

ANALYSIS OF MEDICAL CARE IN EUROPEAN PRISONS IN THE LIGHT OF THE ECTHR JURISPRUDENCE

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Abstract

Since ancient times, people have been interested in leading the best possible life, and with the evolution of society, individuals have gradually and permanently focused on improving the quality of life, on maintaining physical and mental health for as long as possible throughout their lives. Even if in the early part of life most people think they are invincible, believe they have no limits, believe they can do almost anything and overcome any obstacle encountered, with advancing age they realize the limits of the human body and the normal course of life. With the increase of humanity's interest in preserving bodily integrity for as long as possible, medical studies at the physical level as well as those at the psychological level have intensified, and medical innovations have appeared that have reached unimaginable limits just a few decades ago, states began building more hospitals and medical centers while pouring more money into the health care system.

The right to health is in close connection with the right to life because the deterioration of the first element inevitably leads to the faster loss of the second element. In penitentiaries, the right to health is guaranteed to all those in custody permanently, free of charge, equally and without discrimination. Perhaps because of this, once in detention, some begin to fake all sorts of medical problems in order to receive certain benefits such as better food for a falsely declared digestive problem, better accommodation in the unit's infirmary at least for a short amount of time etc. Others use this ruse and feign very serious medical problems to try to escape their penance and regain their freedom before the sentence set by the court expires.

Keywords: *life, health, rights, penitentiary, justice.*

1. Introduction

The usefulness of the judicial body at the European level has been proven unequivocally and the ECtHR decisions have lit the way to a healthy practice in many social fields. The penitentiary environment, however, is atypical and can be difficult to understand for those who have not had direct contact with people serving custodial sentences and with the mechanisms of a prison. The analysis made by the courts can sometimes be rigid and based only on judicial custom. An analysis by a person who has both the life experience required establishing all the circumstances of the case and experience in the field under analysis is often required. Deprivation of liberty forms, transforms and influences the behavior and way of thinking of all those involved in the criminal execution process, and the patients in prisons are little different from patients in a hospital in the public health network. At the first contact with the prison environment, the medical personnel tend to analyze all the causes without analyzing the patient as well, starting from the premise that the person requesting medical assistance is in good faith and the problem presented is a real one. Not infrequently, people in detention have feigned a certain condition and lied about their actual state of health in order to obtain some benefits. Only medical personnel with more experience can notice these aspects, those at the beginning of their medical career being easily convinced by the inmates that they have sufferings or medical conditions.

Based on this premise, some people in detention speculated about a weakness in the system and tried to gain undeserved sums of money. The health of an individual is closely related to the environment in which he spends his life, to his diet and to all the conditions he has in his daily life. In the same way, the right to health in prisons is very often associated with the totality of the conditions of detention, cumulating the degree of crowding of the accommodation spaces, the food received, the conditions and the equipment of the cells. Most of the complaints of persons deprived of their liberty concerned the violation of the right to health and medical assistance and also referred to the failure to ensure normal conditions of detention.

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2. The general assembly on the right to health

Since the beginnings of humanity and civilization, the rulers of conquering empires have felt unstoppable, they have believed that nothing can stop their rise, and maintaining ascendancy over others has proven time has defeated them all. Realizing that no one can be immortal, people began to analyze and study the human body, its mechanisms, reactions to certain substances or processes in order to maintain normal life, without physical or mental problems, for a period of time as long as possible.

Thus, nowadays, life expectancy has increased considerably and is constantly rising, along with the evolution of medicine and science in general. At the same time, life and health have transformed from simple possibilities into mandatory rights for all people, these being inserted in the most important international documents and later taken over at the local level by the legislation of the signatory states. The right to health has become a right with universal access and the citizens' path to this benefit must be non-discriminatory, dignified and transparent. The state, through its institutions, has an essential role in this whole process which must ensure the participation of medical personnel with a quality, transparent, responsible medical act and with positive active participation regardless of name, origin, occupation, age, financial power or other aspects regarding the patient.

The European Union was conceived as a group of partner countries, peoples who ally and guarantee each other's support, trying to standardize to the highest possible standard the way of thinking, acting and respecting citizen values and rights. Slowly but surely, the rights and freedoms of all citizens in this union have developed and diversified positively and created the possibility of a better life for people. Exactly at the turn of the millennium, during the year 2000, the group of countries developed the Charter of Fundamental Rights of the European Union, a document¹ that brings together the social, civic, political and economic rights that must be enjoyed by all the inhabitants of the European territory. Developed in Nice and designed as a standard, the international act also allocated an important portion to the medical field, establishing the fact that any member of society has the right to receive preventive medical assistance as well as specialized medical care in the event of the occurrence of medical conditions.

Within the framework of the rights set forth in international documents, the right to health holds a well-deserved place among the essential rights that every person must enjoy without restriction, deprivation of liberty not being officially a restriction in any state. After the Second World War, in the capital of France, the foundations of citizens' rights were laid and the document that was to be a real source of inspiration for the domestic laws of all nations was drawn up. Although it had only 30 articles, the document established rights for all citizens along political, civil, economic and procedural lines. The document concerned both civilians and persons who had been legally deprived of their liberty, and established that all people have the right to a standard of living which provides them with medical care, food, housing, clothing, health and well-being for the whole family.² Also, in case of disability, illness, old age, unemployment, widowhood or other situations of loss of means of subsistence due to causes independent of their will, citizens have the right to insurance to be able to continue a decent life.

In order to promote and universally respect human rights and freedoms, numerous documents have been developed over the years with the role of reminding and strengthening the idea of equality of citizens. The right to health has always been presented and emphasized in most of these documents, without differentiating access to medical services between categories of people or groups of people. In most pacts, treaties and international conventions it has been shown that the state, through its institutions, has the obligation towards the entire community to promote respect for the rights and freedoms of the members of society. In 1966, the United Nations Organization felt the need for a reaffirmation of social, cultural and economic rights and issued a new document in which references related to the right of people to health were inserted, establishing that the signatory states of the document recognize the right which each individual possesses to have the best physical and mental health.³

The European Union, through its bodies, allocated time and resources for the formation of a legal framework and for the people who made mistakes and, following a court decision, ended up losing one of the

¹ Charter of Fundamental Rights of the European Union, Council of Nice, 7 December 2000, Title IV, art. 35, <https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=celex%3A12016P%2FTXT>.

² Universal Declaration of Human Rights, UN General Assembly, December 10, 1948, Paris, art. 25 para. 1, <https://legislatie.just.ro/Public/DetaliuDocumentAfis/22751>.

³ International Covenant on Economic, Social and Cultural Rights, UN General Assembly, December 16, 1966, art. 12 para. 1, <https://legislatie.just.ro/Public/DetaliuDocumentAfis/82589>.

most important human rights, freedom. One of the main bodies is the Council of the European Union, which is also called the Council of Ministers and it acts as the voice of the governments of the member states, coordinates the policies of the union and adopts European legislation. One of the most important international documents in the field of criminal execution was born in 2006 when the Committee of Ministers developed and promoted a document that would target the main aspects related to the activities and mechanisms necessary for the proper functioning of a penitentiary in the third millennium. The formulated recommendation described the minimum requirements that detention facilities should meet and established rules that were later taken up, adapted and implemented in most European states. Rules of good practice related to the education of prisoners, the gainful and recreational activities in which they can participate, the detention areas, contact with the outside, cases and ways of using force, deposition, release and others were set out. Although the act was not very extensive, a good part of it focused specifically and in detail on the right to health and medical care for people in detention. The Committee of Ministers recommended as a general rule that all those deprived of liberty who suffer from problems of a nature to cause them mental disorders or whose mental health is not suitable for life in detention should be transferred to special institutions, which ensure a climate appropriate in all respects for this particular category. Given that the impact of an incarcerated environment can be shattering for many of those entering prison, the recommendation is that each individual be given a full medical examination upon submission. Also, the established diet must be adapted to the physical condition of the subject, to his age, religion, culture, to the lucrative activities he carries out as well as to his state of health.

The nine-part document devoted an entire section just for regulating healthcare in detention facilities. Unlike other regulations in the field that usually focused on general rules, the recommendation from the beginning of 2006 focused on the problem in detail by analyzing even the medical staff assigned for the observation, care and treatment of conditions of persons deprived of their liberty. It was recommended that each unit should have at least one general practitioner and well-trained medical staff and that the prison authorities should have the role of protecting the physical and mental health of all inmates. On the occasion of the specialist consultation, the medical staff will pay more attention to the aspects related to the symptoms of the lack of alcohol or narcotic substances, respect for confidentiality, informing the competent bodies in situations of detecting traces of violence, identifying emotional tensions, isolation of those with infectious or contagious disease, cooperation with other authorities for the continuation of the necessary treatment even after the execution of the custodial sentence.⁴

Medical disabilities affect people most of the time throughout their lives and sometimes, in isolated cases, even from birth. International legislation took into account groups of medically vulnerable people and tried to bring the quality of life for this category as close as possible to the level of a normal life. Desiring principles of life based on non-discrimination, equal opportunities, respect for the dignity and the possibility of the disabled to preserve their own identity, the United Nations convened the Convention on the Rights of Persons with Disabilities. The signatory states have recognized the additional needs that a citizen with medical deficiencies has within the social group, committing to take the necessary measures to ensure everyone has access to medical services in an adequate way for each one's condition. Thus, it was emphasized that the state institutions, through the decision-making factors, will provide specific medical services to disabled people and the range of services will be qualitatively and financially similar to that offered to all members of society.

Also, according to the convention⁵, the state is bound to guarantee that access to health, medical services and treatments must be as close as possible to communities, including rural ones, and discrimination based on disabilities must be eliminated. The state mechanisms, through the representatives of the institutions, will prevent refusals to provide specialized care, food or treatments necessary to maintain or regain good health based on disability criteria.

A man's most precious thing in life is his children, they are the first thing that all parents think of when there is danger in the area and they are also the ones who give their love to their parents unconditionally. Unfortunately, life is not always as we plan and sometimes it happens that in a moment of distraction, due to the entourage or in the attempt to dare some young people end up behind bars after committing an act

⁴ Rec 2006 (2), Recommendation of the Committee of Ministers of the member states regarding European prison rules, January 11, 2006, Meeting no. 952, [https://anp.gov.ro/wp-content/uploads/sites/33/Documente%20utile%20pdf/Regulileeuropenepentruipenitenciare-VarREC\(2006\)2.pdf](https://anp.gov.ro/wp-content/uploads/sites/33/Documente%20utile%20pdf/Regulileeuropenepentruipenitenciare-VarREC(2006)2.pdf).

⁵ Convention on the Rights of Persons with Disabilities, UN, September 26, 2007, art. 25, <https://www.fcndr.ro/index.php/2018/03/29/conventia-privind-drepturile-persoanelor-cu-dizabilitati/>.

stipulated by the criminal law. The legislation of the European states accepts the idea of criminal responsibility also for the citizens who have not come up to age and special detention units have been created for this category. The UN General Assembly also thought about this special class of society, and at the end of 1989, in order to provide the best medical conditions for children, it developed a convention for this purpose. Starting from the premise that the beginning of life matters a great deal for the subsequent course of humans, in order to guarantee that every child will have access to the best medical services, the convention established several obligations of good practice for the signatory states. Institutional efforts will ensure the actual application of this right by taking the necessary measures to end traditional practices harmful to children's health. The measures taken by the authorities will pursue goals such as reducing mortality among children, combating diseases and malnutrition, providing correct information and using the knowledge gained about the importance of hygiene, food and environmental sanitation, ensuring preventive medicine services and medical education, development of health protection measures for all children and mothers in the prenatal and postnatal time interval.⁶The importance of international cooperation to ensure common progress especially that of developing countries was also recalled.

The documents provided by the United Nations were and still are an important working guide, not only for civil society but also for prison staff. The rules established by these internationally renowned acts have been successfully implemented both in hospital facilities in the member states and in most detention facilities of the old European continent.

3. Complaints of persons deprived of liberty incarcerated in the European area

3.1. Complaints of people imprisoned in Romania

The state in the European basin, which today is considered one of those where the rights of individuals are often violated, was the first European country⁷ to abolish capital punishment through the Constitution of 1866, when the Legislative Assembly of the United Principalities voted unanimously to do so. Unfortunately, the death penalty was re-introduced into the legal framework during the Second World War only to be permanently withdrawn from the legislation again in 1989, after the execution of the country's leader at that time and his wife. Even though it has always been behind the European rankings in many aspects, starting with the standard of living, continuing with the transparency of justice mechanisms and ending with the educational level, Romania has placed a constant emphasis on the lives of its citizens and has always stood out for the quality of its medical schools and quality graduates who later became renowned doctors in the field.

The state has assumed the responsibility to protect both the physical and mental integrity of all members of society and to take measures to ensure public hygiene and health through the basic law of the country.⁸ Through subsequent laws, decisions and ordinances, the entire medical assistance mechanism, the social insurance system for recovery and maternity, illness and accidents, as well as the way to control the exercise of paramedical activities and specific professions in this field, were organized. However, there are always people dissatisfied with the conditions offered by the Romanian state in the medical field.

This was also the case with a prisoner born in 1977 and sentenced to 12 years and 6 months in prison in 2004. He was pre-trial arrested two years before the conviction and during his detention was transferred to many detention facilities such as Ploiești, Jilava, Mărgineni, Rahova, Bacău, Craiova and Colibași. The petitioner expressed dissatisfaction with the conditions of detention provided by most of the prisons where he served parts of his sentence, claiming that the cells were overcrowded, that no hot water was provided, that there were no chairs in the rooms or that there were cockroaches and rats in the prison. The notification also concerned the violation of the right to health. The petitioner presented the fact that during his incarceration the only disease he suffered from was hepatitis and during his detention he developed various diseases due to the poor conditions of detention to which he was subjected, due to the inadequate treatments given by the medical personnel and the lack of medicines necessary for the ailments which he developed. He repeatedly requested dental interventions, but his situation was not considered urgent and due to the fact that the dentist was on maternity

⁶ Convention on the Rights of the Child, UN General Assembly, 20.11.1989, Part I, art. 24, <https://legislatie.just.ro/Public/DetaliiDocumentAfis/28981>.

⁷ T. Tandin, *Sentenced to death*, p. 8, Aldo Press Publishing House, Bucharest, 2004.

⁸ Constitution of Romania, Parliament of Romania, Bucharest, updated form, 31.10.2003, Chapter II, art. 34, <https://www.presidency.ro/ro/presedinte/constitutia-romaniei>.

leave, the National Penitentiary Administration informed him in writing that he would be transferred to another penitentiary which has a practicing dentist, but this has not happened.

Towards the end of 2010, the prisoner was already diagnosed with a series of medical problems such as chronic hepatitis, biliary dyskinesia, urinary tract infection, chronic hepatitis and duodenal ulcer, and during the following year he had already lost fourteen teeth due to the lack of a specialist doctor and suitable treatment. He also complained, among other things, about the lack of medical care for his sight problems and chose to start a separate action only against a medical staff employed at the prison. Although the Romanian Government's version was largely different from the one presented by the petitioner, the Romanian authorities admitted that they could not provide the court with proof that a therapeutic plan had been devised for the patient's medical needs. Moreover, another negative aspect confirmed even by the Romanian authorities was the fact that during August 2009, while he was serving his sentence in Jilava Penitentiary Hospital Bucharest, he was bitten by a rat and it was necessary to vaccinate him. The case⁹ was completed only in 2012, when it was established that the petitioner's right to health was violated through improper treatment of his ailments and the Romanian state was forced to pay him the sum of 20,000 euros for the material and moral damage caused, as well as the amount of 4,800 euros for court costs related to the trial.

3.2. Complaints of persons imprisoned in Poland

Recognized as a state with a high level of development and a low level of corruption, the Poland was not bypassed by the complaints of people who ended up in prisons on its territory. The state located in the center of the old European continent has been complained to the ECtHR by a person arrested for committing the crimes of fraud and forgery. The detained person repeatedly requested to be released because he claimed to be suffering from depression and to try to draw attention to his cause he resorted several times to the refusal of food. During October 1991, he tried to commit suicide, which led the decision-makers to request a detailed psychiatric analysis in his case. Following the investigation, the measure was taken to periodically admit the petitioner to a specialized penitentiary hospital for people with psychiatric problems. During the following year, the court ordered a thorough investigation in this case by the Psychiatry Clinic in Krakow. Only after the clinic, following the checks carried out by specialist doctors, established that the prisoner had persistent suicidal tendencies and an acute depression that endangered his life in the penitentiary environment, the court annulled the incarceration decision. His trial continued, but the defendant did not appear at the court dates and his lawyer argued that he has some medical problems and could not come to the received deadlines, and will present the necessary documents in this regard. However, the ex-detainee did not present the medical certificates within the deadline requested by the court to justify his absence from the hearings and in 1993 he was arrested again.

Despite more than twenty requests for release by the petitioner's lawyer, the court did not respond positively and the prisoner tried again to end his days. The suicide attempt was categorized by the court as a simulation that aims to draw attention to the petitioner and this form of emotional blackmail is organized with the aim of regaining his freedom. In 1995, he was found guilty of the acts he was originally accused of and was sentenced to a six-year prison term with execution and ordered to pay 5,000 zlotys. Later, with the help of family members, the petitioner addressed the European Supreme Court claiming that he was not provided with the necessary treatments for his mental condition and that several rights such as life, health and physical and mental integrity were violated through detention. The arguments presented by the government of the Polish state were not sufficient and the Court determined¹⁰ that the petitioner was right and obliged Poland to pay within three months a total amount of 50,000 zlotys, also establishing an interest for the situation of non-payment of the established amount on time.

Closed between four walls after committing crimes, people often end up trying by various methods to speculate on the loopholes of the justice system and to make money from the incomplete or interpretable legislation. This was also the case of a prisoner of Polish origin named Zdzislaw Nitecki who suffered from amyotrophic lateral sclerosis and complained that his right to health was being violated. The petitioner requested that the state pay all the costs of the drugs necessary for his medical situation, but this was not allowed because

⁹ ECtHR, Case *Iacov Stanciu v. Romania*, final judgement from 24.10.2012, <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-112420%22%7D>}.

¹⁰ ECtHR, Case *Kudla v. Poland*, final judgement from 26.10.2000, <https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-58920%22%7D>}.

the national legislation covered for all citizens the settlement of only 70% of the cost of the medication. Even though the local courts explained to him that it is not normal for him to receive an amount higher than that received by those in the civilian population, the prisoner appealed to the higher court. The case had the same outcome and the final decision transparently highlighted a state of normality and balance between the citizens of a state, without distinguishing between the applicants.¹¹

3.3. Complaints of persons imprisoned in Albania

The parliamentary republic geographically located in the south-eastern area of Europe has access to the Adriatic Sea and the Ionian Sea, an aspect that gives it economic possibilities based on trade as well as a high tourist potential. Although it is a small state, which does not exceed the threshold of three million inhabitants, Albania has not been bypassed by the complaints of those sentenced to prison. A prisoner named Ilir Dybeku, born in 1971, was serving a custodial sentence in 2006 for killing three people, two of them minors, by means of an explosive device placed in a home. He was sentenced to life imprisonment for the offenses of murder and possession of explosive materials and suffered from chronic paranoid schizophrenia for several years. During the execution of his prison sentence, he was transferred to several penitentiary units in Tirana, Tepelene and Peqin and was housed together with the other persons deprived of liberty without taking into account the mental problems he presented.

Through the father and the lawyer, the prisoner complained that his state of health is deteriorating due to shared accommodation with the normal prison population and that he is not provided with medical treatment adapted to his needs. Although his requests at the domestic level were unsuccessful and were considered unfounded, he appealed to the higher court and during the year of 2006 it was established¹² that the Albanian state did not provide the necessary accommodation conditions for the petitioner's mental problems, problems that worsened during the incarceration. The decision of the European Court of Human Rights also took into account the checks carried out by different bodies for verifying the respect of human rights from that period. All the checks carried out during the trial found problems with the conditions of detention in Albania. With the granting of justice to the petitioner, the authorities were ordered to pay the sum of 5,000 euros as moral damages for the detention in improper conditions, inconsistent with his state of health.

3.4. Complaints of people imprisoned in France

Being unanimously recognized as a great power of the world, both from an economic and social point of view as well as from a tourist and military point of view, the French state is among the countries often complained to the ECtHR. The national motto „Liberty, Equality, Fraternity” has often been put to the test for good reasons or just to get money from a prosperous people. Requests to the Court can also be made through a representative, on behalf of people who, for various reasons, do not want or cannot submit a claim or notification in their own name.

This is what happened in February 2005, when H  l  ne Renolde, the sister of a former prisoner, presented the fact that her brother's right to life and health were violated during the execution of the custodial sentence. The plaintiff was represented by her father and the former prisoner's father and the case wanted to highlight the fact that their family member committed suicide in the cell because of the authorities, who did not take into account the fact that he was suffering from very serious mental illnesses. The French government presented arguments in favor of the administration of the detention unit and exposed the fact that the prisoner was very violent, attacked a prison employee and it was necessary to isolate him from the prison collective to avoid further acts of aggression. However, the international court highlighted the fact that the French authorities did not take into account the fact that the person in custody suffered from serious mental illnesses, had attempted suicide during detention and established that he was not provided with adequate medical treatment for the diseases he suffered from. The family of the ex-prisoner only received the favorable decision in early 2009, which was only a moral remedy for the suffered loss.¹³

¹¹ ECtHR, Case *Nitecki v. Poland*, judgement from 21.03.2002, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-22339%22%7D%7D>.

¹² ECtHR, Case *Dybeku v. Albania*, final judgement from 18.12.2007, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-84028%22%7D%7D%22%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%22CHAMBER%22%7D%7D%22%7D>.

¹³ ECtHR, Case *Renolde v. France*, final judgement from 16.01.2009, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-88972%22%7D%7D%22%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%22CHAMBER%22%7D%7D%22%7D>.

Another person deprived of liberty, this time a woman, born in 1962 and sentenced to prison for forgery, fraud, abuse of trust and violence against some state employees addressed the international forum declaring her dissatisfaction with being kept in a state of detention and the fact that the medical treatments he received were not adapted to her health problems. The woman was diagnosed with anorexia and serious problems of the respiratory system and requested to be released, claiming that her medical conditions are incompatible with the penitentiary system and by continuing her sentence her life is endangered. Since 2007, when she addressed the Court, the petitioner was transferred to several penitentiary hospitals and resorted to the form of protest of the refusal of food to direct the attention of the authorities to her request. Despite the fact that the representatives of the French government pointed out that the petitioner had been subjected to several specialist evaluations which determined that the medical problems were compatible with the prison environment, the Court granted the prisoner's request. The final decision came only in the spring of 2011 and stated that the French authorities had violated the right to health¹⁴ by keeping her in detention. Petitioner Raffray Taddei did not seek financial compensation in this case.

With age, the entire human body changes, and at very old ages the danger of an aggressive temperament substantially decreases. A French prisoner aged ninety also focused on this aspect. Detained at the Sante Penitentiary in the French capital, the ninety-year-old held many high-ranking positions in the state during his life, such as head of the Paris police or minister. After leaving public life, in 1983 he was accused of crimes against humanity committed during the Second World War and was only sentenced to prison in 1998. Right at the turn of the millennium, he decided to go to court and ask to spend the end of his life in freedom. Although the petitioner contested the violation of several procedural aspects in his trial, he also focused largely on the presentation of the fact that, due to his poor health and advanced age, he no longer presents a social danger. Although money was no longer a priority for Maurice Papon¹⁵, along with the admission of his request, the court also decided to grant an amount of almost 30,000 euros for court costs, funds invested in the trial that lasted two years. Given the caliber of the detainee, the whole process had an international resonance and several human rights bodies pointed out that Papon was favored because of his influence in the political world, while other people accused of similar things did not benefit of release.

The news of being diagnosed with an incurable disease can defeat even the strongest characters, and if this affliction comes together with the lack of freedom, it certainly has a devastating effect on the whole being. Jean Mouisel, a French citizen sentenced to fifteen years in prison for armed assault, kidnapping and fraud was diagnosed with lymphocytic leukemia while serving his sentence. His state of health deteriorated rapidly, which led to his transfer to several penitentiary hospitals at the same time as following periodic treatments in hospital units from the public health network. He addressed the competent institutions requesting his immediate release because he believed that his right to health and life were being violated by being subjected to ill-treatment and torture. Moreover, he also specified the fact that he is being presented to civil hospitals in order to carry out the treatment specific to his illness in chains and handcuffs. During the trial, the petitioner emphasized the fact that he has already served a large part of the punishment he received and his health condition is aggravated by being kept in the penitentiary in conjunction with the method of escorting him to civil hospitals. Although the prisoner requested a very large amount of money from the authorities, the final decision of the Court¹⁶ was favorable to him, but he stated that the sum of 15,000 euros is sufficient to compensate for the grievances that he experienced.

3.5. Complaints of people imprisoned in Russia

The world's largest country, currently in armed conflict with its neighbors to the west, is renowned for its economic potential as well as its military power. Occupying over one-eighth of the land area, the Russian state spans two continents and enjoys extensive maritime borders. At the same time, over the years, the nation of

¹⁴ ECtHR, Case *Raffray Taddei v. France*, final judgement from 21.03.2011, <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-102439%22%7D>}.

¹⁵ ECtHR, Case *Papon v. France*, final judgement from 25.10.2002, <https://hudoc.echr.coe.int/eng#%7B%22languageisocode%22:%5B%22FRE%22%7D%22%22%22appno%22:%5B%2254210/00%22%7D%22%22documentcollectionid%22:%5B%22CHAMBER%22%7D%22%22itemid%22:%5B%22001-65190%22%7D%7D>}.

¹⁶ ECtHR, Case *Mouisel v. France*, final judgement from 21.05.2003, <https://hudoc.echr.coe.int/eng#%7B%22languageisocode%22:%5B%22ENG%22%7D%22%22%22appno%22:%5B%2267263/01%22%7D%22%22documentcollectionid%22:%5B%22CHAMBER%22%7D%22%22itemid%22:%5B%22001-60732%22%7D%7D>}.

almost 150 million inhabitants has been categorized as quite rigid and its prisons are considered some of the strictest and toughest in the whole world.

The suffering caused by an incurable disease has negative effects on both the physical and mental state, and its occurrence at a young age is even more difficult to accept and manage. If the patient is also deprived of freedom, the frustrations and the need to accept this state grind the entire human body. In this situation was a boy of only twenty years who was arrested for the crimes of drug possession and trafficking. The young man's father addressed the authorities and asked for his release, emphasizing the serious medical problems his son suffers from. Deprived of his freedom in Moscow, the young man suffered for several years from epilepsy, pancreatitis, chronic viral hepatitis of type B and C as well as other mental problems. Following the requests made by the family, the general state of health of the young man was checked, being subjected to several tests and analyzes that indicated that he was a carrier of the HIV virus. During the detention, the young man's health had a negative evolution; he was also diagnosed with pneumonia and bronchitis.

After he had several epileptic seizures, both the mother and the father of the inmate, began to address several institutions, complaining that their son is not provided with sufficient medical assistance for the ailments he suffers from. After the transfer through several hospital detention facilities and several attempts to obtain freedom, the Russian authorities determined that the petitioner's actions are very serious, pose a serious danger to the citizens and presented the fact that the continuation of the deprivation of liberty is necessary. The petitioner was able to present his case¹⁷ to the ECtHR, which established that several rights were violated, including the right to health. 12,000 euros were awarded to the petitioner as damages for court costs and 105,000 Russian Rubles were awarded to him for moral damages.

Another case lost by the Russian Federation for the violation of the right to health came during 2011, when a prisoner named Aleksandr Mikhaylovich Vasyukov won the sum of 18,000 euros in moral damages for suffering caused during his detention. Sentenced to prison for the crime of murder, the petitioner, born in 1973, was diagnosed with tuberculosis after being housed in a room with another inmate who suffered from this disease. Although he requested several times to be moved from that room, since he was not suffering from tuberculosis at that time, the administration of the penitentiary where he was serving his sentence did not comply with his request. The Russian authorities emphasized that it could not be established beyond doubt that there was a causal link between the lodging with a sick person and the petitioner's infection with tuberculosis. The person deprived of liberty specified the fact that he was healthy when he was deposited in the penitentiary and during the execution of the custodial sentence, due to the negligence of the management of the penitentiary unit, he fell ill. The defense presented by government representatives in Moscow was not sufficient in the opinion of the judges who ruled that there had been a violation of the right to health and declared the detainee's claim admissible two years after his release in 2009.¹⁸

Prisons in the Russian space are recognized for the strictness and harsh conditions to which those who cross their doorstep are subjected, but sometimes the rigidity of the authorities exceeds a limit that should not be reached. A resounding case was that of a petitioner who wished to remain anonymous, being identified only by the initials A and B. Born in 1963 and convicted of several frauds, the prisoner was diagnosed with chronic hepatitis type C and HIV, while in prison. Because of his health, he was separated from the collective and housed individually in a cell without a heating source where the winter temperature was between 7 and 10 degrees. Noticing that his health is getting worse, the management of the penitentiary unit did not order the granting of adequate treatment, but considered that supplementing the food with margarine and sugar was sufficient. The petitioner complained about the inhumane treatment he was subjected to but was informed that there were insufficient funds for his medical needs. He asked to be transferred to a hospital but was refused, citing the lack of space in penitentiary hospitals. The Court found in the final decision¹⁹ the violation of several articles of ECHR and established the admissibility of the request made by the detainee, granting him substantial sums for the

¹⁷ ECtHR, Case *Khudobin v. Russia*, final judgement from 26.01.2007, <https://hudoc.echr.coe.int/eng#%7B%22docname%22:%5B%22CASE%20OF%20KHUDOBIN%20v.%20RUSSIA%22%5D,%22documentcollectionid%22:%5B%22GRANDCHAMBER%22,%22CHAMBER%22,%22itemid%22:%5B%22001-77692%22%5D%7D>.

¹⁸ ECtHR, Case *Vasyukov v. Russia*, final judgement from 05.04.2011, <https://hudoc.echr.coe.int/eng#%7B%22docname%22:%5B%22Vasyukov%22%5D,%22documentcollectionid%22:%5B%22GRANDCHAMBER%22,%22CHAMBER%22,%22itemid%22:%5B%22001-104295%22%5D%7D>.

¹⁹ ECtHR, Case *A.B. v. Russia*, final judgement from January 2011, <https://hudoc.echr.coe.int/eng#%7B%22docname%22:%5B%22A.B.%22%5D,%22documentcollectionid%22:%5B%22GRANDCHAMBER%22,%22CHAMBER%22,%22itemid%22:%5B%22001-100964%22%5D%7D>.

court costs incurred during the trial and for the moral damages caused by the violation of the right to medical assistance and being subjected to inhuman and degrading treatment in detention.

3.6. Complaints of people imprisoned in Greece

Also known since ancient times as Hellas, the state at the crossroads of several continents has a fairly solid economy based mainly on tourism. Although most of the territory consists of mountains, the strategic position together with the access to three seas raised the commercial and tourism potential to a very high level. The Greek state is a founding member of the UN and a member of the Eurozone since the beginning of the millennium. The problem of overcrowding in the prison environment did not bypass Greece and the complaints of the incarcerated did not take long to appear. A person deprived of his liberty decided in 2007 to address the international forum claiming that his right to health and proper medical assistance for the ailments he suffers from is being violated. The petitioner, a citizen of Greek origin, born during 1962, was sentenced to prison for participating in several terrorist activities in which various explosive materials were used. He suffered from several medical problems such as severe hearing, vision and motor problems prior to his incarceration. All his medical problems were also due to his participation in terrorist activities because, during the preparation of a terrorist attack, a bomb exploded near him. Although he lost his right hand during the explosion, this did not prevent him from continuing to participate in terrorist demonstrations.

Sentenced to a prison term of twenty-five years and imprisoned in the state capital, Athens, the prisoner requested the authorities to suspend the execution of his prison sentence in order to be treated in specialized medical centers for the deficiencies he had. The petitioner considered that keeping him in detention considering his physical condition represented torture and at the same time inhuman and degrading treatment. The request was not accepted, considering that all medical problems can also be treated in penitentiary hospitals and that the individual represents a high social danger, considering the criminal case history. Despite the arguments presented by the Greek government in defense of the authorities' decisions, the ECtHR final decision, with a thin majority, came with a positive answer for the detainee.²⁰

3.7. Complaints of people imprisoned in Ukraine

In full armed conflict with its eastern neighbors, Ukraine was on an upward trend from an economic point of view before the start of the conflict and was planning to join the European Union. The penitentiary system was in constant change and development, the authorities in the state capital decided to abolish some outdated detention facilities and build or modernize others. The people, which include a population of over forty million inhabitants, were not bypassed by the petitions of those deprived of freedom. Among the petitioners is a life sentence for murder named Aleksandr Vladimirovich Logvinenko, a Ukrainian citizen diagnosed with HIV. In addition to the incurable disease, the petitioner also suffered from tuberculosis and his state of health was very fragile. The applicant submitted to the international court that he is housed in very poor conditions, is subjected to inhumane treatment and is not given any kind of medical treatment to improve his health and reduce his physical suffering. He also complained that during the period of deprivation of liberty he was physically assaulted and was kept in cells with low temperatures without providing him with clothing for the cold season. Despite the fact that representatives of the Kyiv government claimed that the petitioner's accusations were unfounded and denied most of the issues presented in the trial, the court determined that there was a violation of the right to health and the applicant was subjected to inappropriate accommodation conditions. The prisoner considered that he is entitled to receive a very large amount of money for the damages caused, but the court decided that the amount of 8,000 euros is sufficient for moral damages. Court fees could not be documented by the inmate and were not taken into account in determining the final decision.²¹

The year 2013 came with a first in the line of jurisprudence of the European Court of Human Rights, both for Ukraine and for the entire European space, because in this year the first favorable decision was issued regarding the suffering of a parent of a person deprived of liberty. The case was started by the prisoner Linar

²⁰ ECtHR, Case *Xiros v. Greece*, final judgement from 21.02.2011, <https://hudoc.echr.coe.int/eng#%7B%22languageisocode%22:%7B%22FRE%22%22%7D%22%22appno%22:%7B%221033/07%22%22%22documentcollectionid%22:%7B%22CHAMBER%22%22%22itemid%22:%7B%22001-100375%22%22%7D>.

²¹ ECtHR, Case *Logvinenko v. Ukraine*, final judgement from 14.01.2011, <https://hudoc.echr.coe.int/eng#%7B%22docname%22:%7B%22Logvinenko%22%22%22documentcollectionid%22:%7B%22GRANDCHAMBER%22%22%22CHAMBER%22%22%22itemid%22:%7B%22001-100972%22%22%7D>.

Irekovich Salakhov who died during the execution of the prison sentence and the trial was continued by his mother named Aliya Fazylovna Islymovva. She continued the line of proceedings begun by his son and added some complaints in his own name. The original petitioner was infected with the HIV virus and was sentenced to prison for theft during 2007. During his detention his health deteriorated and his family requested that their son be admitted to a hospital but the request was not granted positive answer. The family members also asked to be given more medicines necessary for the disease he was suffering from and following the refusal of the authorities, the medicines were provided by the prisoner's family.

Noticing a worsening of the petitioner's health, the prison administration decided to transfer him to a hospital and the family members requested his release because they considered that the detention put his life in danger. On July 18, 2008, the detainee was finally released, but unfortunately, he died after only two weeks. His mother continued the lawsuit²² and claimed that inadequate medical care in prison led to her son's death. The amount of 50,000 euros requested by the petitioner was fully accepted by the court, as the defense presented by the government of the Ukrainian state was weakened by the lack of documents that could confirm the medical assistance provided to the original petitioner.

4. Conclusions

The idea that, once deprived of freedom following a court decision, a person must benefit from free medical assistance is necessary and welcome, but if we balance this aspect with the cruel reality of society, we notice that civilians do not have quick access to medical services. In order to procure medicines necessary for the proper functioning of the body or for a simple prescription, some citizens, especially the elderly, make enormous efforts and have to give up many things necessary for a decent life, starting with the purchase of new clothes or visits to family members or relatives and even reaching to food or heat restrictions in the home.

Another benefit that only those convicted of committing one or more criminal acts is the fact that once in detention; they are permanently assisted from a medical point of view by nurses or doctors who work in shifts, in an uninterrupted schedule. In case of physical or mental problems, they are assisted by a medical staff in an extremely short period of time and even if they can no longer announce any emergency, there are employees of the unit who constantly supervise them who will announce the incident and even they will transport them, if necessary, to the medical office existent inside the place of detention. This is in contrast to the length of time a civilian can access medical services in an emergency. People outside a detention facility, in the event of a medical emergency that makes it impossible for them to notify someone, only if they are accompanied by a family member or close person to call the emergency services can have a chance at life. Even if there is the possibility of informing the emergency medical service, the period of time that will pass until the arrival of the medical staff is very long compared to that of those behind bars.

The idea of not providing medical assistance to those who have lost their freedom cannot even be considered these days but compensation from the beneficiaries can be considered. After the completion of the two major conflicts at the global level, a great emphasis was placed on the evolution of people's rights and sometimes the highlighting of differences according to the degree of development of society, mentality, financial power or traditions of some peoples compared to others was overshadowed; the social reality at a given moment or the situation of the subject beneficiary of rights.

In the last decades, the pool of rights offered to citizens has grown significantly, both numerically and qualitatively, and many obligations have become optional in the absence of coercive factors. In criminal enforcement law, the work of the convicted has turned from an obligation of the convicted into a possibility that they can use only if they want or if they have certain interests. For the collective support of society, to alleviate the financial strain of the state and to compensate for rights that are sometimes greater for prisoners than for civilians, participation in gainful activities should once again become an obligation for all those in prisons, of course only those who are physically and mentally fit for work. The release, the insertion of the subject who committed a criminal act should be closely related to his availability to engage in gainful activities.

²² ECtHR, Case *Salakhov and Islyamova v. Ukraine*, final judgement from 14.06.2013, <https://hudoc.echr.coe.int/eng#%7B%22docname%22:%5B%22Islyamova%22%5D,%22documentcollectionid%22:%5B%22GRANDCHAMBER%22,%22CHAMBER%22%5D,%22itemid%22:%5B%22001-117134%22%5D%7D>.

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