



Court confirms effectiveness of preventive remedy under Article 56 of Law no. 254/2013 for Romanian prisoners alleging poor detention conditions during prison terms

In its decision in the case of [Văscăuțanu v. Romania](#) (application no. 10120/23) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerned the effectiveness of a preventive remedy, namely an application to a post-sentencing judge under Article 56 of Law no. 254/2013 on the execution of sentences and detention measures ordered by the judicial authorities in the context of criminal proceedings. The purpose of the remedy was to put an end to situations breaching rights under Article 3 (prohibition of inhuman and degrading treatment) of the European Convention on Human Rights where prisoners had alleged poor conditions of detention while serving their prison terms.

The Court noted that an application to a post-sentencing judge was an effective preventive remedy to be used, from 6 April 2023 onwards, by anyone complaining of poor conditions of detention. That remedy was complementary to the compensatory remedy available to people who alleged that they had been detained in conditions breaching the European Convention but were no longer in that situation at the time they brought their action.

The applicant, however, had failed to make use of either of those effective remedies – both of which had been available to him and had offered reasonable prospects of success – at any time during his detention in various prisons.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

Principal facts

The applicant, Gheorghe-Vasile Văscăuțanu, is a Romanian national who was born in 1986. He is currently detained in Craiova Prison.

On 26 February 2019 Mr Văscăuțanu was placed in pre-trial detention in Vrancea Prison as part of criminal proceedings. He was then sentenced to life imprisonment. He began serving his sentence on 27 June 2019, with successive periods in Focșani Prison (from 27 June 2019 to 26 March 2020), Galați Prison (from 26 March 2020 to 1 October 2023), Craiova Prison (from 1 October 2023 to 18 March 2024), Galați Prison (from 18 to 28 March 2024) and Craiova Prison (since 28 March 2024).

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 20 February 2023.

Relying on Article 3 (prohibition of inhuman and degrading treatment) and Article 13 (right to an effective remedy) of the Convention, the applicant alleged that the conditions of his detention in Vrancea, Focșani, Galați and Craiova Prisons amounted to continuing inhuman and degrading treatment.

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

Lado Chanturia (Georgia), *President*,
Jolien Schukking (the Netherlands),
Lorraine Schembri Orland (Malta),
Anja Seibert-Fohr (Germany),
Ana Maria Guerra Martins (Portugal),

Sebastian Rădulețu (Romania),
András Jakab (Austria),

and also Simeon Petrovski, *Deputy Section Registrar*.

Decision of the Court

Article 3

The Court considered it appropriate to examine the applicant's complaints solely under Article 3 of the Convention.

Conditions of the applicant's detention in Vrancea, Focșani, Galați and Craiova Prisons from 26 February 2019 to 28 March 2024

Regarding this period, the Court observed that the applicant had been detained in conditions that were compatible with Article 3 during his detention in Galați Prison (from 26 March 2020 to 1 October 2023, then from 18 to 28 March 2024). The complaints in that part of the application accordingly had to be declared ill-founded and therefore inadmissible. Each time the applicant had been transferred to Galați Prison, he had thus stopped being held in conditions in breach of Article 3. As a result, he should have lodged a compensatory remedy (see the [Polgar v. Romania](#) judgment and the [Vlad v. Romania](#) decision) in respect of his detention in Vrancea and Focșani Prisons (from 27 June 2019 to 26 March 2020) and Craiova Prison (from 1 October 2023 to 18 March 2024). He could have used that remedy from 13 January 2021 onwards.

That part of the application accordingly had to be rejected for failure to exhaust domestic remedies.

Material conditions of the applicant's detention in Craiova Prison since 28 March 2024

As regards this period, the Government had objected that the applicant had failed to use the preventive remedy provided for in Law no. 254/2013, or the compensatory remedy previously confirmed as effective in the [Polgar](#) judgment and the [Vlad](#) decision. They had provided a large number of examples of domestic case-law to demonstrate the effectiveness of the preventive remedy. They had also submitted information on how detention conditions had improved at national level following the adoption of the pilot judgment in [Rezmiveș and Others](#) and the subsequent implementation of an action plan by the national authorities.

In that regard, after conducting an in-depth analysis of the examples provided, the Court referred in particular to judgment no. 156 of 6 April 2023, delivered by the Iași Prison post-sentencing judge, which confirmed a consolidation of the domestic courts' case-law on the application of the preventive remedy.

The favourable development in the case-law was corroborated by many other examples of domestic decisions that had followed the judgment of 6 April 2023. They showed that the preventive remedy had enabled the complainants to put an end to situations allegedly breaching their Article 3 rights in respect of detention conditions.

In addition, as part of the action plan initiated in 2020 in response to the [Rezmiveș and Others](#) judgment, the respondent State had put in place a series of measures aimed at addressing the systemic issue of poor conditions of detention in Romanian prisons. Official Council of Europe statistics (SPACE) also confirmed that prison density in Romania had mainly decreased in the 11 years from 2013, even though overcrowding persisted. The primarily downward trend was expected to continue and it was likely that the situation would remain manageable, in particular owing to the renovation of existing cells and the construction of additional detention capacity. As a result, the decisions of the post-sentencing judge and those of the courts did not appear hard or impossible to comply with in

cases in which they sought to overcome overcrowding or to improve the existing material conditions in prisons.

The Court acknowledged the results achieved so far thanks to the considerable work undertaken by the Romanian authorities at several levels. It encouraged them to redouble their efforts to support that positive trend by moving ahead with the measures already initiated. In that way, they could find a definitive solution to the problem in question and guarantee each prisoner living conditions that were compatible with the principles of the Convention.

Having regard to the nature of the preventive remedy, the manner in which the domestic courts applied it and the improvement in the material conditions of detention in Romanian prisons, the Court found that the domestic remedy introduced by Article 56 of Law no. 254/2013 had, since 6 April 2023, been an accessible remedy capable of offering reasonable prospects of success to people alleging poor conditions of detention. That finding was without prejudice to any review of the effectiveness of the remedy by the Court in the light of the domestic courts' decisions and their effective execution.

In the present case, the applicant had, on three occasions, made use of the remedy introduced by Law no. 254/2013, to complain of ill-treatment and to obtain appropriate medical care during his detention in Craiova Prison, but never to allege poor detention conditions in that prison. The Court had found, however, that the remedy in question could, from 6 April 2023 onwards, be regarded as effective for challenging poor conditions of detention in Romanian prisons.

The Court therefore considered that the applicant, as regards his detention since 28 March 2024 in conditions in breach of Article 3 of the Convention, should have availed himself of the preventive remedy in question in order to secure an immediate improvement in his situation.

The applicant's complaint accordingly had to be rejected for failure to exhaust domestic remedies.

The decision is available only in French.

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