

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

FOURTH SECTION

DECISION

Application no. 45934/16
Emil-Marius KAROLY
against Romania
(see appended table)

The European Court of Human Rights (Fourth Section), sitting on 13 March 2025 as a Committee composed of:

Anne Louise Bormann*, President*,
Sebastian Răduleţu,
András Jakab*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 26 July 2016,

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

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant's details are set out in the appended table.

The applicant was represented by Mr M. Cristescu, a lawyer practising in Timișoara.

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

THE LAW

Complaint 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 present application is inadmissible.

The applicant complained mainly of the inadequate conditions of his detention. He relied on Article 3 of the Convention.

The Government argued that the applicant had failed to exhaust the available effective remedies for the complaint about the inadequate conditions of his detention, as the action in tort had become an effective remedy for grievances similar to those of the applicant, allowing him to have the violation of the Convention acknowledged, either explicitly or in substance, and to receive adequate and sufficient compensation at domestic level. The Government expressly referred to *Vlad v. Romania* (dec.), no. 122/17, 15 November 2022, directly in its observations and by a subsequent letter, and invited the Court to declare the present case inadmissible.

The Court recalls that in *Polgar v. Romania*, no. 39412/19, §§ 94-96, 20 July 2021, it held that an action in tort, based on Articles 1349 and 1357 of the Romanian Civil Code, as interpreted consistently by the national courts, had represented since 13 January 2021 an effective remedy for individuals who considered that they had been subjected to inadequate conditions of detention, and who were no longer being held in conditions that were allegedly contrary to the Convention. Subsequently, in *Vlad*, cited above, §§ 24-32, the Court considered it appropriate to apply an exception to the general principle that the effectiveness of a given remedy was to be assessed with reference to the date on which the application was lodged.

For all the above reasons and in the light of all the material in its possession, since the applicant ceased to be held in conditions of detention that were allegedly contrary to the Convention after the moment when the tort action had been considered as representing an effective remedy (see, *mutatis mutandis*, *Polgar*, § 96 and *Vlad*, § 23, both cited above; see the appended table for further details), but did not inform the Court of having brought such an action before the domestic courts, his application must be dismissed for failure to exhaust domestic remedies.

In the light of the foregoing, the Court considers that this application must be dismissed on the ground that the domestic remedies had not been exhausted, pursuant to Article 35 §§ 1 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 3 April 2025.

Viktoriya Maradudina
Acting Deputy Registrar

Anne Louise Bormann
President

APPENDIX

Application raising complaints under Article 3 of the Convention (inadequate conditions of detention)

Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Facility Start and end date Duration
45934/16 26/07/2016	**Emil-Marius KAROLY** 1987	Marius-Florin Cristescu Timişoara	Arad, Rahova and Timişoara Prisons 12/04/2016 to 18/03/2023 6 year(s) and 11 month(s) and 7 day(s)