



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

FOURTH SECTION

CASE OF BRĂNIȘTEANU AND OTHERS v. ROMANIA

*(Application no. 10600/18 and 5 others –
see appended list)*

JUDGMENT

STRASBOURG

30 November 2023

This judgment is final but it may be subject to editorial revision.

In the case of Brănișteanu and Others v. Romania,

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

Faris Vehabović, *President*,

Anja Seibert-Fohr,

Anne Louise Bormann, *judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having deliberated in private on 9 November 2023,

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 Romanian Government (“the Government”) were given notice of the applications.

THE FACTS

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

4. The applicants, who are convicted prisoners, complained about their inability to vote in legislative elections despite their right to vote not being restricted by court order for the sole reason that, on the date of the elections, they were serving a sentence in a prison situated outside the electoral constituency of their place of residence.

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 PROTOCOL NO. 1 OF THE CONVENTION

6. The applicants complained about their inability to vote in elections. They relied on Article 3 of Protocol No. 1.

7. The Court refers to the principles established in its case-law regarding ineligibility to vote in elections (see, for instance, *Ždanoka v. Latvia* [GC],

no. 58278/00, §§ 102-15, ECHR 2006-IV with further references, and *Mironescu v. Romania*, no. 17504/18, §§ 35-37, 30 November 2021).

8. In the leading case of *Mironescu* (cited above, §§ 52-53), the Court has 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 inability of the applicants to vote in elections, because on the date of the elections, they were serving a sentence in a prison situated outside the electoral constituency of their place of residence, is incompatible with Article 3 of Protocol No. 1.

10. These complaints are therefore admissible and disclose a breach of Article 3 of Protocol No. 1.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

11. Regard being had to the documents in its possession and to its case-law (see, in particular, *Mironescu*, cited above, § 57), the Court concludes that the finding of a violation constitutes sufficient just satisfaction for any non-pecuniary damage sustained by the applicants. At the same time, it considers it reasonable to award the applicant, Ms Brănișteanu (application no. 10600/18), 560 euros (EUR) covering costs for the proceedings before the Court, plus any tax that may be chargeable to her.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that these applications disclose a breach of Article 3 of Protocol No. 1 concerning the restriction on prisoners' voting rights based on place of residence;
4. *Holds*
 - (a) that the finding of a violation constitutes in itself sufficient just satisfaction for any non-pecuniary damage sustained by the applicants;
 - (b) that the respondent State is to pay the applicant, Ms Brănișteanu (application no. 10600/18), within three months, EUR 560 (five hundred and sixty euros), to be converted into the currency of the respondent State at the rate applicable at the date of settlement, plus any tax that may be chargeable to her on that amount;

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- (c) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount 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 30 November 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Viktoriya Maradudina
Acting Deputy Registrar

Faris Vehabović
President

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APPENDIX

List of applications raising complaints under Article 3 Protocol No. 1 of the Convention
(restriction on prisoners' voting rights based on place of residence)

No.	Application no. Date of introduction	Applicant's name Year of birth	Electoral constituency of domicile	Electoral constituency of prison	Election details
1.	10600/18 24/04/2018	Gheorghîța BRĂNIȘTEANU 1958	Gorj County	Dolj County	Legislative elections of 11/12/2016
2.	2781/21 26/02/2021	Dezső ÖTVŐS 1966	Timiș County	Arad County	Legislative elections of 06/12/2020
3.	3505/21 05/04/2021	Gheorghîța BRĂNIȘTEANU 1958	Gorj County	Arad County	Legislative elections of 06/12/2020
4.	8976/21 24/06/2021	Marian BĂLUI 1979	Argeș County	Arad County	Legislative elections of 06/12/2020
5.	12445/21 16/04/2021	Florian Ovidiu GERGELY 1980	Harghita County	Cluj County	Legislative elections of 06/12/2020
6.	15679/21 14/04/2021	Constantin NECHITA 1986	Neamț County	Harghita County	Legislative elections of 06/12/2020