



Brânduse v. Romania

Application no. 6586/03

Country: Romania

Region: Europe

Year: 2009

Court: European Court of Human Rights European Court of Human Rights

Health Topics: Environmental health, Prisons, Water, sanitation and hygiene

Human Rights: Freedom from torture and cruel, inhuman or degrading treatment, Right to a clean environment, Right to privacy, Right to water and sanitation

Facts

B, a Romanian national, was sentenced to ten years in prison for fraud by the Court of Appeal of Timisoara. In January 2003 B lodged an application with the European Court of Human Rights based on the conditions of his detention in the prisons of Arad and Timisoara.

B alleged that Romania violated Article 3 (prohibition of torture) of the European Convention on Human Rights ("ECHR") due to the conditions of his detention and, more particularly, the overcrowded cells, the bad food quality and the unhygienic conditions. He also claimed that the conditions of his detention infringed Article 8 (right to respect for private and family life) of the ECHR due to the authorities' failure to remedy the polluted and pestilent air that came from a nearby garbage dump that B claimed exposed him to a real risk of disease. B further alleged a violation of Article 8 due to his inability to have private telephone conversations because he had to disclose the telephone numbers he called and because guards were present during his conversations.

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Decision and Reasoning

The Court held that:

- (1) the Government's objection to the admissibility of B's claim under Article 3 based on the non-exhaustion of domestic remedies was rejected because the Government failed to establish that a recourse procedure existed which could remediate the alleged problem of overcrowded cells;
- (2) the Government's admissibility objection was upheld and part of B's claim under Article 3 for lateness was dismissed to the extent that the claim related to specific conditions that no longer existed at a certain point in time, as opposed to claims concerning general conditions, such as overcrowding, that continued to exist following B's transfer to another prison;
- (3) the state must ensure that a person was detained under conditions that respect human dignity, did not subject the individual to distress or hardship exceeding the unavoidable level of suffering inherent in detention and, given the practical demands of imprisonment, adequately secured the person's health and well-being;
- (4) the lack of an intent to humiliate or debase a victim cannot prevent a finding of a violation of Article 3;
- (5) Article 3 had been violated because the conditions during B's several years of detention caused him to suffer at a level greater than the unavoidable level of suffering inherent by being detained;
- (6) the Government's objection to the admissibility of B's claim under Article 8 based on the non-exhaustion of domestic remedies was rejected because the Government did not adequately establish that recourse procedures existed that could remediate the claim;
- (7) Article 8, which protected individuals against arbitrary interference by public authorities, did not merely

compel the state to abstain from such interference but it also imposed an affirmative obligation on the state to put into place adequate regulations regarding hazardous conditions;

(8) B's allegations regarding the olfactory nuisances were confirmed by a declaration of another detained person and other evidence such as environmental studies and reports;

(9) even if B's health had not deteriorated due to the polluted air from the garbage dump, taking into account the studies and the duration of his exposure to this polluted air, the quality of life and well-being of B had been adversely affected;

(10) Article 8 had been violated because the authorities failed to comply with their obligations to take the necessary measures to remedy the conditions;

(11) B's allegations regarding the lack of privacy for his telephone conversations were rejected due to insufficient evidence; and

(12) pursuant to Article 41, B was entitled to moral damages amounting to EUR 8,000 but not to any amount covering fees and costs which were not evidenced by any document.

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Decision Excerpts

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