

Laura Maria Stanila*

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THE RIGHT TO BODILY INTEGRITY AND HEALTH AND THE RIGHT TO LIFE IN THE LIGHT OF THE ECHR CASE-LAW AGAINST ROMANIA

Guaranteeing the right to health, bodily integrity and the right to life is not only achieved at the legislative level by prohibiting intentional or culpable conduct under criminal sanctions, but also effectively by streamlining the functioning of institutions, bodies and procedures whose dysfunctions, although are not directly related to these rights, may significantly affect them.

In this article, we propose an incursion into the case-law of the European Court of Human Rights with regard to the Romanian State, analyzing those decisions pronounced against Romania through which the Court found violations of the rights provided for by the Convention which also affected the bodily integrity, health or life of a person.

Keywords: *right to bodily integrity and health, right to life, ECHR practice, related rights, subsequent injuries.*

* Assoc. prof.dr Laura Stanila, Faculty of Law, West University Timisoara Director, Center for Research in Criminal Sciences, e-mail: laura.stanila@e-uvv.ro, [ORCID 0000-0001-9064-7489](https://orcid.org/0000-0001-9064-7489)

1. Introductory thoughts

The constellation of fundamental rights and freedoms has, as its main characteristic, the fact that each of these rights cannot be looked at and analyzed in isolation, but intertwines with other rights, the violation of some of them possibly having a transitive effect and affect others, with serious consequences for one person. As shown in some official analysis (Council of Europe 1, 2015, p. 4) it has become very difficult”to define precise and clear boundaries between the fundamental rights and freedoms enshrined in the Convention and socio-economic rights (...). The Court is thus inevitably called upon to consider cases having a socio-economic dimension, including health, where they raise an issue under one or more fundamental civil and political rights guaranteed under the Convention. Consequently, health issues have arisen before the Court in a wide variety of circumstances”.

The system of fundamental rights and freedoms, as drawn up and conceived by international documents and especially by the European Convention on Human Rights, represents the modern stage of the evolution of human civilization, each state being obliged to design its legislative, executive and judicial systems in such a way that the fundamental rights and freedoms of individuals be protected and guaranteed.

2. Is there a right to health and bodily integrity enshrined by ECHR?

According to a doctrinal opinion, the right to bodily integrity as “the most important of the civil rights”, this right being viewed as a complex with quite ambiguous boundaries, not being reduced to the principle of bodily autonomy. (Herring,Wall, 2017: 567)

If the right to life is considered the “king of rights”, this being a precondition for the existence and exercise of other fundamental rights and freedoms, the right to bodily integrity and health of the person is more difficult to detect as such, especially with regard to the provisions of the European Convention on Human Rights. As a matter of fact the European Convention on Human Rights

does not guarantee a right to health-care or a right to be healthy (Council of Europe 1, 2015:4), nor a right to physical integrity.

Thus, usually, the right to bodily integrity and health is considered as a logical extension or revitalization of the right to life, however, in ECtHR practice, it is analyzed either by reference to art. 3, or, more unusually, to art. 8 of the ECHR.

According to art. 3 of ECHR - Prohibition of torture - "No one shall be subjected to torture or to inhuman or degrading treatment or punishment. It is obvious that this prohibition aims to protect the right to physical integrity and health of one person by banning conducts that could expose that person to serious suffering and pain. According to art. 8 of ECHR - Right to respect for private and family life - "1. Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others." Even if the prohibition of torture and inhuman or degrading treatment or punishment is a value of civilisation closely bound up with respect for human dignity, still its absolute character leads to the protection of other related values such as health and physical integrity, aspect revealed by the case-law of the Strasbourg Court (Council of Europe 2, 2023: 6).

In the case of art. 8 of ECHR, the concept of health and body integrity are included in the concept of private life, the creative case-law of ECtHR contributing to this extension of the concept. As regards art. 8, the first time that the concept of private life was indicated by the Court to cover the physical and moral integrity of the person was in the case of *X and Y v. the Netherlands* (1985)¹, the

¹ *Case of X and Y v. The Netherlands*, Application no. 8978/80, Judgment of 26 March 1985, par. 22: "There was no dispute as to the applicability of Art. 8 the facts underlying the application to the Commission concern a matter of "private life", a concept which covers the physical and moral integrity of the person, including his or her sexual life." See <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%7B%22001-57603%22%7D> accessed on 10.09.2024.

Court stating in case *Y.F. v. Turkey*, 2003 that "a person's body concerns the most intimate aspect of private life"²

Guaranteeing the right to health, bodily integrity and the right to life is not only achieved at the legislative level by prohibiting intentional or culpable conduct under criminal sanctions, but also effectively by streamlining the functioning of institutions, bodies and procedures whose dysfunctions, although are not directly related to these rights, may significantly affect them.

ECHR Case-law against Romania tackling the issue of health and bodily integrity³

In the case of Romania, the violation of the right to bodily integrity and health of the person was carried out either through the direct action of natural or legal persons, under public or private law, or as a consequence of the dysfunction recorded in the conduct of legal procedures or as a consequence of the violation of other fundamental rights.

Romania's casuistry before the European Court of Human Rights could be divided into two groups of cases: on the one hand, the cases in which the Court found a violation of art. 3 of the convention, and on the other hand, the cases in which the Court found a violation of art. 8.

In the following we are going to present the most interesting judgments against Romania regarding the violation of the right to health and bodily integrity as a consequence of violations of other rights enshrined by ECHR.

² *Case of Y.F. v. Turkey*, Application no. 24209/94, Judgment of 22 October 2003, par. 33.

³ The selection of the cases regarding art. 8 of ECHR was based, among others, on the Guide on Article 8 of the European Convention on Human Rights. Right to respect for private and family life, home and correspondence drafted by Council of Europe and the Registry of European Court of Human Rights, 2024, available at https://ks.echr.coe.int/documents/d/echr-ks/guide_art_8_eng, accessed on 24.09.2024.

3.1. Cases against Romania in which the Court has tackled the violation of art. 3 and/or art. 8 of ECHR

3.1.1. Case Nicolae Virgiliu Tănase v. Romania [GC], 2019⁴

In 2004 the applicant N. V. T. had road accident which occurred at night on a public road, involved two other drivers and left him with a serious physical disability. The applicant's car was shunted by a moving vehicle into a parked vehicle. The authorities initiated a criminal investigation against the applicant and the other two drivers involved. However, that investigation, and in particular the inquiries into the responsibility of one of the other two drivers, was ultimately dropped by the prosecution in 2012 on the ground that not all the constituent elements of an offence were present. The prosecutor's decision was upheld by a District Court, which dismissed the applicant's appeal as statute-barred. In his application to the European Court, the applicant complained under Article 3 of the Convention that the domestic authorities had not examined the case on the merits or shed light on the circumstances of the accident, and had applied a special time-bar for the driver who had allegedly caused the accident.

As regards the breach of art. 3 of ECHR, the applicant's health problems were directly, or at the very least indirectly, related to his accident. The damage to his health had resulted either from chance events or from negligent conduct. The investigation launched by the authorities into the circumstances of the accident concerned an unintentional offence. However, physical injuries and physical or mental suffering sustained by a person as a result of an accident caused by chance or negligent conduct could not be considered as the result of "treatment" to which someone had been "subjected", within the meaning of Article 3. Such treatment is primarily, though not exclusively, characterised by an intention to injure, humiliate or debase the individual by undermining or diminishing his or her human dignity, or attempting to arouse feelings of fear, anguish or inferiority capable of breaking an individual's moral and physical resistance. Thus the Court has found art. 3 not applicable to the case

Also the Court analysed the case through the obligation to investigate imposed for the national authorities. (Stoyanova, 2023:1). In addition, in this case,

⁴ Case Nicolae Virgiliu Tănase v. Romania, Application no. 41720/13, Judgment of 25 June 2019.

the Court found Art. 8 not applicable to a road-traffic accident which did not occur as the result of an act of violence intended to cause harm to the applicant's physical and psychological integrity⁵.

The reasoning of the Court in this case was found peculiar in the doctrine, because the Court found that the investigations into a serious traffic accident were compatible with art. 2, 8 and 6 ECHR and that art. 3 ECHR was not applicable, marking a change of jurisprudence as the Court stated that art. 3 (procedural limb) ECHR is only applicable to non-state ill-treatment if inflicted intentionally. (Burli, 2019)

3.1.2. Case *Buturugă v. Romania*, 2020⁶

In *Buturugă v. Romania*, the applicant reported her former husband's violent behaviour to the authorities, relying on a forensic medical certificate. She requested an electronic search of the family computer to be used in evidence for the criminal proceedings, alleging that her former husband had improperly consulted her electronic accounts, including her Facebook account, and that he had made copies of her private conversations, documents and photographs. That request was dismissed on the grounds that any evidence likely to be gathered in this way would be unconnected with the alleged threats and violent acts committed by her former husband. Subsequently the applicant lodged another complaint against her former husband for violation of the confidentiality of her correspondence, which was dismissed as out of time. The public prosecutor's office imposed an administrative fine on her former husband and discontinued the case, relying on the provisions of the Penal Code governing violence between private individuals and not on those concerning domestic violence. The court upheld the conclusions of the prosecutor's office to the effect that the threats to the applicant had been insufficiently serious to qualify as criminal offences, and that no direct evidence had been produced to show that the injuries sustained by the applicant had been caused by her former husband. As regards the alleged violation of the

⁵ Par. 129-132.

⁶ Case *Buturugă v. Romania*, 2020, Application 56867/15, Judgment of 11 February 2020.

confidentiality of her correspondence, the court ruled that that matter was unrelated to the subject matter of the case, and that data published on the social networks were public.

The Court emphasised the need to comprehensively address the phenomenon of domestic violence in all its forms. In examining the applicant's' allegations of cyberbullying and her request to have the family computer searched, it found that the national authorities had been overly formalistic in dismissing any connection with the domestic violence which she had already reported to them. The applicant had been obliged to submit a new complaint alleging a breach of the confidentiality of her correspondence. In dealing with it separately, the authorities had failed to take into consideration the various forms that domestic violence could take. In particular, under Article 8 the States have a duty to protect the physical and moral integrity of an individual from other persons, including cyberbullying by a person's intimate partner.⁷

Regarding serious acts the Court stated it falls to the Member States to ensure that efficient criminal law provisions are in place.⁸

As regards art. 3, in this case - *The investigation into the ill-treatment* - the Court observed the Romanian authorities did not address the impugned facts from the angle of domestic violence. Indeed, the investigation did not take account of the specific features of domestic violence. Furthermore, while none of the domestic authorities had contested the reality and severity of the injuries sustained by the applicant, no evidence had emerged from the investigation capable of identifying the person responsible. The investigating authorities had thus confined themselves to questioning the applicant's relatives as witnesses, failing to gather any other type of evidence to ascertain the origin of the applicant's injuries and, possibly, those responsible for inflicting them. In a case concerning alleged acts of domestic violence, the investigating authorities ought to have taken the requisite action to elucidate the circumstances of the case. Accordingly, even though the legal framework put in place by the respondent State had provided the applicant with some form of protection, the latter had taken effect subsequently

⁷ Par. 74.

⁸ Par. 74, 78, 79.

to the impugned acts of violence and had failed to remedy the shortcomings in the investigation.

As regards art. 8 in this case, - *the investigation into the violation of the confidentiality of the applicant's correspondence* - the Court noted that in both domestic and international law, the phenomenon of domestic violence is regarded not as being confined to physical violence but as also including psychological violence or harassment. Furthermore, cyberbullying is currently recognised as an aspect of violence against women and girls and can take on various forms, including cyber violations of privacy, hacking the victim's computer and the stealing, sharing and manipulation of data and images, including intimate details. In the context of domestic violence, cybersurveillance is often traceable to the person's partner. The Court therefore accepted that such acts as improperly monitoring, accessing and saving the spouse's or partner's correspondence could be taken into account by the domestic authorities when investigating cases of domestic violence. Such allegations of breach of confidentiality of correspondence required the authorities to conduct an examination on the merits in order to gain a comprehensive grasp of the phenomenon of all the possible forms of domestic violence.

3.1.3. C.A.S. and C.S. v. Romania, 2012⁹

In January 1998, the first applicant - CAS -, a seven-year-old boy, was followed home from school by a man who forced his way into the family home and subjected him to a violent sexual assault before warning him at knife-point that he would be killed if he told anyone what had happened. Over the following months the abuse continued several times a week. In April 1998, after finally being told by his son what was happening, the boy's father (the second applicant) alerted the police, who started an investigation. The first applicant identified his aggressor in a line-up and several witnesses stated that they had seen the man either entering, or in the vicinity of, the boy's flat during the period in question. Two medical examinations of the boy indicated injuries consistent with repeated sexual abuse. After the investigation had been discontinued three times, the suspect eventually stood trial in 2004, when he was acquitted of rape and unlawful

⁹ Case *C.A.S. and C.S. v. Romania*, Application no. 26692/05, Judgment of 24 September 2012.

entry of the boy's home. The domestic courts found that the parties and witnesses had given contradictory statements and were particularly concerned by the fact that the parents had waited a long time before going to the police. They further noted that the first applicant had not given an accurate description of the facts and was prone to fantasizing.

In this case, the Court tackled the issue of respect of children, who are particularly vulnerable and the obligation of Member States to ensure that efficient criminal law provisions are in place to prevent breaches in the rights of children. In the Courts reasoning, the measures applied by the State to protect children against acts of violence falling within the scope of Article 8, must be effective. This should include reasonable steps to prevent ill-treatment of which the authorities had, or ought to have had, knowledge and effective deterrence against such serious breaches of personal integrity¹⁰. The obligation imposed for the states should also provide adequate protection for dangerous situations referring to the fact that the State should have known of a particular danger.

Despite the gravity of the allegations and the particular vulnerability of the victim, the investigation had been neither prompt nor effective. The authorities had waited three weeks before ordering a medical examination of the victim and two months before interviewing the main suspect. Overall, the investigation had lasted five years. Furthermore, seven years after the incident, the main suspect had been exonerated without the authorities even trying to find out if there was any other suspect. Of even further concern in such a case of violent sexual abuse of a minor was that the authorities had not tried to weigh up the conflicting evidence and establish the facts or carry out a rigorous and child-sensitive investigation. In fact, while the courts had paid no attention to the length of the investigation, they had attached significant importance to the fact that the family had not reported the crimes immediately to the police and, to a certain extent, that the victim had not reacted sooner. The Court failed to see how the parents' alleged negligence could have any impact on the diligence of the police in their response to the rape of a seven-year-old boy. Nor could it understand why the authorities had not been more aware of the particular vulnerability of the victim and the special psychological factors involved, which could have explained his hesitation in

¹⁰ Par. 82.

reporting the abuse and describing what had happened to him. The States had an obligation under Articles 3 and 8 to ensure the effective criminal investigation of cases involving violence against children, with respect for their best interests being paramount. It was particularly regrettable that the first applicant had never been given counselling or been accompanied by a qualified psychologist either during the rape proceedings or afterwards. The failure to adequately respond to allegations of child abuse in this case cast doubt over the effectiveness of the system Romania had put in place to comply with its international obligations to protect children from all forms of violence and to help the recovery and social reintegration of victims. Indeed, it had left the criminal proceedings devoid of any meaning. In sum, the authorities had failed to carry out an effective investigation into the allegations of violent sexual abuse of the first applicant and to ensure adequate protection of his private and family life.

Thus the Court found both art. 3 and art. 8 violated.

3.1.4. Case of *Georgel and Georgeta Stoicescu v. Romania*, 2011¹¹

On 24 October 2000 the applicant, aged 71 at the time, was attacked, bitten and knocked to the ground by a pack of around seven stray dogs in front of her home in a residential area in Bucharest. As a result of the fall, the applicant suffered a head injury and fractured her left thigh bone which required four days' hospitalisation. After being discharged from hospital she was prescribed medical treatment which proved to be too expensive for her. Following the incident, the applicant started suffering from amnesia and shoulder and thigh pains and had difficulty walking. In addition, she lived in a constant state of anxiety and never left the house for fear of another attack. By the year 2003 she had become totally immobile. The applicant's state of health continued deteriorating with the result that two and a half years after the incident, on 4 June 2003, she was declared disabled by a medical panel of the Bucharest Local Council.

The applicant argued that her injuries were due to a lack of action on the part of the Romanian authorities to solve the problem of stray dogs and ensure the safety and health of the population. As a consequence, the applicant argued

¹¹ Case *Georgel and Georgeta Stoicescu v. Romania*, Application no. 9718/03, Judgment of 26 October 2011.

Romania had failed in its positive obligations under article 8 to protect the applicant's physical and moral integrity and prevent intrusion into her private life. The Court identified that the concept of private life includes a person's physical and psychological integrity, and article 8 gave rise to a positive obligation on States to ensure effective respect for the rights protected by the article, including prevention of breaches of the physical and moral integrity of an individual by other persons when the authorities knew or ought to have known of those breaches.

In this case the Court found a violation of art. 8 when a woman was attacked by stray dogs in an area where such animals were a common problem. The Court stated that the lack of sufficient measures taken by the authorities in addressing the issue of stray dogs in the particular circumstances of the case, combined with their failure to provide appropriate redress to the applicant as a result of the injuries sustained, amounted to a breach of the State's positive obligations under Article 8 of the Convention to secure respect for the applicant's private life.¹²

3.1.5. Case *I.V.T. v. Romania*, 2022¹³

In this case the applicant, aged eleven at the material time, was interviewed without prior parental consent about the accidental death of a schoolmate during a school trip, and the interview was broadcast on television. The higher domestic courts dismissed the civil proceedings that she brought against the private broadcasting company, finding that the journalists had not acted wrongly in so far as they had been covering a subject of public interest, and that the adverse attitude of the school teachers and schoolmates towards the applicant following the broadcast of her interview was not imputable to the journalists.

The Court stated that the disclosure of information concerning the identity of a minor could jeopardise the child's dignity and well-being even more severely than in the case of adult persons, given their greater vulnerability, which attracts special legal safeguards¹⁴.

¹² Par. 62.

¹³ Case *I.V.T. v. Romania*, 2022, Application no. 35582/15, Judgment of 1 June 2022.

¹⁴ Par. 59.

3.1.6. Case C v. Romania, 2022¹⁵

In this case the Court elaborated on the State's positive obligations in the context of sexual harassment¹⁶ and stated that the State has an affirmative responsibility to protect individuals from violence by third parties¹⁷. The Court has also emphasized the need for protection from secondary victimisation in the course of the proceedings/investigation and from stigmatisation due to, insensitive/irreverent statements that are extensively reproduced in the prosecutor's decision or a lack of explanation by the prosecutor as to the need for a confrontation in a case concerning allegations of sexual harassment¹⁸. In general, the Court has emphasized the need to take measures to protect the rights and interests of victims¹⁹. Thus the Court found that the investigation of the applicant's case had such significant flaws as to amount to a breach of the States' positive obligations under Art. 8 of the Convention.

3.1.7. Case Bursuc v. Romania, 2004²⁰

On January 27, 1997, the applicant, a legal advisor by profession, was stopped by two police officers, while he was in a bar in the headquarters of the Democratic Party in Piatra-Neamț. The police officers addressed the applicant, rudely asking him to present his identity card and he answered them in the same tone. In response, the two police officers punched and kicked the applicant, handcuffed him and dragged him into a police car parked 30 meters from the party headquarters. In the car, the applicant was again hit with fists and sticks, so that he fell into a state of semi-consciousness. Brought to the police headquarters, the applicant was taken to a room where he was brutally beaten by approximately 8 policemen. They threw the applicant to the ground, kicked him, hit him with a stick, threw water on him and urinated on him. Mistreated for more than 6 hours, the applicant fainted several times. Since his condition was getting worse, the police agreed to transport him to the Psychiatric Hospital in Piatra-Neamț, where

¹⁵ Case C. v. Romania, Application no. 47358/20, Judgment of 30 November 2022.

¹⁶ Par. 61-88.

¹⁷ Par. 62-66.

¹⁸ Par. 82-85.

¹⁹ Par. 85.

²⁰ Case Bursuc v. Romania, Application no. 42066/98, Judgment of 12 October 2004.

he arrived around 4 in the morning. After he was given sedatives, considering his serious health condition, a team of doctors decided to transport the applicant to the Neurosurgery Hospital in Iasi.

The Court considered that, in this case, the injuries found on the applicant's body were produced as a result of a treatment for which the Romanian Government was responsible. Regarding the assessment of the severity of ill-treatment, the Court recalled that this was relative in nature; it depends on a set of circumstances specific to the case, such as the duration of the treatment or its mental or psychological effects and, in some cases, on the victim's sex, age and state of health. When a person is deprived of freedom, the use of physical force when it was not determined by the person's behavior, affects human dignity and constitutes, in principle, a violation of the right guaranteed by art. 3 of the Convention.²¹ In this case, the Court particularly emphasized the intensity of the hits inflicted on the applicant, which produced multiple bruises on the head and, above all, a cranio-cerebral trauma by violence, with diffuse cerebral edema, having lasting effects.²²

The duration of the ill-treatment inflicted on the applicant for several hours, starting with his detention at the bar in the evening, continuing during the transport by police car and then to the police station, before being taken to the hospital in a serious condition until 4.20 am were emphasized by the court in its reasoning. Furthermore, the Court noted that the applicant was particularly vulnerable, being alone under the supervision of at least 5 policemen who took him to the police headquarters during the night following a minor incident in a bar. Therefore, the Court considered that the violence to which the applicant was subjected presents a particularly serious character, likely to lead to acute pain and suffering, so that they must be considered acts of torture within the meaning of art. 3 of the Convention.

²¹ Par. 89.

²² Par. 91.

3.2. Cases tackling the right to health and bodily integrity in relation to other rights provided for by ECHR

3.2.1. Case Centre for Legal Resources on Behalf of Valentin Câmpeanu v. Romania, 2014²³

The application was lodged by a non-governmental organisation, the Centre for Legal Resources (CLR), on behalf of a young Roma man Mr Câmpeanu, who died in 2004 at the age of 18. Mr Câmpeanu had been placed in an orphanage at birth after being abandoned by his mother. When still a young child he was diagnosed as being HIV-positive and as suffering from severe mental disability. On reaching adulthood he had to leave the centre for disabled children where he had been staying and underwent a series of assessments with a view to being placed in a specialised institution. After a number of institutions had refused to accept him because of his condition, he was eventually admitted to a medical and social care centre, which found him to be in an advanced state of psychiatric and physical degradation, without any antiretroviral medication and suffering from malnutrition. A few days later, he was admitted to a psychiatric hospital after displaying hyper-aggressive behaviour. The hospital concerned had previously said that it did not have the facilities for patients with HIV. There he was seen by a team of monitors from the CLR who reported finding him alone in an unheated room, with a bed but no bedding and dressed only in a pyjama top. Although he could not eat or use the toilet without assistance, the hospital staff refused to help him for fear of contracting HIV. He was refusing food and medication and so was only receiving glucose through a drip. The CLR monitors concluded that the hospital had failed to provide him with the most basic treatment and care. Mr Câmpeanu died that same evening.

The Court noted that the case concerned a highly vulnerable young Roma man suffering from severe mental disabilities and HIV infection who had spent his entire life in State care and died in hospital through alleged neglect. In view of his extreme vulnerability, he had been incapable of initiating proceedings in the domestic courts without proper legal support and advice. At the time of his death Mr Câmpeanu had no known next-of-kin. Following his death, the CLR

²³ Case Centre for Legal Resources on Behalf of Valentin Câmpeanu v. Romania, Application no. 47848/08, Judgment of 17 July 2014.

had brought domestic proceedings with a view to elucidating the circumstances of his death. It was of considerable significance that neither its capacity to act nor its representations on Mr Câmpeanu's behalf before the domestic medical and judicial authorities were questioned or challenged in any way. The State had not appointed a competent person or guardian to take care of his interests despite being under a statutory obligation to do so. The CLR had become involved only shortly before his death - at a time when he was manifestly incapable of expressing any wishes or views regarding his own needs and interests, let alone on whether to pursue any remedies. Finding that the CLR could not represent Mr Câmpeanu in these circumstances carried the risk that the respondent State would be allowed to escape accountability through its own failure to comply with its statutory obligation to appoint a legal representative. Moreover, granting CLR standing to act as Mr Câmpeanu's representative was consonant with the Court's approach in cases concerning the right to judicial review under Article 5 § 4 of the Convention in the case of "persons of unsound mind" (Article 5 § 1 (e)). In such cases, it was essential that the person concerned should have access to a court and the opportunity to be heard either in person or, where necessary, through some form of representation. The CLR thus had standing as Mr Câmpeanu's *de facto* representative.

The Court underlined that for his entire life Mr Câmpeanu had been in the hands of the authorities, which were therefore under an obligation to account for his treatment. They had been aware of the appalling conditions in the psychiatric hospital, where a lack of heating and proper food and a shortage of medical staff and medication had led to an increase in the number of deaths in the winter of 2003. Their response had, however, been inadequate. By deciding to place Mr Câmpeanu in that hospital, notwithstanding his already heightened state of vulnerability, the authorities had unreasonably put his life in danger, while the continuous failure of the medical staff to provide him with appropriate care and treatment was yet another decisive factor leading to his untimely death. In sum, the authorities had failed to provide the requisite standard of protection for Mr Câmpeanu's life. Thus a violation of art. 2 occurred. Also, the Court observed the failure of Romanian authorities to carry out an effective investigation into the circumstances surrounding the death of Mr Câmpeanu and a violation of Article 13 in conjunction with Article 2 on account of the failure to secure and implement

an appropriate legal framework that would have enabled Mr Câmpeanu's allegations relating to breaches of his right to life to have been examined by an independent authority.

Conclusions regarding the case-law against Romania

It was stated in the Romanian doctrine that we can already talk about a "typology" of the cases against Romania starting from the facts and the findings of the Court. (Selejan-Guțan, 2023: 143)

Thus, there are cases in which the rights to health and bodily integrity are violated due to ill-treatment caused by police officers. Among these, in case *Bursuc v. Romania* (2004), the Court considered that the ill-treatment rose to the level of gravity of torture. There were also cases of police violence or treatment of detainees that do not rise to the level of severity of torture, but were considered inhumane treatment (Case *Pantea v. Romania*²⁴, Case *Cobzaru v. Romania*²⁵) or "degrading treatments" (Case *Barbu Anghelescu v. Romania*²⁶). Part of the violations found by the Court in the charge of the Romanian authorities were due to their violation of the positive procedural obligation to carry out an effective investigation regarding alleged violations of the physical integrity of the person, either by the authorities or by individuals.

In other cases Romanian authorities failed to fulfill their obligations to ensure safety of the citizens leading eventually to the injuries and damaging bodily integrity and health of persons (Case *Georgel and Georgeta Stoicescu v. Romania*, 2011).

Another set of cases are related to sexual abuses committed by persons in different situations (work environment, abuse on minors).

Still, there are plenty of cases against Romania in which the Court of Strasbourg has analyzed the concept of health and bodily integrity in connection with rights guaranteed by ECHR.

²⁴ Case *Pantea v. Romania*, Application no. 33343/1996, Judgment of 3 June 2003

²⁵ Case *Cobzaru v. Romania*, Application no. 48254/99), Judgment of 26 July 2007

²⁶ Case *Barbu Anghelescu v. Romania*, Application no. 46430/99, Judgment of 5 October 2004.

One thing is clear: the right to bodily integrity and health cannot be analyzed in isolation, but accepting the fact that fundamental rights represent a unitary whole in which there are interconnected and mutually determined relationships.

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