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

FOURTH SECTION

DECISION

Application no. 42119/16
Ioan MUNTEAN
against Romania

The European Court of Human Rights (Fourth Section), sitting on 1 February 2024 as a Committee composed of:

Anja Seibert-Fohr*, President*,
Anne Louise Bormann,
Sebastian Răduleţu*, judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 5 October 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, Mr Ioan Muntean, was born in 1973. His complaints under Article 3 of the Convention concerning the inadequate conditions of detention were communicated to the Romanian Government ("the Government").

THE LAW

Having examined all the material before it, the Court considers that, for the reasons stated below, the present application is inadmissible.

The Court notes that the applicant complained about the conditions of detention served from 27 November 1997 to 18 September 2018 in the Deva County Police Station, and the Deva (Bârcea Mare), Jilava, Târgu Mureș, Aiud and Gherla Prisons.

His complaint concerning the conditions of detention for the period between 24 July 2012 and 18 September 2018 was rejected at the communication stage for loss of the victim status, as 438 days were deducted from his sentence as compensation for that period spent in detention in inadequate conditions.

The Government argued that, having regard to the fact that the application with the Court was lodged on 5 October 2016, the applicant's complaint in respect of the remaining period of imprisonment, that is the one between 27 November 1997 and 23 July 2012, is inadmissible as it had been lodged outside the six-month time-limit. From the documents submitted by the Government, it transpires that the applicant was held between 25 September and 4 October 2012 (nine days) in the Rahova Prison Hospital, a detention facility about which he did not complain.

The applicant did not challenge the Government's submissions.

Against this background, the Court must determine whether the applicant 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 regimen, 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 the Rahova Prison Hospital, the Court cannot conclude that the applicant was detained in identical or substantially similar conditions. Thus, it finds that the period between 25 September and 4 October 2012 interrupted the continuous situation of the applicant's detention (see *Abdilla v. Malta*, no. 36199/15, § 28, 17 July 2018).

Given this interruption and taking into account the fact that the application was introduced on 5 October 2016, the applicant's complaint about the conditions of his detention between 27 November 1997 and 23 July 2012 was 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 this complaint has 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,

Declares the application inadmissible.

Done in English and notified in writing on 22 February 2024.

Viktoriya Maradudina Acting Deputy Registrar	Anja Seibert-Fohr President