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Contact: Ireneusz Kondak
Tel: 03.90.21.59.86

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Meeting: 1514th meeting (December 2024) (DH)

Communication from the authorities on the general measures (21/11/2024) concerning the cases of Bragadireanu and Rezmives and Others v. Romania (Applications No. 22088/04, 61467/12) (Bragadireanu group) (appendices in Romanian are available at the Secretariat upon request).

Information made available under Rule 8.2a of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1514^e réunion (décembre 2024) (DH)

Communication des autorités sur les mesures générales (21/11/2024) relative aux affaires Bragadireanu et Rezmives et autres c. Roumanie (requêtes n° 22088/04, 61467/12) (groupe Bragadireanu) (des annexes en roumain sont disponibles auprès du Secrétariat sur demande) **[anglais uniquement]**.

Informations mises à disposition en vertu de la Règle 8.2a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

L / 5944 / 21st November 2024

627 R/AG/ 235

4468 R/AG/ 201



Information Note on General Measures in the pilot judgment of *Rezmives and others. v. Romania* (app. no. 61467/12+) and the *Bragadireanu and others v. Romania* group of cases (app. no. 22088/04+)

I. Introductory summary of the cases

The abovementioned cases concern the issue of prison overcrowding and inadequate conditions of detention in prisons and police arrest and detention centers, and also the lack of an effective remedy in this regard, which have led the Court to establish the existence of a breach of article 3 of the Convention.

II. General Measures

I.A. Information on repair and maintenance work

With regard to the number of detention places which have undergone modernization work according to the 2020-2025 Action Plan, the authorities inform that, out of a total number of 946 places set to be modernized by December 2024, 218 places have been completed (at the Deva Prison, for the open and semi-open regimes) and 100 more places will be completed until the end of 2024 at the Târgu Ocna Educational Centre (for housing underage detainees), with the rest of the 628 places to be finalized in the following years.

Furthermore, between 2021-2023, 2.003 new detention places have been completed.

For the year 2024, 3.000 new detention places were envisaged, 1.782 new places are estimated to be completed in the near future and the remaining ones to be finished in 2025.

The National Prison Administration (ANP) underlines that this effort of creating new detention places is a complex one, involving over 50 work sites (*santiere*).

The Penitentiary System Development Strategy and the Action Plan for the Implementation of the Strategy in terms of the Infrastructure of Accommodation Spaces for Persons Deprived of Liberty 2024 – 2030, approved by the Decision of the Director General of the ANP no. 713/22.12.2023, aims to plan, organize and monitor the implementation of the modernization and development process of **a number of 155 buildings intended for detention in the penitentiary system**. The expected impact of achieving this objective is to increase the degree of operational safety of buildings, meet the fundamental quality requirements in construction and improve detention conditions in accordance with international standards.

The deadline for completion of all works provided for in the strategy is 2030, depending on the available budgetary funds.

For 2024, it was planned to continue investment objectives involving the design or execution of works aiming to improving detention conditions, such as: the creation of walking yards or the modernization of existing ones, the modernization of food blocks, modernizations and consolidations of certain detention pavilions, repairs to roofs, modernizations of internal water supply networks or heating networks, modernizations of heating plants, the creation of hydrant networks, etc.

The Annex to this Information Note, provided by MJ, contains a series of major objectives that are currently being implemented and will be achieved in the coming years at the system level with the aim of increasing accommodation capacity or modernizing the existing infrastructure.

The number of prison cells that have undergone current repair works (*lucrari de reparații curente*) between 2020-2024 is as follows:

- In 2020, current repair works were carried out in 2.277 cells;
- In 2021, current repair works were carried out in 1.178 cells;
- In 2022, current repair works were carried out in 1.705 cells;
- In 2023, current repair works were carried out in 1.293 cells;
- In 2024 (as of 30.09.2024), current repair works were carried out in 1.018 cells;

With regard to the subject of small-scale current repair works mentioned at point 69 of the 2020-2025 Action Plan, the MJ informs that these repairs have been 100% completed.

Furthermore, the MJ mentions that, each year, using the funds specifically allocated for this purpose, the penitentiaries in the national prison system establish their plans for repair works, which include current repair and maintenance activities such as repainting cells, cleaning works (*igienizare*), replacing ceramic tiles and repairing the utilities (water, sewers, heating). The prison units aim to allocate at least 45% of the funds allocated each year under current repairs for works aiming to improve prison conditions.

The MJ highlights that the ANP supports the start of all investment projects, works and services to eliminate all deficiencies found by the territorial bodies and streamline activities at the level of subordinate units, within the limits of the provisions approved by the annual budget law and the legal regulations regarding restrictions imposed on capital expenditures (such as the Government Ordinance no. 107/2024).

The items of bedding and bed linen, intended for persons deprived of liberty in prisons or in prison hospitals, are provided according to the Decision of the Director General of the ANP no. 467/2016 regarding the accommodation provided to persons deprived of liberty in places of detention subordinated to the ANP.

Through the care of the administration of the penitentiary, persons deprived of liberty in prisons/prison hospitals, located in places of detention, are provided free of charge with the following accommodation items, as appropriate:

1. for convicted persons, pre-trial detainees and persons against whom the educational measure of confinement in an educational center or in a detention center has been ordered, located in places of detention subordinated to the ANP:

- mattress - 1 piece/4 years; pillow - 1 piece/4 years; blanket - 1 piece/4 years; bed sheet - 4 pieces/1 year; pillowcase - 4 pieces/1 year; bed cover - 1 piece/inventory.

2. for persons admitted to prison hospitals:

- mattress - 1 piece/2 years; pillow - 1 piece/2 years; blanket - 1 piece/2 years (during the cold season, at the request of the person admitted, two blankets will be provided); bed sheet - 10 pieces/1 year; pillowcase - 4 pieces/1 year; bed cover - 1 piece/inventory.

The fitting-out of the detention rooms is carried out according to the structural configuration of the penitentiary units, so that, within the limits of the space available, the detention rooms are equipped with individual beds or bunk beds, as well as other furniture items such as: chairs, tables, bedside tables, hangers, shoe racks.

In conclusion, the MJ draws attention to the fact that the ANP focuses on the development, modernization and maintenance of the existing accommodation infrastructure, managing to comply so far with both the measures provided for in the Action Plan for the period 2020-2025 regarding the creation of new accommodation places and the ensuring of optimal conditions for the functioning of penitentiary units.

In the context presented above, the ANP constantly orders measures to improve detention conditions, in order to obtain results, despite the difficulties encountered and the significant number of tasks, so that the investment objectives financed by the state budget, through non-reimbursable external funds and through reimbursable external funds, are carried out at an accelerated pace, with the aim of their completion.

II.B. Information on domestic remedies and relevant domestic court case-law

The Government has asked the ANP for examples of recent case-law, in order to identify how detainees' claims are resolved. To this end, in analysing these examples of domestic judicial practice, the Government has identified a number of categories into which these requests can be placed.

Thus, a total of 388 domestic decisions issued by either supervising judges or ordinary courts, listed in the annex, have been divided into various categories dealing with issues such as ensuring the minimum space of 4 square meters, improving the material conditions of detention and issues related to the personal life of detainees.

First and foremost, the Government requested information on the status (whether or not the judgments have become final) of 141 domestic judgments and, in the case of final judgments allowing the prisoner's claims, information was requested on the measures taken by the prison authorities to execute these judgments.

The Government note that **these 141 judgments (issued between 2016-2024) were first communicated by the domestic courts in the context of procedures pending before the ECHR in the *Andrei and 10 others v. Romania* group of cases (applications no. 55953/20+) and the Governmental Agent subsequently requested information on their enforcement from the ANP.** Since 12 of these judgments have been communicated in an anonymized form, without indication of name, file number and number of the judgment, the ANP could not provide details on their execution.

For these 141 judgments, the results are as follows:

- **90 judgments, executed, in which the domestic jurisdictions allowed complaints concerning inadequate personal space** and ordered the authorities to provide the required personal space to the detainee or to transfer him to a facility where he could receive the required personal space. In some of these cases, the courts also allowed the applicants' complaints regarding other material conditions of detention (e.g. 5 cases concerning lack of privacy in the showers at Deva Prison, where the authorities installed shower curtains).
- **8 judgments, executed, concerning various other issues related to detention conditions** (food norms, including for religious reasons, bedding, furniture, intimate visits, renovation of a cell, the annulment of a sanction).
- **9 judgments allowing pecuniary compensation for conditions of detention** (sums of 5.000 lei, 9.000 lei, 1.250 lei, 2.500 lei, 500 lei, 1.334 lei, 1.000 lei, 20.000 lei and 1.000 EUR). **All of these judgments have been executed** by paying the sums to the detainees, **with the exception of one** case where the court ordered Rahova Prison to pay 20.000 lei and the prison is currently in the process of requesting the sums needed for the payment).
- **9 cases have been rejected by the supervision judge/courts.**
- **6 cases did not require measures to be taken, as the detainee was either released from prison or moved to another facility before the solution became final.**
- **3 cases are not yet final.**
- **12 judgments, details could not be offered by the ANP, as the anonymization carried out by the courts could not allow the identification of the case.**
- **4 cases concerned complaints against Police detention and remand centers, and the ANP could not provide information on the measures taken to execute those cases. The Government will inform the Committee about the status of these judgments as soon as the information becomes available.**

In addition to information on the status and execution of these 141 domestic judgments, the ANP also presented similar details on 246 more recent judgments (in addition to those provided in the answers offered by the domestic courts), adopted in 2024, as follows:

- **149 judgments ordering the provision of adequate personal space which have been executed.** For some of these judgments, the information received mentions that the execution involved the transfer of the detainee to another prison where he could be housed in cells providing adequate personal space.
- **6 judgments ordering the provision of adequate personal space which are in the process of execution,** with the prison authorities working toward the transfer of detainees toward other prisons.
- **19 judgments ordering the provision of adequate personal space which could not be executed** because the detainee was either transferred to another prison than the one against he complained, was transferred to another prison so as to take part in criminal investigations (the detainee was in preventive custody - one such case) or the detainee was released from prison before the judgment could be enforced.
- **4 judgments allowing pecuniary compensation** – all at Rahova Prison. The information mentioned that the prison administration was in the process of paying the sums. The four judgments were all solved recently, in first instance, between April and October 2024.
- **12 judgments concerning complaints against material conditions of detention, all executed.** The issues ranged from renovation and various repairs in the cells, replacement of sanitary equipment in bathrooms, the provision of toilets and fresh water access in prison the courtyard, medical care and the right to on-line communications).
- **37 judgments could not be executed because they are not yet final** (at the date of the information request).
- **For 19 judgments, no details on their enforcement were provided.**

Finally, the Government wish to mention that the information on the domestic case law presented above will also be submitted to the Court, in the form of additional written observations in the *Andrei and ten others v. Romania* group of cases.

II.C. Information on prison overcrowding and detention places

In November 2024, the Ministry of Justice (the MJ) submitted the following information on the execution in the *Bragadireanu* group, with regard to prison overcrowding and material conditions of detention.

As of 23 October 2024, 24.633 persons were detained in the national prison system, whereas the housing capacity (calculated for a minimum living space of 4 sq.m.) was 21.824 places, resulting in a deficit of 2.809 places.

At the same time, using as reference a minimum living space of 3 sq.m., the housing capacity of the national prison system was 27.818 places, thus providing 3.185 unoccupied places.

The situation of the occupation rate for the four detention regimes, calculated for the date of 25 October 2024, is as follows:

- The average rate of prison overcrowding for the open detention regime was 100,36%;
- The average rate of prison overcrowding for the semi-open detention regime was 146,85%;
- The average rate of prison overcrowding for the closed detention regime was 134,84%;
- The average rate of prison overcrowding for the maximum-security detention regime was 118,38%;

Since 2020, the deficit of prison places in the system has decreased as follows:

- At the end of 2020, the deficit (calculated for a living space of 4 sq.m.) was 3.489 places;
- At the end of 2021, the deficit (calculated for a living space of 4 sq.m.) was 4.319 places;
- At the end of 2022, the deficit (calculated for a living space of 4 sq.m.) was 2.888 places;
- At the end of 2023, the deficit (calculated for a living space of 4 sq.m.) was 2.437 places;
- On 23 October 2024, the deficit (calculated for a living space of 4 sq.m.) was 2.809 places;

The authorities explain this slight increase in 2024 by the growth in the number of detainees, which increased from 23.360 persons at the end of 2023 to a current number of 24.633 detainees.

III. Conclusions

The Government kindly ask the Committee to note the progress achieved so far and inform that it will keep the Committee updated on any relevant evolution with regard to the execution of the cases quoted above.