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

FOURTH SECTION

DECISION

Application no. 64330/16
Dorel MANAFU against Romania
and 2 other applications
(see appended table)

The European Court of Human Rights (Fourth Section), sitting on 31 August 2023 as a Committee composed of:

Faris Vehabović*, President*,
Anja Seibert-Fohr,
Anne Louise Bormann*, 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 applicant,

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 present applications are inadmissible.

The applicants complained principally of the inadequate conditions of their detention. They relied on Article 3 of the Convention.

The Government argued that the applicants had failed to exhaust the available effective remedies for the complaints about the inadequate conditions of their detention, as an action in tort was an effective remedy for grievances similar to those of the applicants, allowing them to have the violation of the Convention acknowledged, either explicitly or in substance, and to receive adequate and sufficient compensation at the domestic level. By a subsequent letter, the Government expressly referred to *Polgar v. Romania* (no. 39412/19, 20 July 2021) and *Vlad v. Romania* ((dec.), no. 122/17, 15 November 2022), and invited the Court to declare the cases inadmissible.

The Court recalls that in *Polgar v. Romania* (cited above, §§ 94-96) 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, when they lodged their action, held in conditions that were allegedly contrary to the Convention.

Subsequently, in *Vlad v. Romania* (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.

Although invited, the applicants did not inform the Court of having brought an action in tort before the Romanian courts. Therefore, in the light of all the material in its possession, since the applicants were no longer in detention conditions 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 for further details the appended table), the Courts considers that their applications must be rejected for failure to exhaust domestic remedies, pursuant to 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 21 September 2023.

Viktoriya Maradudina Acting Deputy Registrar	Faris Vehabović 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.	64330/16 28/11/2016	**Dorel MANAFU** 1970		Olt County Police, Craiova, Colibași, Iași, Jilava and Poarta Albă Prisons and Jilava, Rahova, Colibași and Poarta Albă Prison Hospitals 04/08/2003 to 02/04/2012 8 year(s) and 7 month(s) and 30 day(s) Mioveni Prison Hospital and Mioveni Prison 24/07/2012 to 04/09/2012 1 month(s) and 12 day(s) Rahova Prison Hospital 24/09/2012 to 04/10/2012 11 day(s) Arad and Pelendava Prisons 22/12/2016 to 17/04/2022 5 year(s) and 3 month(s) and 27 day(s)
2.	79679/16 15/12/2016	**Ionuț PURCEL** 1976	Ionela Mărgărit Bucharest	Bacău, Galați and Arad Prisons 13/10/2003 to 23/07/2012 8 year(s) and 9 month(s) and 11 day(s)

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Facility Start and end date Duration
				Brăila Prison 24/12/2019 to 08/06/2021 1 year(s) and 5 month(s) and 16 day(s)
3.	7344/17 06/02/2017	**Dorel UDREA** 1966		Craiova, Jilava, Gherla, Iasi and Mioveni Prisons, Jilava Hospital Prison 05/05/2001 to 24/07/2012 11 year(s) and 2 month(s) and 20 day(s) Drobeta Turnu Severin Prison 24/12/2019 to 13/01/2021 1 year(s) and 21 day(s)