



## Further reforms needed for Romania to provide adequate compensation to citizens whose court cases take too long

In today's Chamber judgment in the case of [Vlad and Others v. Romania](#) (application nos. 40756/06, 41508/07 and 50806/07), which is not final<sup>1</sup>, the European Court of Human Rights held, unanimously, that:

there had been a **violation of Article 6 § 1 (right to a fair trial within a reasonable time)** of the European Convention on Human Rights,

there had been a **violation of Article 13 (right to an effective remedy) in conjunction with Article 6 § 1**,

at the origin of these violations was the malfunctioning of the domestic legislation and practice; and,

further reforms were required under **Article 46 (implementation of judgments)** so that compensation would be available in Romania for litigants whose cases took too long.

The case concerned the length of legal proceedings that the three applicants had been involved in before the Romanian courts, and the remedy available for their excessive length. The Court found that the time the cases took to be resolved had exceeded a reasonable length, that this was the responsibility of the Romanian authorities and that there appeared to be no effective remedy such as compensation available to litigants whose cases had taken too long. Due to there being 500 similar cases against Romania currently pending before the European Court concerning excessive length of criminal and civil proceedings, the Court held that there was a systemic problem which required further reforms of the legal system in order for the right to a fair trial within a reasonable time to be secured in Romania.

### Principal facts

The applicants, Mihai Vlad, Flaviu Plața and Vasilica Bratu, are Romanian nationals who were born in 1945, 1969, and 1964 respectively and live in Bucharest. Each of the applicants have been involved in lengthy court proceedings in Romania.

Mr Vlad was taken into custody on 30 January 1994 on suspicion of first-degree murder. Over the next 12 years, he was tried and convicted four times for the offence. His conviction was quashed on appeal three times, but his fourth conviction was finally upheld in April 2006.

Mr Plața was informed in March 1997 that a civil lawsuit had been filed against him by his aunt, which concerned the division of an estate that they had inherited together. After numerous delays and two retrials, his aunt's action was finally successful in part in June 2006; however, a complaint about the implementation of the judgment is still pending before the Romanian courts, 16 years after the case first began.

<sup>1</sup> Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution)

Finally, proceedings relating to allegations of misconduct in public office were started against Ms Bratu in June 1998. Following a large number of delays and many re-hearings, these were only fully resolved 9 years later in May 2007.

## Complaints, procedure and composition of the Court

Relying on Article 6 § 1 (right to a fair trial within a reasonable time), all three applicants complained of the excessive length of their legal proceedings in the Romanian courts. Mr Plața and Ms Bratu also complained under Article 13 (right to an effective remedy) that there were no effective remedies under national law for their complaints about the excessive length of the proceedings in their cases.

The applications were lodged with the European Court of Human Rights on 5 October 2006 (Mr Vlad), 14 September 2007 (Mr Plața) and 9 November 2007 (Ms Bratu), respectively.

Judgment was given by a Chamber of seven judges, composed as follows:

Josep Casadevall (Andorra), *President*,  
Alvina Gyulumyan (Armenia),  
Corneliu Bîrsan (Romania),  
Ján Šikuta (Slovakia),  
Luis López Guerra (Spain),  
Nona Tsotsoria (Georgia),  
Kristina Pardalos (San Marino),

and also Santiago Quesada, *Section Registrar*.

## Decision of the Court

### Article 6 § 1 (right to a fair trial within a reasonable time)

The Court noted that the proceedings Mr Vlad had been involved in had lasted 12 years, 2 months and 6 days; that the case had been referred back to the prosecuting authorities 3 times for further investigation, and that delays had been caused by the failure of the authorities to serve documents or obtain reports. The proceedings involving Mr Plața had been on-going for approximately 16 years and were still pending. They were not particularly complex, and the bulk of the delay had been caused by the way in which the Romanian courts had handled the case – which had involved numerous procedural errors. Finally, the case complained of by Ms Bratu had lasted for nine years. It was also not particularly complex, and though hearings were postponed almost 40 times for the authorities to submit documents or to summon the parties properly, the Romanian government had not attempted to justify the delays.

The Court therefore found that the length of the cases of all of the applicants had been excessive and failed to meet the “reasonable time” requirement of Article 6.

### Article 13 (right to an effective remedy)

The Romanian government submitted that a number of changes had been made to the national legal system that meant that there was now an effective remedy for those whose proceedings had lasted for an excessive time. The Court took note of a law passed in 2010, a new Code of Civil Procedure which came into force in February 2013, and of the Romanian government’s claim that a number of recent cases demonstrated that litigants now had access to compensation for excessively long proceedings in Romania. However, the Court found that the government had failed to produce one single example of a case that showed that litigants were now able to access an effective remedy as claimed, and that both the change to the law and the new Code of Civil Procedure only came into force after the courts had dealt with the majority of the proceedings brought by Mr Plața and Ms

Bratu. It therefore upheld their complaint that they had had no effective remedy for the length of time it took to process their cases.

#### [Article 46 \(implementation of judgments\)](#)

There have been 200 successful complaints to the Court of breaches of the “reasonable time” requirement in the Romanian courts with regard to civil and criminal proceedings, and there are another 500 cases of this kind still pending. The Court held that this indicated the existence of a systemic problem. Despite noting the progress made in Romania to resolve this issue, the Court found that consistent and long-term measures to address it should continue under the supervision of the Committee of Ministers. In particular, the Court encouraged the Romanian government to secure the right to a fair trial within a reasonable time by either amending the existing range of legal remedies or adding new ones, such as a specific and clearly regulated compensatory remedy.

#### [Just satisfaction \(Article 41\)](#)

The court held that Romania was to pay Mr Vlad, Mr Plața and Ms Bratu 3,600, 7,800 and 2,340 euros respectively in non-pecuniary damage.

*The judgment is available only in English.*

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.