



Violation of the right to freedom of religion of a prisoner who did not receive meals compatible with the precepts of Islam in Iași Prison

In today's Chamber judgment¹ in the case of [Saran v. Romania](#) (application no. 65993/16) the European Court of Human Rights held, unanimously, that there had been:

a violation of Article 9 (right to freedom of thought, conscience and religion) of the European Convention on Human Rights.

The case concerned the provision to a prisoner of meals compatible with the precepts of Islam.

Mr Saran was held in five Romanian prisons (Botoșani, Codlea, Deva, Iași and Miercurea-Ciuc), between 2016 and 2018. He complained that he had not received meals compatible with the precepts of Islam in two prisons (Iași and Miercurea-Ciuc) which had required him to furnish written proof of his adherence to that religion, although he had declared that he was a Muslim when he was admitted to prison and the ethical and religious assistance records in Iași Prison had stated that he was a Muslim.

The Court found in particular that in refusing to provide Mr Saran with meals compatible with his religion during his time in Iași Prison, the national authorities had not struck a fair balance between the interests of the prison, those of the other prisoners and the individual interests of the prisoner concerned. It also noted that Mr Saran had received meals compatible with his religion in Botoșani, Codlea and Deva Prisons, which suggested that the Romanian prison system was capable of accommodating such requests.

The Court rejected the applicant's complaints concerning Miercurea-Ciuc Prison, finding that they had been submitted out of time.

Principal facts

The applicant, Ion Saran, is a Moldovan national who was born in 1983. He lives in Brașov (Romania).

Between April 2016 and August 2018, Mr Saran served a prison sentence in several Romanian prisons. He alleged that he had declared himself to be a Muslim when he was admitted to prison. The Government contested that assertion.

In April 2016 Mr Saran was placed in detention in Botoșani Prison, where he declared that he was a Muslim and asked to be provided with meals compatible with the precepts of that religion. His request was granted.

Between May and December 2016 he was held in Iași and Miercurea-Ciuc Prisons, where he requested access to a place of worship and meals compatible with his religion. His requests were refused by the management in both prisons and by the competent courts. The latter observed, among other findings, that Mr Saran had initially declared himself to be an Orthodox Christian and had not subsequently produced any document proving that he was a Muslim.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

In December 2016 Mr Saran was placed in detention in Codlea Prison, where he was served with meals compatible with the precepts of Islam. He was subsequently transferred to Deva Prison where, from 7 April 2017 onwards, he also received meals compatible with the diet prescribed for Muslims.

Complaints, procedure and composition of the Court

Relying on Article 9 (freedom of thought, conscience and religion) and on Article 14 (prohibition of discrimination), Mr Saran complained that in Iași and Miercurea-Ciuc Prisons he had not been provided with meals compatible with the precepts of his religion or with a suitable place of worship. He also alleged that he had been discriminated against compared with the majority of prisoners, who were adherents of the Orthodox Christian faith.

The application was lodged with the European Court of Human Rights on 4 May 2017.

Judgment was given by a Chamber of seven judges, composed as follows:

Yonko **Grozev** (Bulgaria), *President*,
Iulia Antoanella **Motoc** (Romania),
Branko **Lubarda** (Serbia),
Carlo **Ranzoni** (Liechtenstein),
Georges **Ravarani** (Luxembourg),
Jolien **Schukking** (the Netherlands),
Péter **Paczolay** (Hungary),

and also Andrea **Tamietti**, *Section Registrar*.

Decision of the Court

Article 9 (freedom of thought, conscience and religion)

The Court noted at the outset that **Mr Saran's complaints concerning Miercurea-Ciuc Prison** were out of time, having been submitted outside the six-month time-limit laid down by Article 35 § 1 (admissibility criteria) of the Convention. Those complaints were therefore rejected.

As to the complaints concerning Iași Prison, the Court noted that Law no.254/2013 and the secondary legislation implementing that Law made express provision for the right of prisoners to receive meals compatible with the precepts of their religion. It also observed that Order no. 1072/2013, which constituted the applicable domestic law in this sphere, provided that prisoners could make a solemn declaration as to their religious affiliation when they were admitted to prison and, if they converted while in detention, could produce a solemn declaration at that juncture and a document confirming their new religious affiliation.

The Government contended that Mr Saran had declared himself to be an Orthodox Christian when he was placed in detention and should have subsequently produced proof of his conversion to Islam in order to be provided with meals compatible with the precepts of that religion.

However, the Court noted that Mr Saran had stated, and the Government had not disputed, that he had received meals compatible with the precepts of Islam in Botoșani Prison, where he had been detained at the beginning of his time in prison. It also noted that the ethical and spiritual assistance form in Iași Prison had stated that he was a Muslim, as had the educational and psychosocial support records of Codlea and Deva Prisons.

The Court also observed that the Iași Court of First Instance had dismissed Mr Saran's appeal on the grounds that he had declared at the time of his admission to prison that he was an Orthodox

Christian and had not subsequently proved that he was an adherent of Islam. However, these findings of fact, made on 28 March 2017, did not tally with the ethical and spiritual assistance form completed on 24 May 2016 in Iași Prison, according to which Mr Saran was a Muslim. Nor was there any indication that the Court of First Instance had attempted to check the factual data recorded by the prison management regarding Mr Saran's religious affiliation. Furthermore, the Government had not explained the discrepancies as to the applicant's religious affiliation between the various documents issued by the national authorities.

The Court considered that the authorities had a duty to make the necessary arrangements and to coordinate with each other so as to ensure that information was circulated and shared properly, particularly in a situation such as that in the present case, where the order of the Ministry of Justice had drawn a distinction between the initial declaration of religion, which the prisoner could make freely and without particular formalities when he or she was admitted to prison, and a change of religion in the course of detention, which the prisoner had to prove by means of a document issued by representatives of his or her new faith.

Consequently, the Court considered that in refusing to provide Mr Saran, during his detention in Iași Prison, with meals compatible with the precepts of his religion, the national authorities had not struck a fair balance between the interests of the prison, those of the other prisoners and the individual interests of the prisoner concerned. It also noted that Mr Saran had received meals compatible with his religion in Botoșani, Codlea and Deva Prisons, which suggested that the Romanian prison system was capable of accommodating such requests.

The Court also took into consideration the length of the proceedings concerning the meals served in Iași Prison. It noted that the judgment of the Iași Court of First Instance had been delivered on 28 March 2017, whereas Mr Saran had been transferred to Codlea Prison on 6 December 2016. The Government had not offered any explanation for the delay in those proceedings.

Hence, in the light of the foregoing considerations and notwithstanding the margin of appreciation left to the respondent State in the matter, the Court considered that the national authorities had not complied, to a degree that was reasonable in the circumstances of the case, with their positive obligations under Article 9 of the Convention with regard to the meals provided to Mr Saran in Iași Prison. There had therefore been a violation of that provision.

In view of that finding, the Court considered it unnecessary to examine the applicant's allegations concerning the authorities' refusal to provide him with a suitable place of worship in Iași Prison.

Just satisfaction (Article 41)

The Court held that Romania was to pay Mr Saran 5,000 euros (EUR) in respect of non-pecuniary damage.

The judgment is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.