

Updated: Detention conditions in Romania under fire

On the eve of Dan Adamescu's decease during his detention, a team of Human Rights Without Frontiers was on a fact-finding mission in Bucharest last week

HRWF (30.01.2017) - Despite a blossoming reputation as a rule of law country, Romania continues to be a prolific human rights abuser. In 2015 alone, the ECtHR delivered 72 judgments (each citing at least one violation) against Romania, the highest number of any EU member state. Among the 47 member states of the Council of Europe, Romania ranked the third highest human rights abuser after the Russian Federation (109 judgments) and Turkey (79 judgments). (1)

Worryingly, 27 of those violations in Romania were for inhumane or degrading treatment (Article 3), with many relating to the appalling conditions and treatment in Romanian prisons (2). In 13 cases, the violations were due to the lack of effective investigation and in 13 other cases to the lack of a fair trial.

Prisons are overcrowded in Romania: eight of them have an occupancy rate of over 200%, and the average occupancy rate in local prisons is of some 150%. If Romania doesn't solve this problem, the European Court of Human Rights may rule that the country must pay compensations to all inmates for each day of detention in improper conditions. These compensations would amount to some EUR 80 million per year.

Reports on detention conditions in Romania

The decease of Dan Adamescu (68) while in detention sheds once again some tragic light on the appalling prison conditions in Romania which have been denounced year after year:

- By the European Court of Human Rights at the UN Universal Periodic Review in 2013 (<https://www.upr-info.org/en/review/Romania/Session-15---January-2013/Civil-society-and-other-submissions#top>)
- In the US Department Report in 2015 (<https://www.state.gov/j/drl/rls/hrrpt/2015/eur/252891.htm>)
- By Romania's Ombudsman in his 2015 report (http://www.avp.ro/index.php?option=com_content&view=article&id=51&Itemid=77&lang=en)
- By the Committee of Prevention of Torture at the Council of Europe in 2015 (<http://www.cpt.coe.int/documents/rom/2015-31-inf-fra.pdf>)

U.S. Department of State Report 2015

In the section entitled "Torture and other cruel, inhuman, or degrading treatment or punishment", the U.S. Department of State stressed that "there were reports from nongovernmental organizations (NGOs) and the media that police and gendarmes mistreated and abused prisoners, pretrial detainees, Roma, and other citizens, primarily through the use of excessive force, including beatings. The media reported such cases in

Bucharest, Vinga, Botosani, Braila, Arad, and other localities. In most cases the police officers involved were exonerated." And it also stated that:

A report of the Association for the Defense of Human Rights-Helsinki Committee (APADOR-CH) on the situation in Racos, Brasov County, where a Romani community of more than 1,200 persons was located was endorsed by the U.S. Report as follows: "Community members complained that police had terrorized and repeatedly beaten them over the previous three years and that the Brasov prosecutor's office had handled their complaints improperly, closing all cases. APADOR-CH criticized the failure of law enforcement authorities to investigate the situation thoroughly in Racos and take appropriate countermeasures. A subsequent report by APADOR-CH in August revealed that, of the 3,034 abuse complaints filed against police between 2012 and 2014, 14 went to court and the courts convicted police officers for abusive behavior in four of these cases.

In the section "Prison and detention center conditions", the U.S. Report reads as follows:

Prison conditions remained harsh and did not meet international standards. The abuse of prisoners by authorities and other prisoners reportedly continued to be a problem.

Physical Conditions: According to official figures, overcrowding was a problem, and some prisons did not meet the standard of 43 square feet per prisoner, as set by the Council of Europe's Committee for the Prevention of Torture.

According to a report by the National Administration of Penitentiaries, 502 persons died in prisons in between 2010 and 2014, of whom 425 died due to medical conditions, 73 committed suicide, three were killed, and one died from choking on food. As of the end of September, several deaths had occurred in prisons. On September 7, a teenager died after his cellmate severely beat him in pretrial detention in Tichilesti penitentiary. The deaths of two prisoners in the penitentiaries in Craiova and Colibasi were also reported.

According to media and NGO reports, guards assaulted prisoners and at times prisoners assaulted and abused fellow inmates.

Some prisons provided insufficient medical care, and food quality was poor and sometimes insufficient in quantity. In some prisons the heating and ventilation were inadequate, and there was poor lighting. APADOR-CH and the Association for Human Rights and People Deprived of Freedom reported that most prisons were overcrowded and noted inadequate conditions in some prisons, including insufficient medical care, poor food quality, mold in kitchens and cells, understaffing, an insufficient number of bathrooms, poor hygiene, insects, an insufficient number of doctors (including no psychologists in some prisons), lack of work, and inadequate educational activities. APADOR-CH also criticized the lack of adequate treatment with substitute substances for former drug addicts.

APADOR-CH stated that most police pretrial detention facilities had inadequate conditions. Such facilities were often located in basements and had no natural light or sanitary installations. In some pretrial facilities and prisons, there was no

possibility for confidential meetings between detainees and their families or attorneys.

As of May the ECHR issued 16 rulings against the state, which had to pay compensation of 85,540 euros (\$94,100) for poor prison conditions and inhuman and degrading treatment in prisons.

Administration: Independent authorities did not always investigate credible allegations of inhuman conditions.

On March 24, the European Court of Human Rights (ECHR) issued a ruling against the country for failing to conduct an effective investigation into the 2007 death of Ionel Garcea, a prisoner with psychiatric problems in the Rahova hospital prison. After Garcea repeatedly complained that prison guards assaulted him, he hammered nails into his own head in protest, and authorities hospitalized him several times after he was diagnosed with a psychiatric disease and other medical problems. He also tried to commit suicide and refused to take medicine. He died a month after surgery to remove a nail from his head. Investigations are still pending in the case.

Universal Periodic Review (2013)

In 2013, a NGO made a submission to the Universal Periodic Review covering, among other issues, inhuman and degrading treatment and detention conditions:

1. Romania continues to offer an inadequate response measures in the eradication and prevention torture. In accordance with its commitments from the date of 07.05.2012, should have been instated national prevention mechanism in accordance with OPCAT in collaboration between the Ombudsman and civil society. More than that, Reform aimed at the Ministry of Justice (by "coup d'etat by the parliament" which has caused political dismissal of PDL team of the government) on the implementation of recommendations contained in the report of the Committee for the prevention of torture european released to the public on the date of 24.11.2011 (CPT/INF(2011)31, and the reply to the procedure whether asserted by legal proceedings issued by the European Court of Human Rights (ECHR (the case Jacob Stanciu 35972/05) at the beginning of the year 2010 will emphasize the system dysfunctions related to overpopulation in detention, precarious conditions of hygiene, absence or unsteadiness medical care (the cases Bragadireanu, Al-Agha, Marian Marinescu, Jiga, Ogica, Racareanu, Iamandi, Ciupercescu, Dimakos, Florea, Coman, Marcu, Cucolas, grozavu, Ali, Porumb, Dobri, Colesnicov) etc., the nature of the laws in the field of disruption of execution of the sentence (cause Ahron Schwarz). There is also the lack of concern of executive power for the construction of modern establishments and delaying inclusion public-private partnership in the mechanism of outsourcing some of the services and independent activities intended to ensure detainees' conditions that satisfy human dignity. Serious problems of penitentiaries are added and the application of precarious measures for the protection of detainees to the no smoking active with all that Romania has ratified the 2006 framework Convention for the control of OMS tabacului. With all that Romania was condemned in 2010 by the European Court in the case Florea (37186/03) to passive smoking in conditions of detention, after

which they followed and other sentences, the Parliament of Romania has adopted in 2011 national law profile, being exempted for the penalties no smoking in the rooms of the detention.

2. Police lock-ups have characteristics which affect human dignity by conditions which may be assimilated with torture: police lock-ups are so arranged during the communist regime in the basement of the police headquarters, the rooms are small, with group health without division, with small windows which are doubled with metal site to access natural light and ventilation with insufficient ventilation, by the route aisles are arranged the pipes to transport water, gas, heat which present a hazard in the event of damage.

A report entitled "Children deprived of liberty in Central and Eastern Europe"[8] which was published by several NGOs in 2014 said the following about the general detention facilities in Romania:

Main issues identified in criminal justice detention facilities: (...) Romanian detention facilities are still plagued with serious problems. They fall short of the European Court of Human Rights (ECtHR) and European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) standards, leading in many instances to serious human rights violations:

* *Detention conditions*: One of the most serious problems regarding detention conditions is that Romanian prisons are severely overcrowded (a little over two square metres per person). Another general problem regarding detention conditions is that rooms are frequently unhygienic and in a deplorable condition. (...)

* *Health care*: Access to health care is very problematic in Romanian detention facilities. One of the main issues is the severe understaffing in health care units. Assigned funds (state budget and social insurance) are insufficient for the needs of the prison system, and a major problem in many penitentiaries is the lack of vital medication. Mental health issues are particularly pressing because in most penitentiaries, there is no psychiatrist. In practice, when a psychiatrist is needed, penitentiaries have to refer to a psychiatrist either from another penitentiary or from outside the prison system.

The cases of Dan and Alexander Adamescu: Fair trials?

Dan Adamescu, a German businessman of Romanian birth who emigrated to Germany in 1979 and went back to Romania in the 1990s. He invested time, money and effort in supporting *România Liberă*, a leading national newspaper originally established in 1877. Under his stewardship, this popular outlet consistently uncovered and exposed the corruption of many in national positions of authority.

Championing democratic values and the rule of law, *România Liberă* was highly critical of Romania's post-Communist elites, the security services, the Social Democratic Party, or "PSD" (the successor party to the Communist Party of the Ceaușescu era), and its leader, the Romanian Prime Minister Victor Ponta who held office from May 2012 to November 2015. *România Liberă* regularly criticized the PSD for the extensive corruption, nepotism

and greed that plagued its ranks. This rendered both the newspaper and Dan Adamescu a target for persecution by powerful members of the ruling elite and the PSD.

The newspaper also criticized the involvement of the Romanian Intelligence Services in the functioning of the judiciary in 2015. There is strong evidence that, during his time in office, Ponta personally ordered the proceedings against Dan Adamescu on bribery charges of 20.000 Euros, amongst other things, as retribution for the paper's unflattering press coverage. Dan Adamescu was arrested by masked anti-terror police, paraded in handcuffs in front of TV cameras, brandished a criminal on TV, and declared guilty by the sitting judge on the first day of his trial. A swift show trial resulted in Adamescu being sentenced to a prison term of four years and four months on the basis of a single denunciation by a tainted witness. Ironically, Ponta himself was later prosecuted by the DNA on unrelated corruption charges (forgery, money laundering and tax evasion) after he apparently fell out of favor with both the DNA and the SRI. Dan Adamescu, before dying in hospital, was serving his prison term in the appalling detention conditions that have been described above.

Since his arrest, Dan Adamescu experienced the brutality of Romanian prisons first-hand. On multiple occasions he was refused adequate medical treatment by the Romanian authorities despite repeated requests from his counsel, and the Law Society of England and Wales¹⁶. He collapsed twice since his incarceration in May 2016. He had a septic shock on Christmas Day 2016 and was under intensive care and dialysis, with doctors fighting for his life. His request for conditional release was repeatedly refused in court. He finally died on 24th January 2017.

The son of Dan Adamescu, **Alexander Adamescu**, a German citizen and budding playwright, lives in London with his wife and three young children. He is accused by Romania's National Anticorruption Directorate (DNA) of committing precisely the same crimes for which his father was convicted and based on exactly the same evidence, i.e. one tainted prosecution witness. Romanian courts issued two national arrest warrants against Alexander Adamescu: a first warrant on 4 May 2016 which was cancelled on 19 May and a second arrest warrant that was issued on the very same day, 19 May 2016 and then converted into a European Arrest Warrant on 6 June 2016. Alexander Adamescu was arrested in London on 13 June and faces extradition to Romania.

It is significant that an EAW was issued only after Alexander protested at the treatment of his father and instructed lawyers to file arbitration proceedings against the Romanian government for the politically motivated seizure and liquidation of another one of his father's companies. Prior to raising his vocal criticism of the Romanian government, Alexander was not actively pursued for arrest.

Alexander Adamescu's case: Violations of Romanian and international law

Alexander Adamescu's two arrest warrants were issued in gross violations of key tenets of Romanian and international law:

- The DNA did not charge Alexander Adamescu in June 2014 when the case was brought to trial against his father, but reactivated the file only in September 2015 after Alexander Adamescu engaged lawyers who sued Romania.

- Despite an almost two-year long inactivity, Chief-prosecutor Laura Kovesi suddenly announced the DNA's intention to arrest Alexander Adamescu on live TV on 25 March 2016 calling him a fugitive and a threat to public order in the DNA's submissions. Kovesi also declared that her agency knew where he was, but then on the same day wrote to the court to demand that the arrest warrant procedure be speeded up since his whereabouts were not known.
- For the first arrest warrant hearing on 4 May 2016, Alexander Adamescu was summoned via e-mail addresses that were not his and by calling phone numbers that were admittedly incorrect.
- In his judgement issued on 4 May 2016, Judge Malaliu copied and pasted the DNA report, grounding his decision to arrest Alexander Adamescu on the DNA reasoning that he must be guilty for the offences for which he was charged.
- On appeal on 19 May 2016, after Judge Nita made it known that she intended to cancel the first arrest warrant on procedural grounds, a second judge, Judge Matei, was immediately assigned to re-judge the arrest warrant without the safeguard of random allocation as guaranteed by Romanian procedural law and before Judge Nita's judgement had been published.
- The hearing was scheduled for 1.30 pm on 19 May 2016. The paper was printed at 1pm but pre-dated by a court agent to have been filled out at 11 am.
- Alexander Adamescu was summoned at 1pm on the court door to appear in half an hour in front of the court.
- The hearing began at 2.40 pm and closed at between 3.10-3.20 pm. At 3.40 pm, the Court sent a fax of the arrest order to the Municipal Police of Bucharest. Judge Matei had no more than half an hour to read the case file containing thousands of pages, deliberate on the arguments of the parties, write down his sentence and have it sent to the Bucharest Police.
- Judge Matei's sentence was immediately leaked to the media by the Romanian authorities. At 5.06 pm Alexander Adamescu's new arrest warrant appeared on a news website.
- Alexander Adamescu's appeal on the second arrest warrant was rejected on 25 May 2016 by Judge Ghena on the grounds that a more lenient measure would determine a strong negative reaction among the public opinion.

Alexander Adamescu's arrest warrant was issued with a blatant disregard for due process and the rule of law. First, the DNA created the image of a dangerous fugitive at large who is so obviously guilty that his arrest was needed to protect the public from his person. Then the Courts in Romania unconditionally, and in full, accepted this account of the DNA, without even trying to give the semblance of granting him a fair trial.

The haste with which the Court of Appeals, on 19 May 2016 turned the matters around would appear to show that the whole purpose of the exercise was to arrest Alexander Adamescu no matter what. In an unprecedented series of breaches of his fundamental rights, he was denied an independent judge, not summoned to his trial, and handed a decision that was implemented so rapidly that it could only have been taken before his trial had started. The immediate leaking of his arrest warrant to the Romanian media showed that Alexander Adamescu was not allowed to be a free man even if this meant dispensing with the law altogether.

Alexander Adamescu's case is totemic of the vast gulf between Romania's rhetoric on its progress towards becoming a liberal democracy committed to an independent judiciary and the stark reality faced by its citizens. It is emblematic for the true nature of some of Romania's praised anti-corruption cases which provide cover for the oppression of dissenting voices, political score settling, economic raids and outright character assassinations. For there to be real change, both the international community and those with the power to enact the urgently needed judicial reforms in Romania must finally take heed of this.

The case against the Adamescus bears all the hallmarks of a politically motivated prosecution. The New York Times cites Romania's treatment of Dan Adamescu as an example of how the state's "anti-corruption campaign has rapidly metastasized into an illiberal crusade". The added threat of his son facing a similar fate, calls for immediate attention to the bogus EAWs put forth by Romania.