had benefitted from the remedy offered by Law no. 169/2017 amending and completing Law no. 254/2013 on the execution of sentences. They asked the Court to reject the present applications for being incompatible *ratione personae* with the provisions of the Convention.

The applicants disagreed, claiming that the compensation awarded to them was insufficient.

The Court notes that in the decision *Dîrjan and Ştefan v. Romania* ((dec.), nos. 14224/15 and 50977/15, 15 April 2020) it has examined similar applications as the ones in the present case and declared them inadmissible because the applicants had lost their victim status. The Court noted that Law no. 169/2017 amending and completing Law no. 254/2013 on the execution of sentences, adopted following the pilot judgment in the case of *Rezmiveş and Others v. Romania* (nos. 61467/12 and 3 others, 25 April 2017) and in force between October 2017 and December 2019, was an effective remedy in respect of inadequate conditions of detention in Romanian prisons. More specifically, the above law set forth a compensatory remedy, available for periods of detention ranging from 2012 to 2019 and allowing the deduction of six days for 30 days spent in conditions of detention that fell short of standards compatible with Article 3 of the Convention (see *Dîrjan and Ştefan*, cited above, § 28). That benefit had an impact on the term of the prison sentences, giving detainees an opportunity of earlier release on parole.

Turning to the circumstances of the present cases, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility of those complaints. The above-mentioned remedy was available to the applicants in the present applications and, indeed, they benefitted from it. Thus, on different dates, the domestic authorities, applying the provisions laid down in the abovementioned decision *Dîrjan and Ştefan*, awarded compensation, through the reduction of days, to the applicants for the entire period of detention spent in inadequate conditions of which they complained (for further details see the appended table). Furthermore, the applicants were released from prison or were transferred to detention facilities they are not complaining about.

The Court is therefore satisfied that the applicants have been afforded adequate redress and can no longer claim to be victims of a violation of their

rights under Article 3 of the Convention, insofar as the conditions of their detention, described in the appended table, are concerned. It follows that the applications in this part are incompatible *ratione personae* with the provisions of the Convention and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

C. Remaining complaints

Some applicants also raised other complaints under Article 3 of the Convention.

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 13 October 2022.

Viktoriya Maradudina Acting Deputy Registrar	Armen Harutyunyan 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	Domestic compensation awarded (in days) based on total period calculated by national authorities
1.	31865/16 25/07/2016	**Dorel GAVRILĂ** 1984		Bucharest General Police Inspectorate 12/03/2015 to 13/03/2015 2 day(s) Bucharest - Jilava and Bucharest - Rahova Prisons 14/04/2015 to 28/10/2015 6 month(s) and 15 day(s) Bucharest - Jilava Prison 30/10/2015 to 23/11/2015 25 day(s) Bucharest - Jilava Prison 14/12/2015 to 31/07/2017 1 year(s) and 7 month(s) and 18 day(s) Bucharest - Jilava Prison 08/08/2017 to 22/11/2017 3 month(s) and 15 day(s)	198 days in compensation for a total period of 995 days spent in detention in inadequate conditions from 12/03/2015 to 27/12/2017, except for periods spent in prison hospitals, of which he did not complain

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Facility Start and end date Duration	Domestic compensation awarded (in days) based on total period calculated by national authorities
2.	7708/17 17/01/2017	**Vasile TIMIȘ** 1973	Biro Vasile Rareș Satu-Mare	Gherla and Baia Mare Prisons 10/10/2013 to 14/02/2018 4 year(s) and 4 month(s) and 5 day(s)	312 days in compensation for a total period of 1,579 days spent in detention in inadequate conditions from 10/10/2013 to 14/02/2018 in Gherla and Baia Mare Prisons, except for days spent in transit rooms and on leave
3.	7971/17 17/01/2017	**Marius BORODI** 1978	Biro Vasile Rareș Satu-Mare	Cluj County Police Station and Gherla Prison 28/01/2015 to 24/11/2015 9 month(s) and 28 day(s) Baia Mare Prison 11/12/2015 to 21/12/2015 11 day(s) Baia Mare Prison 22/01/2016 to 11/02/2016 21 day(s) Baia Mare Prison 23/02/2016 to 07/03/2016 14 day(s) Baia Mare Prison 18/03/2016 to 07/04/2016 21 day(s) Baia Mare Prison 22/04/2016 to 23/05/2016 1 month(s) and 2 day(s)	210 days in compensation for a total period of 1,063 days spent in detention in inadequate conditions from 28/01/2015 to 14/06/2018, including all the periods spent in Cluj County Police Station, Gherla and Baia Mare Prisons

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Facility Start and end date Duration	Domestic compensation awarded (in days) based on total period calculated by national authorities
				Baia Mare Prison 27/05/2016 to 21/06/2016 26 day(s) Baia Mare Prison 28/06/2016 to 18/07/2016 21 day(s) Baia Mare Prison 22/07/2016 to 05/09/2016 1 month(s) and 15 day(s) Baia Mare Prison 09/09/2016 to 03/02/2017 4 month(s) and 26 day(s) Baia Mare and Gherla Prisons 30/05/2017 to 19/07/2017 1 month(s) and 20 day(s) Gherla Prison 26/07/2017 to 31/12/2017 5 month(s) and 6 day(s)	
4.	64957/17 14/09/2017	**Nicolae PLEȘCAN** 1976		Găești Prison 02/02/2017 to 04/04/2018 1 year(s) and 2 month(s) and 3 day(s)	408 days in compensation for a total period of 2,059 days spent in detention in inadequate conditions from 24/07/2012 to 04/04/2018, including all the period spent in Vaslui Prison lodged within the six-month time-limit, except for the period 22/06/2017 - 26/06/2017

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Facility Start and end date Duration	Domestic compensation awarded (in days) based on total period calculated by national authorities
5.	74097/17 06/10/2017	**Iulia-Maria MIHAI** 1969	Olteanu Ionel Bucharest	Craiova Prison 10/04/2018 to 02/07/2018 2 month(s) and 23 day(s)	132 days in compensation for a total period of 597 days spent in detention in inadequate conditions from 11/06/2014 to 29/01/2015 and from 03/04/2017 to 02/07/2018, including all the period spent in Craiova Prison
6.	79539/17 20/03/2018	**Dănuț CATALINCESCU** 1973		Timișoara Prison 10/12/2015 to 31/01/2018 2 year(s) and 1 month(s) and 22 day(s)	156 days in compensation for a total period of 780 days spent in detention in inadequate conditions from 10/12/2015 to 31/01/2018 in Timișoara Prison
7.	81278/17 24/11/2017	**Gheorghe-Constantin LAVRIC** 1971		Botoșani and Iași Prisons 18/03/2015 to 25/10/2017 2 year(s) and 7 month(s) and 8 day(s)	180 days in compensation for a total period of 933 days spent in detention in inadequate conditions from 18/03/2015 to 25/10/2017 in Botoșani and Iași Prisons, except for the days spent in transit rooms
8.	44991/18 17/09/2018	**Iulian-Remus MAREȘ** 1985		Bucharest Police detention facility no. 5; Bucharest - Rahova and Bucharest - Jilava Prisons 12/06/2017 to 13/04/2019 1 year(s) and 10 month(s) and 2 day(s) Bucharest - Jilava Prison 08/05/2019 to 01/10/2019 4 month(s) and 24 day(s)	162 days in compensation for a total period of 784 days spent in detention in inadequate conditions from 12/06/2017 to 01/10/2019, including all the period spent in the detention facilities he complains of
9.	26396/19 04/06/2019	**Daniel ȚUGNEANU** 1981		Mioveni and Târgu Jiu Prisons 01/03/2019 to 24/10/2019 7 month(s) and 24 day(s) Mioveni Prison 12/11/2019 to 17/12/2019 1 month(s) and 6 day(s)	54 days in compensation for a total period of 272 days spent in detention in inadequate conditions from 01/03/2019 to 22/12/2019, except for the periods spent in Mioveni Prison Hospital

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Facility Start and end date Duration	Domestic compensation awarded (in days) based on total period calculated by national authorities
10.	27301/19 03/05/2019	**Nicolae-Radu PASCAL** 1960	Vizitiu Liliana Piatra Neamț	Bacău and Galați Prisons 03/05/2018 to 31/05/2019 1 year(s) and 29 day(s)	114 days in compensation for a total period of 594 days spent in detention in inadequate conditions from 03/05/2018 to 22/12/2019, except for the period 13/09/2019 - 18/09/2019 spent in transit room of Bacău Prison
11.	28215/19 25/09/2019	**Liviu-Gheorghe FILIVĂSTRU** 1973	Moldovan Alina-Elena Avrig	Deva Prison 09/05/2019 to 24/09/2019 4 month(s) and 16 day(s)	114 days in compensation for a total period of 590 days spent in detention in inadequate conditions from 13/10/2017 to 24/09/2019, except for the periods spent in prison hospitals, of which he did not complain