



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

THIRD SECTION

CASE OF OPREA AND OTHERS v. ROMANIA

*(Applications nos. 54966/09, 57682/10, 20499/11, 41587/11, 27583/12,
75692/12, 76944/12, 77474/12, 9985/13, 16490/13, 29530/13, 37810/13,
40759/13, 55842/13, 56837/13, 62797/13, 64858/13, 65996/13,
66101/13 and 15822/14)*

JUDGMENT

STRASBOURG

18 June 2015

This judgment is final. It may be subject to editorial revision.

In the case of Oprea and Others v. Romania,

The European Court of Human Rights (Third Section), sitting as a Committee composed of:

Luis López Guerra, *President*,

Johannes Silvis,

Valeriu Grițco, *judges*,

and Hasan Bakırcı, *Acting Deputy Section Registrar*,

Having deliberated in private on 28 May 2015,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in applications against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on the various dates indicated in the appended table.

2. The applications were communicated to the Romanian Government (“the Government”).

THE FACTS

THE CIRCUMSTANCES OF THE CASE

3. The list of applicants and the relevant details of the applications are set out in the appended table.

4. The applicants complained of inadequate conditions of detention. In some of the applications, the applicants also raised complaints under other provisions of the Convention.

THE LAW

I. JOINDER OF THE APPLICATIONS

5. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

6. The applicants complained principally of the inadequate conditions of their detention. They relied on Article 3 of the Convention, which reads as follows:

Article 3

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

7. The Court notes that the applicants were kept in detention in poor conditions. The details of the applicants’ detention are indicated in the appended table. The Court refers to the principles established in its case-law regarding inadequate conditions of detention (see, for instance, *Kudła v. Poland* [GC], no. 30210/96, §§ 90-94, ECHR 2000-XI, and *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, §§ 139-165, 10 January 2012). It reiterates in particular that extreme lack of space in a prison cell or overcrowding weighs heavily as an aspect to be taken into account for the purpose of establishing whether the impugned detention conditions were “degrading” from the point of view of Article 3 and may disclose a violation, both alone or taken together with other shortcomings (see, amongst many authorities, *Karalevičius v. Lithuania*, no. 53254/99, §§ 36-40, 7 April 2005).

8. In the leading case of *Iacov Stanciu v. Romania* (no. 35972/05, §§ 116-129, 24 July 2012), the Court already found a violation in respect of issues similar to those in the present case.

9. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that in the instant case the applicants’ conditions of detention were inadequate (see appended table for details).

10. These complaints are therefore admissible and disclose a breach of Article 3 of the Convention.

11. In applications nos. 57682/10, 37810/13, 56837/13, and 62797/13, the applicants also complained of other aspects concerning material conditions of detention or transport. In the light of its findings above, the Court does not consider it necessary to examine these remaining aspects (see *Epistatu v. Romania*, no. 29343/10, § 55, 24 September 2013; *Bahnă v. Romania*, no. 75985/12, § 53, 13 November 2014; and *Bujorean v. Romania*, no. 13054/12, § 32, 10 June 2014).

III. OTHER ALLEGED VIOLATIONS RAISED UNDER WELL-ESTABLISHED CASE-LAW

12. The applicant in case no. 41587/11 also submitted a complaint under Article 6 § 1 of the Convention on the basis of well-established Convention case-law (see appended table). This complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention nor is it inadmissible on any other ground. Accordingly, it must be declared admissible. Having examined all the material before it, the Court concludes that it also discloses a violation of the Convention in the light of its findings

in *Vlad and Others v. Romania* (nos. 40756/06, 41508/07 and 50806/07, §§ 131-133 and 161, 26 November 2013).

IV. REMAINING COMPLAINTS

13. Some applicants also raised other complaints under various Articles of the Convention.

14. The Court has carefully examined the applications listed in the appended table and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols thereto.

It follows that this part of the applications is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

15. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

16. Regard being had to the documents in its possession and to its case-law (*Iacov Stanciu*, cited above, §§ 201-203), the Court considers it reasonable to award the sums indicated in the appended table.

17. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the complaints concerning the inadequate conditions of detention and the other complaints raised under the well-established case-law of the Court, as set out in the appended table, admissible, and the remainder of the applications inadmissible;
3. *Holds* that these applications disclose a breach of Article 3 of the Convention concerning the inadequate conditions of detention;
4. *Holds* that there is no need to examine the remaining issues raised under Article 3 of the Convention in applications nos. 57682/10 and 56837/13 in respect of the material conditions of detention and in applications

nos. 37810/13 and 62797/13 in respect of the material conditions of transport;

5. *Holds* that there has been a violation as regards the other complaints raised under the well-established case-law of the Court (see appended table);
6. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement.
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the amount indicated in the appended table at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 18 June 2015, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı
Acting Deputy Registrar

Luis López Guerra
President

List of applications raising complaints under Article 3 of the Convention
(inadequate conditions of detention)

No.	Application no. Date of introduction	Applicant name Date of birth	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Other complaints under well-established case-law	Amount per applicant (in euros)
1.	54966/09 09/10/2009	Radu George OPREA 07/12/1974	Timișoara Penitentiary 12/10/2009 to 19/02/2010 0 year(s) and 5 month(s) Timișoara Penitentiary 24/06/2010 pending 4 year(s) and 11 month(s)	2,3 – 2,7 m ² 2,3 – 2,7 m ²	Overcrowding, poor conditions of hygiene. Overcrowding, poor conditions of hygiene.		non-pecuniary damage 10,800
2.	57682/10 06/09/2010	Iacob SCHEIN 14/07/1973	Timișoara Penitentiary 11/03/2008 to 31/01/2011 2 year(s) and 11 month(s) Craiova Penitentiary 03/02/2011 to 21/02/2011 0 year(s) and 1 month(s) Craiova Penitentiary 02/05/2011 to 05/05/2011 0 year(s) and 1 month(s) Timișoara Penitentiary 22/08/2011 to 25/08/2011 0 year(s) and 1 month(s)	2,24 – 2,34 m ² 2,91 m ² 2,91 m ² 2,24 – 2,34 m ²	Overcrowding. Overcrowding. Overcrowding. Overcrowding.		non-pecuniary damage 10,200

No.	Application no. Date of introduction	Applicant name Date of birth	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Other complaints under well-established case-law	Amount per applicant (in euros)
			Timișoara Penitentiary 25/07/2013 pending 1 year(s) and 10 month(s)	2,24 – 2,34 m ²	Overcrowding.		
3.	20499/11 25/03/2011	Marcel VARGA 13/06/1977	Oradea Penitentiary 22/07/2010 to 05/12/2012 2 year(s) and 5 month(s)	1,59 – 2,59 m ²	Overcrowding.		non-pecuniary damage 5,600
4.	41587/11 23/06/2011	Andrei MOLDOVAN 12/10/1952	Penitentiaries of Oradea and Satu Mare 27/01/2011 to 30/10/2012 1 year(s) and 10 month(s)	n/a n/a	Oradea Penitentiary – limited access to showers. Satu Mare Penitentiary – lack of adequate heating, poor quality of food, insufficient out-of-cell time, inadequate place for walking outside the cell, limited access to showers.	Art. 6 (1) - excessive length of criminal proceedings	non-pecuniary damage 5,900 costs and expenses 300
5.	27583/12 23/04/2012	Petru NICA 29/10/1954	Timișoara Penitentiary 15/12/2011 pending 3 year(s) and 5 month(s)	1,92 – 2,34 m ²	Overcrowding, cells infested with bedbugs and cockroaches, lack of sufficient space to serve meals and to store goods.		non-pecuniary damage 7,400

No.	Application no. Date of introduction	Applicant name Date of birth	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Other complaints under well-established case-law	Amount per applicant (in euros)
6.	75692/12 20/11/2012	Mihail BOLDEA 09/03/1976	Galați Police Detention Centre 27/03/2012 to 26/10/2012 0 year(s) and 7 month(s) Galați Penitentiary 31/10/2012 to 23/11/2013 1 year(s) and 1 month(s)	2,1 – 3,15 m ² n/a	Overcrowding for certain periods of detention (27/03/2012-19/04/2012), passive smoking, insufficient access to the courtyard for walking outside of the cell, sanitary facilities inadequately separated from the rest of the cell, lack of adequate ventilation, natural light and artificial light, poor conditions of hygiene. Limited access to warm water for showers.		non-pecuniary damage 4,200
7.	76944/12 16/11/2012	Ștefan GHIUR 01/02/1958	Galați Penitentiary 20/04/2012 to 31/07/2013 1 year(s) and 4 month(s)	1,35 – 2 m ²	Overcrowding, lack of adequate space and furniture to store goods and food, limited schedule for running water.		non-pecuniary damage 3,600
8.	77474/12 15/11/2012	Nicolae MÎRȚAN 23/02/1962	Ploiești Penitentiary 15/07/2010 to 19/04/2013 2 year(s) and 10 month(s)	1,34 – 2,47 m ²	Overcrowding, lack of adequate places to store personal objects and food, poor conditions of hygiene, poor quality of food.		non-pecuniary damage 6,300 costs and expenses 1,500 (the sum for cost and expenses to be paid directly to the applicants' representatives, Stoica & Asociații)

No.	Application no. Date of introduction	Applicant name Date of birth	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Other complaints under well-established case-law	Amount per applicant (in euros)
9.	9985/13 03/01/2013	Augustin Viorel TIGAN 16/08/1958	Oradea Penitentiary 19/11/2004 to 14/03/2013 8 year(s) and 4 month(s)	1,66 – 2,59 m ²	Overcrowding, inadequate toilet facilities, lack of a ventilation system in the toilet, lack of adequate lighting and ventilation, lack of adequate space to store personal effects and food, lack of an adequate place to serve meals, to dry clothes, poor quality of food, insufficient access to showers.		non-pecuniary damage 16,200
10.	16490/13 25/02/2013	Ion VLĂDILĂ 15/12/1960	Penitentiaries of Craiova, Jilava and Drobeta Turnu Severin 04/03/2004 pending 11 year(s) and 3 month(s)	0,10 – 2,11 m ² n/a 1,93 – 2,73 m ²	Craiova Penitentiary – overcrowding, poor quality of food, lack of adequate heating, poor conditions of hygiene. Jilava Penitentiary – poor conditions of hygiene, poor quality of food, lack of adequate heating. Drobeta Turnu Severin Penitentiary – overcrowding, poor quality of food, lack of adequate heating, poor conditions of hygiene.		non-pecuniary damage 21,500
11.	29530/13 18/04/2013	Sandu ILIE 14/02/1964	Codlea Penitentiary 30/07/2012 pending 2 year(s) and 9 month(s)	1,62 – 2,55 m ²	Overcrowding, poor quality of food, lack of hygienic products for certain periods of detention, lack of an adequate space to serve meals, cell infested with bedbugs, limited access to		non-pecuniary damage 6,300

No.	Application no. Date of introduction	Applicant name Date of birth	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Other complaints under well-established case-law	Amount per applicant (in euros)
					warm water, lack of adequate heating during winter, lack of adequate sanitary facilities for his health, worn-out mattresses, small courtyard for walking outside the cell.		
12.	37810/13 03/06/2013	Alexandru COLIPCĂ 18/04/1989	Bacău Penitentiary 23/11/2011 to 21/12/2011 0 year(s) and 1 month(s) Vaslui Penitentiary 21/12/2011 to 09/07/2014 2 year(s) and 7 month(s)	1,68 – 2,33 m ² 1,87 – 2,45 m ²	Overcrowding, worn-out mattresses infested with bedbugs, insufficient sanitary facilities, poor quality of food. Overcrowding, poor conditions of hygiene, worn-out mattresses, poor quality of food, insufficient hygienic products, insufficient access to water.		non-pecuniary damage 6,000
13.	40759/13 09/05/2013	Ion MOROCA 19/10/1961	Focșani Penitentiary 28/02/2012 pending 3 year(s) and 3 month(s)	1,40 – 2,09 m ²	Overcrowding, poor conditions of hygiene.		non-pecuniary damage 7,100

No.	Application no. Date of introduction	Applicant name Date of birth	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Other complaints under well-established case-law	Amount per applicant (in euros)
14.	55842/13 27/07/2013	Ionel MOISII 01/02/1971	Iași Police Department's Arrest 12/02/2013 to 12/03/2013 0 year(s) and 2 month(s)	n/a	Lack of adequate sanitary facilities in the cell, lack of access to drinking water, limited access to a shared bathroom during the day.		non-pecuniary damage 3,000
15.	56837/13 02/09/2013	Ovidiu CHIRIAC 17/11/1982	Miercurea Ciuc Penitentiary 07/02/2012 pending 3 year(s) and 3 month(s)	1,47 – 2,4 m ²	Overcrowding.		non-pecuniary damage 7,100
16.	62797/13 27/09/2013	Crăciun Mircea POP 25/12/1970	Satu Mare Penitentiary 03/10/2013 to 14/11/2013 0 year(s) and 2 month(s) Aiud Penitentiary 14/11/2013 to 18/11/2013 0 year(s) and 1 month(s)	2,35 m ² 2,13 m ²	Overcrowding, cell infested with insects, lack of adequate ventilation and lighting, insufficient toilet facilities for the number of detainees, small courtyard for walking outside the cell, insufficient access to showers, poor quality of food, unsecured bed bunks. Overcrowding, lack of adequate ventilation and lighting, passive smoking.		non-pecuniary damage 3,000

No.	Application no. Date of introduction	Applicant name Date of birth	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Other complaints under well-established case-law	Amount per applicant (in euros)
17.	64858/13 08/10/2013	Anton GHERASE 27/10/1969	Jilava, Rahova and Giurgiu Penitentiaries and Prison Hospitals of Jilava and Rahova 30/03/2000 pending 15 year(s) and 2 month(s)	2,94 – 3,35 m ² n/a	Jilava, Rahova and Giurgiu Penitentiaries – overcrowding (only for Giurgiu Penitentiary - 2,94 - 3,35 m ² individual space), lack of adequate lighting, inadequate sanitary installations, poor conditions of hygiene, poor quality of food. Jilava and Rahova Prison Hospitals – limited access to warm water.		non-pecuniary damage 20,000 costs and expenses 650
18.	65996/13 10/10/2013	Cătălin Bogdan RUSU 19/09/1981	Bacău Police Inspectorate 13/05/2011 to 06/10/2011 0 year(s) and 5 month(s) Bacău Penitentiary 06/10/2011 to 22/10/2013 2 year(s) and 1 month(s) Bacău Penitentiary 14/01/2014 pending 1 year(s) and 4 month(s)	1,89 – 2,24 m ² 1,89 – 2,24 m ² 1,89 – 2,24 m ²	Overcrowding, poor hygienic conditions in the cell and in the toilet facilities. Overcrowding, poor hygienic conditions in the cell and in the toilet facilities. Overcrowding, poor hygienic conditions in the cell and in the toilet facilities.		non-pecuniary damage 8,100

No.	Application no. Date of introduction	Applicant name Date of birth	Facility Start and end date Duration	Sq. m. per inmate	Specific grievances	Other complaints under well-established case-law	Amount per applicant (in euros)
19.	66101/13 14/10/2013	Petrică TOMESCU 26/03/1972	Slobozia Penitentiary 30/08/2012 to 14/11/2013 1 year(s) and 3 month(s) Tulcea Penitentiary 14/11/2013 to 12/05/2014 0 year(s) and 6 month(s)	1,62 m ² 2,11 m ²	Overcrowding, lack of adequate ventilation during summer, small courtyards for walking outside the cell, poor quality of food, lack of an adequate place to store food and to serve meals. Overcrowding, insufficient access to warm water.		non-pecuniary damage 4,400
20.	15822/14 13/03/2014	Nicolae Florin NIMIGAN 18/04/1992	Aiud Penitentiary 19/04/2013 pending 2 year(s) and 1 month(s)	2,36 – 2,76 m ²	Overcrowding, lack of a shower in some of the cell's sanitary facilities, insufficient hygiene products provided each month by the penitentiary authorities, cells infested with insects, poor quality of food.		non-pecuniary damage 5,000