

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

FOURTH SECTION

DECISION

Application no. 39890/20
Constantin URSU against Romania
and 2 other applications
(see appended table)

The European Court of Human Rights (Fourth Section), sitting on 21 November 2024 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 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 the action in tort had become 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 domestic level. The Government expressly referred to *Vlad v. Romania* (dec.), no. 122/17, 15 November 2022, in its observations, and invited the Court to declare the cases 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 applicants 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, their applications must be dismissed for failure to exhaust domestic remedies.

The Government also argued that applications nos. 39890/20 and 40438/21 must be rejected in part as incompatible *ratione personae* with the provisions of the Convention, because the applicants lost their victim status as they had already benefitted from the remedy introduced by Law no. 169/2017 amending and completing Law no. 254/2013 on the execution of sentences.

Since it has already upheld the Government's objection on the non-exhaustion of domestic remedies, the Court does not consider it necessary to examine further the question of incompatibility *ratione personae* with the provisions of the Convention.

In the light of the foregoing, the Court considers that these applications must be dismissed on the ground that domestic remedies had not been exhausted, 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 12 December 2024.

Viktoriya Maradudina Acting Deputy Registrar	Anne Louise Bormann 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	Facility Start and end date Duration
1.	39890/20 22/03/2021	**Constantin URSU** 1976	Iași, Tulcea, Botoșani and Găești Prisons 11/05/2017 to 07/10/2021 4 year(s) and 4 month(s) and 27 day(s)
2.	40438/21 27/07/2021	**Ion FLOREA** 1967	Vâlcea County Police Station; Mioveni, Giurgiu and Târgu Jiu Prisons; Mioveni Prison Hospital 13/06/2018 to 05/03/2024 5 year(s) and 8 month(s) and 22 day(s)
3.	41497/21 13/09/2021	**Gheorghe NICHITA** 1979	Galați and Oradea Prisons 01/01/2020 to 17/05/2022 2 year(s) and 4 month(s) and 17 day(s)