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

FOURTH SECTION

DECISION

Application no. 39809/22
Răzvan PAȘCA
against Romania

The European Court of Human Rights (Fourth Section), sitting on 10 December 2024 as a Committee composed of:

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

and Simeon Petrovski, *Deputy Section Registrar,*

Having regard to:

the application (no. 39809/22) against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 9 August 2022 by a Romanian national, Mr Răzvan Pașca, who was born in 1987 and lives in Baia Mare ("the applicant") and was represented by Ms L. Giurgiu, a lawyer practising in Baia Mare;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns a two-week forced institutionalised quarantine during the Covid-19 pandemic. The applicant complains under Articles 5 and 8 of the Convention.

2. At the time of the facts giving rise to the present application, the applicant was an administrator of a transport company.

3. In the midst of the Covid-19 pandemic, on 12 March 2020, by Order of the Ministry of Health No. 414/2020, people entering Romania were subject to quarantine under certain conditions and with certain exceptions. On 16 March 2020 the Romanian President issued the State of Emergency Decree (Decree no. 195/2020) which introduced a thirty-day state of emergency in Romania with immediate effect and which was further

extended (for details, see *Terheş v. Romania* (dec.), no. 49933/20, §§ 5 and 8-9, 13 April 2021).

4. On 5 May 2020 the applicant transported a person by car from Baia Mare hospital to Vienna airport. When he returned to Romania on 6 May 2020, he allegedly waited for twelve hours at the Arad-Nădlac border crossing together with 300-400 people who were trying to enter the respondent State. After checking his papers and medical certificates, the Arad Directorate of Public Health ("the Arad DPH") placed the applicant in mandatory quarantine for two weeks and escorted him to a hotel in his home town, Baia Mare, where he remained for the duration of the quarantine.

5. On 7 and 8 May 2020, while in the designated hotel, the applicant contacted by e-mail the Maramureş Directorate of Public Health ("the Maramureş DPH") and asked to be allowed to quarantine at home, explaining that he would be able to do so safely. He allegedly received no answer to his request.

6. On 15 September 2020 the applicant instituted proceedings against the Maramureş DPH, the Central Inspectorate for Emergency Situations, the Maramureş Inspectorate for Emergency Situations, the Directorate for Emergency Situations of the Ministry of Internal Affairs and the Maramureş Prefect's Office. He sought non-pecuniary compensation for the damage to his honour, dignity and reputation caused by the manner in which he was treated upon his return to Romania. He explained that he had had to wait at the Arad-Nădlac border crossing in inhuman conditions, that the quarantine at the hotel had amounted to an unlawful deprivation of his liberty and that his family had been left suffering during his quarantine away from home. Furthermore, his employees had not received salaries during his two-week absence from work. He also complained of not having received an answer to his requests of 7 and 8 May 2020.

7. The Maramureş County Court analysed the regulations in place and observed that the applicant did not belong to any category of people exempted from quarantine and he had no grounds to claim otherwise, since both the regulations and the restrictions prescribed therein had been duly published by the authorities. He thus took the risk of travelling to Austria being aware of the epidemic situation and of the measures put in place by the domestic authorities. In any event, the court noted that the measure complained of by the applicant had been taken by the Arad DPH and that none of the alleged unlawful acts noted in the applicant's action could be reproached to any of the authorities sued. Consequently, with a decision of 28 October 2021 the court rejected the action for lack of standing of the defendants to be sued.

8. With a final decision of 9 June 2022 the Cluj Court of Appeal upheld the County Court's findings and reiterated that the applicant had failed to prove that the defendants sued had been responsible for the damage claimed.

9. Relying on Article 5 of the Convention the applicant complained that the fourteen-day quarantine constituted an unlawful deprivation of his liberty,

that the law was not clear as to who had been exempted from mandatory quarantine and that he should have been allowed to quarantine at home. He also alleged that, because of how the quarantine had been organised, he had been at risk of being infected with Covid-19 by other persons confined with him during those fourteen days.

10. Under Article 8 of the Convention he complained that he had had no means to contact his spouse and underaged children during the quarantine and that he had received no answer to his requests to be allowed to quarantine at home.

THE COURT'S ASSESSMENT

11. The Court refers to the well-established principles of its case-law concerning the requirement to exhaust domestic remedies (see *Communauté genevoise d'action syndicale (CGAS) v. Switzerland* [GC], no. 21881/20, §§ 138-45, 27 November 2023, with further references). In particular, the obligation to exhaust domestic remedies requires applicants to make normal use of remedies which are available and sufficient in respect of their Convention grievances. The existence of the remedies in question must be sufficiently certain not only in theory but in practice, failing which they will lack the requisite accessibility and effectiveness (ibid., § 139, with further references).

12. In the present case, the applicant's claim was rejected by the domestic courts at two levels of jurisdiction on the ground that it had not been lodged against the authority responsible for the measure complained of. The domestic courts had clearly indicated the Arad DPH as the responsible authority (see paragraphs 7 and 8 above). The applicant did not bring proceeding against that authority and there is nothing in the file to indicate that he was in any way prevented from lodging such an action. Furthermore, he did not claim that an action against the Arad DPH would have been bound to fail (ibid., § 141).

13. The Court considers that, by having failed to lodge his claim against the competent authority, the applicant did not take appropriate steps to enable the domestic courts to fulfil their fundamental role in the Convention protection system, namely, to prevent or put right eventual Convention violations through their own legal system (ibid., § 164).

14. Accordingly, the application must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 16 January 2025.

Simeon Petrovski Deputy Registrar	Anne Louise Bormann President