

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

FOURTH SECTION

DECISION

Applications nos. 46410/17 and 22864/18
Rodrigo GHEORGHE against Romania
and Adrian-Vasile CHIRIBĂU against Romania
(see appended table)

The European Court of Human Rights (Fourth Section), sitting on 19 January 2023 as a Committee composed of:

Armen Harutyunyan*, President*,
Anja Seibert-Fohr,
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)

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

In particular, the Court notes that in application no. 46410/17 the applicant complained about the conditions of detention he was held in from 30 January 2007 to 19 October 2017 in Jilava Prison, and in application no. 22864/18 the applicant complained about the conditions of detention he was held in from 31 January 2009 to 1 March 2018 in Constanța County Police Station, Bucharest Central Arrest, Poarta Albă, Rahova and Jilava Prisons.

Their complaints concerning the inadequate conditions of detention were partly rejected at the communication stage for loss of victim status, since the applicants benefitted from a reduction of their sentence, for the period (i) from 24 July 2012 to 19 October 2017 in application no. 46410/17; and (ii) from 24 July 2012 to 1 March 2018 in application no. 22864/18, as compensation for the periods of detention in conditions which breached Article 3 of the Convention, being released by virtue of Law no. 169/2017.

The Government argued that both applicants were held for certain periods in detention facilities about which they had not complained. From the documents submitted by the Government, it transpires that (i) in application no. 46410/17 the applicant was held from 7 to 21 December 2015 (14 days) in Mioveni Prison, and (ii) in application no. 22864/18, the applicant was held from 27 October to 5 December 2016 (1 month, 8 days) in Găești Prison, detention facilities about which they had not complained.

The applicants did not challenge the Government's submissions.

Against this background, the Court must determine whether the applicants complied with the six-month time-limit established by Article 35 § 1 of the Convention.

The Court reiterates that, in the absence of an effective remedy for complaints about inadequate conditions of detention, Article 35 § 1 of the Convention permits it to deal with a matter only if the application is lodged within six months of the date of the cessation of that situation (see *Iacov Stanciu v. Romania*, no. 35972/05, §136, 24 July 2012).

The Court further reiterates that a period of detention should be regarded as a "continuing situation" if the detention has been effected in the same type of detention facility in substantially similar conditions. The applicant's release or transfer to a different type of detention regime, either within or outside the facility, would put an end to the "continuing situation" (see *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, § 78, 10 January 2012).

In the absence of a description whatsoever of the conditions of detention in Mioveni and Găești Prisons, the Court cannot conclude that the applicants

were detained in identical or substantially similar conditions. Thus, it finds that (i) the period from 7 to 21 December 2015 (14 days) in application no. 46410/17, and (ii) the period from 27 October to 5 December 2016 (1 month, 8 days) in application no. 22864/18, notwithstanding their rather short duration, interrupted the continuous situation of the applicants' detention (see *Abdilla v. Malta*, no. 36199/15, § 28, 17 July 2018).

Given these interruptions and taking into account the fact that the applications were introduced on 9 August 2018, and, respectively, 31 August 2018, the applicants' complaints about the conditions of their detention (i) from 30 January 2007 to 23 July 2012 in application no. 46410/17, and (ii) from 31 January 2009 to 23 July 2012, in application no. 22864/18, were submitted out of the six-month time-limit (see *Cloşcă and Others v. Romania*, nos. 54609/15 and 2 others, § 13, 8 October 2020).

In view of the above, the Court finds that these complaints have been introduced out of time and must be rejected in accordance with Article 35 §§ 1 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 9 February 2023.

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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
1.	46410/17 09/08/2017	**Rodrigo GHEORGHE** 1976
2.	22864/18 31/08/2018	**Adrian-Vasile CHIRIBĂU** 1981