



## Non-governmental organisation allowed to bring a case before the Court on behalf of young Roma man who died in psychiatric hospital

In today's Grand Chamber judgment in the case of [Centre For Legal Resources On Behalf of Valentin Câmpeanu v. Romania](#) (application no. 47848/08), which is final<sup>1</sup>, the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 2 (right to life)** of the European Convention on Human Rights, in both its substantive and its procedural aspects, and

**a violation of Article 13 (right to an effective remedy)** in conjunction with Article 2.

The case concerned the death of a young man of Roma origin – who was HIV positive and suffering from a severe mental disability – in a psychiatric hospital. The application was lodged by a non-governmental organisation (NGO) on his behalf.

The Court found that, in the exceptional circumstances of the case, and bearing in mind the serious nature of the allegations, it was open to the NGO to act as a representative of Mr Câmpeanu, even though the organisation was not itself a victim of the alleged violations of the Convention.

As regards the complaints under Article 2, the Court found in particular: that Mr Câmpeanu had been placed in medical institutions which were not equipped to provide adequate care for his condition; that he had been transferred from one unit to another without proper diagnosis; and, that the authorities had failed to ensure his appropriate treatment with antiretroviral medication. The authorities, aware of the difficult situation – lack of personnel, insufficient food and lack of heating – in the psychiatric hospital where he had been placed, had unreasonably put his life in danger. Furthermore, there had been no effective investigation into the circumstances of his death.

Finding that the violations of the Convention in Mr Câmpeanu's case reflected a wider problem, the Court recommended Romania to take the necessary general measures to ensure that mentally disabled persons in a comparable situation were provided with independent representation enabling them to have complaints relating to their health and treatment examined before an independent body.

### Principal facts

The application was lodged by the Centre for Legal Resources (CLR), a non-governmental organisation, on behalf of Valentin Câmpeanu, who was born in 1985 and died in 2004 at the age of 18. Abandoned at birth and placed in an orphanage, he had been diagnosed as a young child as being HIV-positive and as suffering from a severe mental disability.

In 2003, at the age of 18, Mr Câmpeanu had to leave the centre for disabled children where he had been staying. The county child protection panel ordered, at a hearing which Mr Câmpeanu did not attend, that a social worker should take the necessary measures for him to be transferred to the

<sup>1</sup> Grand Chamber judgments are final (Article 44 of the Convention).

All final judgments are transmitted to the Committee of Ministers of the Council of Europe for supervision of their execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution)

Poiana Mare Neuropsychiatric Hospital (“PMH”). Two assessments of his health were carried out, which came to different conclusions as regards the degree of his intellectual disability. In October 2003, the PMH informed the panel that it could not admit Mr Câmpeanu, as he had been diagnosed with HIV and mental disability and the hospital lacked the necessary facilities to treat him.

Eventually Mr Câmpeanu was admitted to a medical and social care centre in early February 2004, which found him to be in an advanced state of psychiatric and physical degradation, without any antiretroviral medication and suffering from malnutrition. Following a sudden change in his behaviour – allegedly he was in an “agitated” state and acted aggressively – Mr Câmpeanu was taken to the PMH, which was the nearest psychiatric hospital, for examination and treatment on 9 February, but returned to the medical and social care centre on the same day. On 13 February he was again taken to the PMH for treatment. After one week there, he was seen by a team of monitors from the NGO CLR, who reported finding him alone in an unheated room, with a bed but no bedding, dressed only in a pyjama top and without the assistance he needed in order to eat or use the toilet. In the evening of the same day, 20 February 2004, Mr Câmpeanu died.

The CLR lodged a criminal complaint on 23 February 2004, alleging in particular homicide by negligence. It argued in particular: that Mr Câmpeanu had not been placed in a medical institution appropriate to his condition; that the authorities had wrongly classified him as being in the medium disability group contrary to previous and subsequent diagnoses; that the authorities had not supplied the required antiretroviral medication to the staff of medical and social care centre when he was transferred there; that the transfer from the medical and social care centre to the PMH had been unnecessary; and, that the decision for that transfer had been taken without the patient’s consent.

A criminal investigation was opened in August 2004; a forensic report was issued and Mr Câmpeanu’s body was exhumed and an autopsy carried out. In July 2005, the prosecutor’s office issued a decision not to prosecute, finding that the treatment provided to the patient had been appropriate and that his death had not been violent but caused by a complication of his HIV infection. The decision was subsequently quashed and the investigation was reopened and closed again on two occasions. The second court decision ordering the reopening of the investigation noted a number of shortcomings. In particular: documents assessing Mr Câmpeanu’s medical condition prior to his admittance to the medical and social care centre had not been added to the investigation file; contradictions in the statements of those involved in his admission there had not been resolved; and, the circumstances of the interruption of his treatment with antiretroviral medication had not been clarified. The second decision not to prosecute was ultimately upheld by a county court in April 2008 on the grounds that there was no causal link between Mr Câmpeanu’s treatment and his death, relying in particular on the conclusions of the forensic report and the autopsy report.

In response to complaints lodged by the CLR a number of bodies looked into the circumstances surrounding Mr Câmpeanu’s death – in particular a county commission established with the task of investigating his death, and the National Authority for the protection and adoption of children – but they concluded that the appropriate procedures had generally been followed and that Mr Câmpeanu’s rights had not been breached. The disciplinary board of the Medical Association ruled that there were no grounds for taking disciplinary action against staff at the PMH.

The CLR obtained an expert opinion by the International Federation of Health and Human Rights Organisations, which noted in particular that at the PMH Mr Câmpeanu had never been consulted by an infectious disease specialist, and that it was possible that he had suffered from HIV-related pneumonia. The report concluded that his death had been the result of gross medical negligence.

In proceedings following the CLR’s complaint on behalf of another patient who had died at the PMH, the Romanian courts dismissed an objection by the prosecutor that the CLR did not have the standing to lodge such a case.

According to the 2004 report by the European Committee for the Prevention of Torture (CPT), in two consecutive winters – in 2003 and 2004 – 109 patients died in suspicious circumstances at the PMH, the main causes of death being cardiac arrest, myocardial infarction and bronchopneumonia, and the average age of the patients who died being 56, with a number of them being under 40. The CPT found that some of the patients were not given sufficient care. It also noted a lack of human and material resources at the hospital as well as deficiencies in the quality and quantity of the food and a lack of heating. In response to a letter by the United Nations Special Rapporteur on the Right to Health in March 2004, which expressed concern about the conditions at the PMH, the Romanian Government stated that the authorities shared the concerns about the hospital and would take measures to improve the conditions there and ensure such a situation was not to be found in similar institutions.

## Complaints, procedure and composition of the Court

CLR alleged that Mr Câmpeanu's rights under Article 2 (right to life), Article 3 (prohibition of torture and inhuman or degrading treatment), Article 5 (right to liberty and security), Article 8 (right to respect for private and family life), Article 13 (right to an effective remedy) and Article 14 (prohibition of discrimination) of the European Convention on Human Rights had been violated.

The application was lodged with the European Court of Human Rights on 2 October 2008. On 19 March 2013 the Chamber relinquished jurisdiction in favour of the Grand Chamber.<sup>2</sup> The following bodies and organisations were given leave to intervene in the proceedings as third parties: Human Rights Watch, the Euroregional Center for Public Initiatives, the Bulgarian Helsinki Committee and the Mental Disability Advocacy Center. The Council of Europe Commissioner for Human Rights exercised his right to intervene in the proceedings and submitted written comments as a third party.

A Grand Chamber hearing was held on 4 September 2013.

Judgment was given by the Grand Chamber of 17 judges, composed as follows:

Dean **Spielmann** (Luxembourg), *President*,  
Guido **Raimondi** (Italy),  
Ineta **Ziemele** (Latvia),  
Isabelle **Berro-Lefèvre** (Monaco),  
Alvina **Gyulumyan** (Armenia),  
David Thór **Björgvinsson** (Iceland),  
Ján **Šikuta** (Slovakia),  
Päivi **Hirvelä** (Finland),  
Luis **López Guerra** (Spain),  
Ledi **Bianku** (Albania),  
Nona **Tsotsoria** (Georgia),  
Kristina **Pardalos** (San Marino),  
Vincent A. **de Gaetano** (Malta),  
Angelika **Nußberger** (Germany),  
Paulo **Pinto de Albuquerque** (Portugal),  
Paul **Mahoney** (the United Kingdom),  
Johannes **Silvis** (the Netherlands),

and also Michael **O'Boyle**, *Deputy Registrar*.

<sup>2</sup> Under Article 30 of the European Convention on Human Rights, "Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber, unless one of the parties to the case objects".

## Decision of the Court

As regards the admissibility of the case, the Court dismissed an objection by the Romanian Government to the effect that the CLR did not have the standing to lodge the application on behalf of Valentin Câmpeanu, as it could neither claim to be a victim of the alleged violations of the Convention itself, nor was it Mr Câmpeanu's valid representative. The Court acknowledged that, while Mr Câmpeanu was the direct victim of the alleged violations of the Convention, there were not sufficient relevant grounds for regarding the CLR as an indirect victim. However, the Court found that in the exceptional circumstances of the case, and bearing in mind the serious nature of the allegations, it should be open to the CLR to act as Mr Câmpeanu's representative.

To arrive at that conclusion, the Court took into account that the Convention had to be interpreted as guaranteeing rights which are practical and effective as opposed to theoretical and illusory. Furthermore, it was significant that the CLR's right to represent Mr Câmpeanu before the Romanian medical and judicial authorities had never been questioned or challenged in any way when the CLR had brought various sets of proceedings aimed at clarifying the circumstances leading up to his death. Those were initiatives which would normally be the responsibility of a guardian or representative. However, when Mr Câmpeanu, who did not have any relatives known to the authorities, reached majority, no guardian had been appointed even though the authorities would have been required by law to do so. In view of his extreme vulnerability, being unable to take care of himself, Mr Câmpeanu had not been capable of initiating any proceedings to complain about his situation while he was alive without proper legal support and advice. He had therefore been in an entirely different and less favourable position than that of any applicant in previous cases dealt with by the Court.

### Article 2

The Court reiterated that no guardian had been appointed when Mr Câmpeanu turned 18. The presumption had therefore been that he had full legal capacity, in spite of his severe mental disability. The Court noted that had that indeed been so, the manner in which the medical authorities had handled his case had run counter to national legislation – the Mental Health Act – under which they would have been required to obtain the patient's consent for his successive transfers from one medical unit to another and for his admission to the PMH. However, Mr Câmpeanu had neither been informed nor consulted.

Moreover, the basis of the Romanian authorities' decisions to transfer Mr Câmpeanu and to place him in the medical and social care centre and the PMH had mainly been which establishment was willing to accommodate him rather than where he would be able to receive appropriate medical care and support.

The Court noted that the medical and social care centre was not equipped to handle patients with mental health problems and Mr Câmpeanu had ultimately been admitted to the PMH, despite the fact that that hospital had previously refused to admit him on the grounds that it lacked the necessary facilities to treat HIV. His transfers from one unit to another had taken place without proper diagnosis and in disregard of his actual state of health. Of particular importance was the authorities' failure to ensure his appropriate treatment with antiretroviral medication. He had mainly been treated with sedatives and no meaningful examination had been conducted to establish the causes of his mental state, in particular his sudden aggressive behaviour.

In reaching these conclusions, the Court relied on the CLR's submissions, supported by: the medical documents produced in the proceedings before the Romanian courts; the expert opinion by the International Federation of Health and Human Rights Organisations; and, the submissions by the Euregional Center for Public Initiatives (ECPI), one of the third parties in the proceedings before the Court, which had provided information concerning the general deficiencies in antiretroviral treatment of HIV-infected children in Romania, which made the CLR's assertions plausible. Those

assertions were also supported by the two decisions of the Romanian prosecutors to reopen the criminal proceedings, which had described severe shortcomings in the medical authorities' decisions.

The Court underlined that during his entire life Mr Câmpeanu had been in the hands of the authorities, which were therefore under an obligation to account for his treatment and to give plausible explanations for it. Moreover, at the time he was placed in the PMH, the authorities had been aware of the difficult situation in that hospital – described later by the CPT report – as was evident in their response to the letter by the UN Special Rapporteur on the Right to Health. By deciding to place Mr Câmpeanu in the PMH under these circumstances and in spite of his extreme vulnerability, the authorities had unreasonably put his life in danger. The failure to provide him with appropriate care and treatment was yet another decisive factor leading to his untimely death.

Those considerations were sufficient for the Court to conclude that the Romanian authorities had breached Article 2 by not ensuring the necessary protection of Mr Câmpeanu's life.

Furthermore, the Court found a violation of Article 2 as regards the procedural requirements under that Article, as the authorities had failed to clarify the circumstances of Mr Câmpeanu's death and identify those responsible for it. In particular, in breach of Romanian law, no autopsy had been carried out immediately after his death. Moreover, in the second decision to reopen the criminal proceedings, the Romanian courts had highlighted a number of serious procedural shortcomings, including the failure to collect essential medical evidence and to provide an explanation for contradictory statements made by medical staff. However, as that decision had eventually not been upheld, those shortcomings had never been remedied. In its brief reasoning quashing the lower-level court's decision, the county court had mainly relied on the decision of the Medical Association not to bring disciplinary action against the staff of the PMH and on the forensic report, which ruled out any medical negligence. The Court found those conclusions strikingly terse in view of the limited information documenting the treatment provided to Mr Câmpeanu and the general situation at the PMH.

#### [Article 13 in conjunction with Article 2](#)

The Court also found a breach of Article 13 in conjunction with Article 2, considering that the State had failed to provide an appropriate mechanism for redress to people with mental disabilities claiming to be victims under Article 2. The Court had regard to its findings under Article 2, as to the authorities' failure to conduct an effective investigation into the circumstances of Mr Câmpeanu's death, and to the fact that the Romanian Government had not referred to any other procedure by which the liability of the authorities could be established in an independent, public and effective manner.

#### [Other articles](#)

In view of its findings under Articles 2 and 13, the Court held, *by a majority*, that it was not necessary to separately examine the complaints under Article 3, taken alone and in conjunction with Article 13. Furthermore, it held, *unanimously*, that there was no need for an examination of the complaints under Articles 5 and 8 and, *by a majority*, that there was no need for an examination of the complaints under Article 14.

#### [Costs and expenses \(Article 41\)](#)

The CLR had not submitted any claims in respect of pecuniary or non-pecuniary damage. As regards the costs and expenses incurred, the Court held that Romania was to pay 10,000 euros (EUR) to the CLR and EUR 25,000 to the organisation Interights, which acted as advisor to counsel for the CLR before the Court.

### Article 46 (binding force and execution of judgments)

The Court observed that the facts and circumstances in respect of which it had found a violation of Articles 2 and 13 revealed the existence of a wider problem calling for it to indicate general measures for the execution of the judgment. It recommended that Romania, under the supervision of the Council of Europe's Committee of Ministers, envisaged the necessary general measures to ensure that mentally disabled persons in a situation comparable to that of Mr Câmpeanu were provided with independent representation enabling them to have complaints under the Convention relating to their health and treatment examined before a court or other independent body.

### Separate opinions

Judge Pinto de Albuquerque expressed a concurring opinion; Judges Spielmann, Bianku and Nußberger expressed a joint partly dissenting opinion; Judges Ziemele and Bianku also expressed a joint partly dissenting opinion. These opinions are annexed to the judgment.

*The judgment is available in English and French.*

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