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Tesa Hargis

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ROMANIAN GOVERNMENT WILL IMPLEMENT MEASURES TO PREVENT FURTHER VIOLATIONS OF RIGHTS OF PEOPLE WITH MENTAL HEALTH CONDITIONS OR DISABILITIES IN ACCORD WITH THE DECISION OF THE EUROPEAN COURT OF HUMAN RIGHTS

by Tesa Hargis*

On June 21 and 22, the European Court of Human Rights (ECtHR) and Romania discussed reform measures based on various judgements delivered during the nine-year period between 2012 and 2021.¹ At issue before the ECtHR's Department

* Tesa Hargis is a 1L at AUWCL. She is currently a staffer for the regional section of the Human Rights Brief. She is a Rotary Global Grant recipient and received funding for her MA Human Rights at University College London where she wrote her dissertation on post-war conflict resolution. She received her BA in International Studies from University of North Texas in 2017. During her undergraduate degree, her article on Protected Groups within Human Rights Law was published in the Texas Undergraduate Law Journal, and she was a member of Model International Organization and represented her university at a conference in Munich. Before attending law school, she interned with the House of Representatives, Department of State, and International Rescue Committee. Additionally, she worked as

for Execution of Judgments was insufficient legal protection, lack of medical and social care, deficiencies in the legal framework governing involuntary placement, inadequate management of psychiatric conditions of detainees, and overcrowding and poor conditions in Romanian mental health facilities.²

In July 2020, the Romanian Constitutional Court ruled its Civil Code provisions on the protections of adults with mental disabilities were unconstitutional.³ The ruling relied upon various cases, including one regarding a young man named Mr. Valetin Câmpeanu, who had a "severe intellectual disability."⁴ Unfortunately, Mr. Câmpeanu's right to life was not adequately protected; Mr. Câmpeanu was not properly diagnosed and did not receive appropriate representation or treatment, which ultimately resulted in his death.⁵ Under the European Convention on Human Rights, Romania violated Article 2(2)(b), regarding right to life of persons lawfully detained and Article 3 prohibitions of torture or inhuman treatment.⁶

a legal assistant and a paralegal with a family law firm and a criminal law firm. Her legal interests include international law, security law, international human rights law, and international humanitarian law. She hopes work with government organizations and public interest nonprofits.

1 Bucharest, *Execution by Romania of ECHR Judgments Concerning Rights of People with Mental Health Conditions or Disabilities*, COUNCIL OF EUR. (2022), <https://www.coe.int/en/web/execution/-/execution-by-romania-of-echr-judgments-concerning-rights-of-people-with-mental-health-conditions-or-disabilities>.

2 Dept. for the Execution of Judgments of the Eur. Ct. H.R., *Main Issues*, COUNCIL OF EUR. (2021), <https://rm.coe.int/mi-romania-eng/1680a23ca4>.

3 *Decision No. 601 of 16 July 2020*, Constitutional Court of Romania (July 16, 2020), https://www.ccr.ro/wp-content/uploads/2021/01/Dec_601_2020_EN.pdf.

4 Case of Centre for Legal Resources on Behalf of Valentin Câmpeanu v. Romania, App. No. 47848/08, ¶ 10 (July 17, 2014), [https://hudoc.echr.coe.int/eng#%22itemid%22:\[%22001-145577%22\]](https://hudoc.echr.coe.int/eng#%22itemid%22:[%22001-145577%22]).

5 *Id.* at ¶ 24.

6 Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms*, Nov. 4, 1950, ETS 5, art. 2 § 2(b), 3 (emphasis added).

In May of 2022, authorities informed the ECtHR that the Romanian government will be enacting new laws that protect vulnerable adults, in accordance with the ruling, by designating a personal representative for these adults to assist them in exercising their rights.⁷ In late June of 2022, the ECtHR and Romania met and discussed the implementation of additional measures to prevent further violations. The ECtHR is currently awaiting information confirming measures taken regarding the issues stated above.

The rights of adults with mental health conditions or disabilities have been vastly under-protected, and Romania needs to institute protections and remedies. There are ongoing investigations into the criminal acts committed against vulnerable adults, and Romania is enacting measures including legally and financially sufficient representation of vulnerable adults.⁸ The investigations are meant to aid in the review and reform of procedure, and the “personal representative[s]” are intended to make sure that vulnerable adult’s rights are respected and needs are met.⁹ Hopefully, as a result of the judgments of and exchanges with the ECtHR, Romania will successfully conduct thorough investigations, reform its protocols and institutions, and implement a monitored and centralized mechanism for personal representatives protecting vulnerable adults from inhumane and unlawful treatment.

7 Centre for Legal Resources on Behalf of Valentin Campeanu v. Romania, COUNCIL OF EUR., [https://hudoc.exec.coe.int/eng#%22EXECIdentifier%22:\[%22004-13375%22\]](https://hudoc.exec.coe.int/eng#%22EXECIdentifier%22:[%22004-13375%22]) (last visited Dec. 1, 2022).

8 *Id.*

9 *Id.*