

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

FOURTH SECTION

DECISION

Application no. 49119/20
Răzvan-Ionuț ZOTA against Romania
and 6 other applications
(see appended table)

The European Court of Human Rights (Fourth Section), sitting on 18 April 2024 as a Committee composed of:

Branko Lubarda*, President*,
Anne Louise Bormann,
Sebastian Răduleţu*, 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)

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. By a subsequent letter, the Government expressly referred to *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*, 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 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.

Although invited, the applicants did not inform the Court of having brought an action in tort before the Romanian courts. Therefore, 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), 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 16 May 2024.

Viktoriya Maradudina Acting Deputy Registrar	Branko Lubarda 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.	49119/20 28/10/2020	**Răzvan-Ionuț ZOTA** 1985	Adina-Loredana Ilașcu Iași	Găești, Iași and Botoșani Prisons 23/12/2019 to 30/03/2022 2 year(s) and 3 month(s) and 8 day(s)
2.	50937/20 04/12/2020	**Lică PLETOSU** 1968		Brăila Prison 20/01/2020 to 27/10/2022 2 year(s) and 9 month(s) and 8 day(s)
3.	22320/21 24/05/2021	**Peter DEMENY** 1976	Cezara-Maria Nichita-Costescu Timișoara	Aiud, Târgu Mureș and Timișoara Prisons 23/12/2019 to 11/04/2023 3 year(s) and 3 month(s) and 20 day(s)
4.	24940/21 07/07/2021	**Costel MICLIȘ** 1981		Miercurea Ciuc and Codlea Prisons 24/02/2021 to 26/08/2023 2 year(s) and 6 month(s) and 3 day(s)
5.	29168/21 30/06/2021	**Emilian PĂDURARU** 1988		Rahova, Iași, Bacău, Miercurea Ciuc and Dâmbovița (Mărgineni) Prisons; Târgu Ocna Prison Hospital 23/12/2019 to 05/05/2023 3 year(s) and 4 month(s) and 13 day(s)
6.	42846/21 20/10/2021	**Ion CĂTANĂ** 1973		Codlea and Aiud Prisons 28/05/2020 to 13/11/2023 3 year(s) and 5 month(s) and 17 day(s)

7.	52907/21 22/12/2021	**Alexandru NICULESCU** 1985		Bucharest Central Arrest; Rahova, Jilava and Giurgiu Prisons 22/01/2020 to 17/06/2022 2 year(s) and 4 month(s) and 27 day(s) Bucharest Central Arrest; Rahova, Jilava and Giurgiu Prisons 27/09/2022 to 12/06/2023 8 month(s) and 17 day(s)