



ASOCIAȚIA PENTRU APĂRAREA DREPTURILOR OMULUI ÎN ROMÂNIA - COMITETUL HELSINKI

București, Str. Nicolae Tonitza nr. 8A, Sector 3, Tel/Fax: 312 45 28; 312 37 11, e-mail: office@apador.org

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Briefing paper *Bragadireanu v. Romania* group of cases (22088/04)

Detention conditions in Romanian prisons and police lock-ups

I. Recent developments

In 2015 the ECHR decided to join four applications (*Rezmives and others v. Romania*) and asked the parties if the cases were suitable for the application of the pilot judgment procedure. This decision to join the cases followed a semi-pilot judgment in the case of *Iacov Stanciu v. Romania* (no. 35972/05, 24 July 2012), in which the ECtHR emphasized that “the Court had regularly found violations of Article 3 of the Convention in respect of the conditions of detention that have existed over a number of years in Romanian prisons, **in particular overcrowding, inappropriate hygiene and lack of appropriate health care**.¹ Concerning **the existence of effective domestic remedies**, the Court noticed that they were not present in Romanian legislation and urged the state to take all measures to remedy the situation. The ECtHR emphasized that “the remedy—which, under Romanian law, relies mainly on a “delegate judge’s” should allow the delegate judge and the domestic courts to put an end to the situation and to grant compensation where appropriate”.²

In 2016, for the first time in 25 years, the Government decided to pay attention to the situation of prison conditions. On 27 April 2016 it adopted a memorandum for the approval of a timetable for measures aimed to improve the detention conditions and the probation system. **The document includes the plans for the construction of new prisons, envisaged to be ready by 2023.** Several draft laws followed thereafter, including the very controversial one on amnesty and pardoning which is still in Parliament for debate (initiated by the newly elected government on 1 of January 2017).

In April 2017 the ECtHR issued a pilot judgement in the case of *Rezmiveș and others v. Romania* and gave the state 6 months to present a precise timetable for the implementation of appropriate general measures to solve the problem of prison overcrowding and poor detention conditions³.

In July 2017 the Parliament adopted the draft law initiated by the former Government that aimed to provide compensations for persons serving their sentences in severe conditions with important amendments⁴. Thus, all persons deprived of their liberty shall automatically **have the right to benefit from conditional release** if they meet the conditions set by the law or who have been or are housed in

¹ ECtHR, *Iacov Stanciu v. Romania*, Application no. 35972/05, Judgment of 24 July 2012, para. 195

² ECtHR, *Iacov Stanciu v. Romania*, Application no. 35972/05, Judgment of 24 July 2012, para. 198

³ ECtHR, *Rezmiveș and others v. Romania*, Application no. 61467/12, 39516/13, 48231/13 and 68191/13, Judgement of 25 April 2017, para 126

⁴ Law no. 169/2017 for amending and completing the Law no. 254/2013 on the enforcement of sentences and of measures involving deprivation of liberty ordered by the judicial bodies during criminal proceeding.

improper conditions (**defined as a space smaller than or equal to 4 sqm or a space with improper hygiene means**). The law provides that for every 30 days spent by a prisoner in an inadequate space, **6 days are deducted** from his/her original sentence. It entered into force on 19 October 2017. Since then and until the end of 2017, **912 inmates were released for serving the entire sentence (actually about 20% less) and 2718 were released conditionally.**

On 25 January 2018 the Ministry of Justice submitted the timetable requested by EctHR in the pilot judgement. The document was presented to the public at the beginning of the year and **there were no debates or consultations on it. The annexes (action plans) are not public and there are no certain financial resources indicated with the exception of amounts already secured through EEA grants.** Still, the government promises that by the end of 2024 there will be 8095 accommodation places available in prisons and 1596 in police lockups. It is not clear why it promises to build 8095 accommodation places in the penitentiaries since its own recent estimation is in relation to the need for 4000.

II. The current situation in penitentiaries

Detention conditions in Romanian penitentiaries have, in part, improved over the years but they are still generally bad and in most cases they do not comply with applicable international standards. **Also, detention conditions differ from one penitentiary to another and they can even differ widely within the same detention facility.**

The only solution found by the Government so far to address the issue of overcrowding is the introduction in the law of the conditional release as effective remedy. However, this effective remedy refers only to the issue of overcrowding and it did not actually solve the problem. The important issues of lack of medical services and appropriate hygiene remain unaddressed and unsolved.

Overcrowding

33 out of 45 prison units accommodate more people than their legal capacity (4sqm). **On 27th of February 2018 the overall holding capacity⁵ and degree of occupation was the following:**

Prison	Total surface in sq.m	Number of inmates	Sq.m per inmate
Overall	76792	22988	3.34

Differences in detention conditions from one penitentiary to another.

Prison	Total surface in sq.m	Number of inmates	Sq.m per inmate
Jilava Prison – semi-open and open	2712	1048	2.58

⁵ Official data provided by the National Administration of Penitentiaries <http://anp.gov.ro/wp-content/uploads/2018/02/27.02.2018-Capacitatea-de-cazare-a-unitatilor-si-efectivele-acestora-ef-22988-cu-19198-CC.pdf>

Deva Prison – semi-open and open	2444	439	5.56
Iasi Prison – maximum security, closed regime and PTD	2772	1096	2.52
Mioveni Prison – max. security, closed regime, PTD	1848	424	4.35

The law discriminates between prisoners. One problem with the newly introduced effective remedy is that it only applies to prisoners who are currently serving sentences (were serving sentences at the time the law entered into force) but not to those who had just finished serving their sentences when the law was adopted.

Inappropriate hygiene

In most cells hot water for bathing is available twice a week for an hour. For people sharing cells with a lot of other persons this is often a problem. Not all the rooms have their own showers and toilets. **The hygiene materials that penitentiaries provide are insufficient (for example two rolls of toilet paper/month)** and that affects inmates that are not visited by the families and don't have money to buy these items. During the latest APADOR-CH visits, there were many complaints about mattresses being infected with bad-bugs.

Health care, lack of appropriate medical services

The present day lack of appropriate health care is mainly due to **insufficient medical staff**. Although the doctors' salaries have increased as part of the necessary health reform, doctors are still not financially motivated to work in prisons. This is because, in fact, the status of doctors working in the penitentiary system is that of public servants. Which means that their salaries have not increased; moreover they are also forbidden by law to engage in other medical activities which could generate additional revenue. In our opinion the most affected inmates are those with mental health problems. The Government should adopt immediate measures (including change of legislation) to address this specific issue.

III. The current situation in police lock-ups

In Romania there are 52 police-lock-ups: one in each capital city of the 40 counties and 12 in Bucharest. APADOR-CH estimates that there are approximately 1000 people are accommodated in police lock-ups. **There is no official information on capacity available.** Still, in its monitoring visits, APADOR-CH found **overcrowded cells**. The longest stay is (according to the law) 6 months, the medium stay is about 2 months. Most of the facilities are in the basements of police stations. The windows are covered in double wire net so **natural light and ventilation are insufficient**. Not all the cells have toilets so inmates still depend on staff to use them.

It has to be noted that, with financial resources from EEA Grants, the General Inspectorate of Police pledged to renovate some facilities. For instance, in 2013, the Cluj Police lock-up seemed impossible to refurbish but is now in compliance with human rights standards.

