



## The Romanian judicial authorities conducted fair criminal proceedings against the applicant, the then Minister of Youth and Sport, who was sentenced to a prison term for abuse of office

In its decision in the case of **Iacob-Ridzi v. Romania** (application no. 41564/15) the European Court of Human Rights has unanimously declared the application inadmissible.

The applicant, who was Minister for Youth and Sport at the relevant time, was prosecuted for, among other offences, abuse of office to the detriment of the public interest. She was sentenced to five years' imprisonment. The case concerned her allegation that the proceedings had been unfair and included her submission that she had been unable to have the prosecution witnesses M.D. and C.C.N. questioned during the proceedings.

The Court noted, firstly, that the High Court had given the applicant a genuine opportunity to question the witness M.D. However, although the witness C.C.N. had been questioned during the criminal investigation, the applicant had been unable to have him questioned at any point in the subsequent criminal proceedings.

Nevertheless, the Court considered that, given the limited impact of C.C.N.'s statement on securing the applicant's conviction and in view of the large body of other evidence presented to the domestic courts, the compensatory factors put in place by the High Court appeared sufficient, so that, taken as a whole, the proceedings had been fair.

The decision is final.

### Principal facts

The applicant, Monica-Maria Iacob-Ridzi, is a Romanian national who was born in 1977 and lives in Petrosani.

In 2009 the Ministry of Youth and Sport concluded contracts with two commercial companies in preparation for events to celebrate Youth Day. Following allegations that the Ministry had awarded the contracts to these companies illegally, the National Anti-Corruption Directorate ("the DNA") opened an investigation and subsequently brought criminal charges against Ms Iacob-Ridzi.

The DNA questioned a prosecution witness (C.C.N.), whose identity was known to the defence; he stated that Ms Iacob-Ridzi had informed him that she had signed payment orders for the two companies, which had subsequently been lost. The witness alleged that he had been asked to recreate these payment orders. Another witness (M.D.), questioned by the DNA, stated that, acting on indirect orders from Ms Iacob-Ridzi, he had removed certain messages from computers used by civil servants in the Ministry.

On 2 May 2011 the DNA remitted Ms Iacob-Ridzi for trial before the High Court of Cassation and Justice on charges of abuse of office to the detriment of the public interest, forgery and involvement in the offences of accessing a computer system without authorisation and of destroying computer data. Ms Iacob-Ridzi was also accused of having illegally awarded the contracts to the two companies on the pretext of outsourcing services.

Ms Iacob-Ridzi maintained her innocence throughout the procedure.

At a hearing on 7 January 2014, having noted that the witness C.C.N. lived abroad, the High Court, holding that it was objectively impossible to have this witness questioned, had the statement given by him during the criminal investigation read out in court.

On 27 January 2014 the High Court convicted Ms Iacob-Ridzi of all the charges and sentenced her to five years' imprisonment, unsuspended. Ms Iacob-Ridzi lodged an appeal. On 16 February 2015 the High Court dismissed the appeal.

## Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 12 August 2015.

The applicant complained that the proceedings against her had been unfair and, among other points, that she had been unable to have the prosecution witnesses M.D. and C.C.N. questioned during the proceedings.

The decision was given by a Committee of three judges, composed as follows:

Gabriele Kucsko-Stadlmayer (Austria), *President*,  
Iulia Antoanella Motoc (Romania),  
Pere Pastor Vilanova (Andorra),

and also Ilse Freiwirth, *Deputy Registrar*.

## Decision of the Court

### Article 6

The Court considered that the applicant's complaint ought to be examined in the light of Article 6 §§ 1 and 3 (d) (right to a fair trial /right to examine witnesses) of the Convention.

With regard to the witness M.D., and having regard to the circumstances, the Court found that the High Court had given the applicant a genuine opportunity to have this individual questioned.

With regard to the witness C.C.N., the Court noted that while an interview had been carried out during the criminal investigation, it had subsequently proved impossible to question C.C.N. in the course of the judicial proceedings. Thus, although this witness (C.C.N.) had made a statement during the criminal investigation, the applicant had been unable to question him at any stage of the procedure.

The Court considered that the argument accepted at first instance to justify the non-attendance of witness C.C.N., namely the fact that he had left Romania, was not in itself a sufficient reason, within the meaning of the Court's case-law, to satisfy the requirements of Article 6 § 3 (d) of the Convention. In contrast, on appeal, having regard to the documents supplied by C.C.N. to the High Court, the Court accepted that the witness's state of health constituted sufficient justification for his absence from the court and for admitting his statement. The lack of a "good reason" to explain C.C.N.'s failure to appear before the first-instance court – a very important factor in assessing the overall fairness of a trial – was not, however, enough to conclude that the criminal proceedings had been unfair.

The Court noted that C.C.N.'s statement had not been the "sole" evidence underlying the applicant's criminal conviction. The High Court had held that, in committing the offence, the applicant had carried out several actions, and the payment of the sum of money was only one action among others. Thus, in the circumstances of the case, C.C.N.'s evidence could not be considered "decisive" in proving the offence (abuse of office) of which the applicant was convicted.

The Court acknowledged, however, that a certain weight had been attached to C.C.N.'s statement in the overall assessment of the charges against the applicant and that its admission as evidence by the High Court had caused certain difficulties for the defence.

With regard to the existing compensatory factors, the Court noted that the High Court had taken a prudent approach to C.C.N.'s statement, emphasising that it had been obtained during the criminal investigation. The applicant had been given an opportunity to provide an alternative version of events and her own statement had been added to the case file. C.C.N.'s identity had been known to the defence, which could have investigated any reasons that he might have had to lie and could thus have challenged his credibility effectively, albeit to a lesser extent than during a face-to-face confrontation.

Equally, the Court noted that the High Court had mentioned C.C.N.'s statement as one of numerous other witness statements and items of written evidence. On appeal, the High Court had used his statement in combination with that of another witness. Lastly, the applicant had been able to submit evidence to defend her case.

Given the limited impact of C.C.N.'s statement on securing the applicant's conviction and in view of the large body of other evidence presented to the domestic courts, the Court considered that the compensatory factors put in place by the High Court appeared sufficient, so that, taken as a whole, the proceedings had been fair.

The Court concluded that this part of the application, concerning the impossibility of having the prosecution witnesses M.D. and C.C.N. questioned, had to be rejected in accordance with Article 35 § 4 of the Convention.

### Other articles

With regard to the other complaints raised by the applicant under various Articles of the Convention, the Court noted, in the light of all the material in its possession, and in so far as the matters complained of were within its competence, that these complaints did not comply with the admissibility requirements set forth in Articles 34 and 35 of the Convention, or that they did not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. This other part of the application had also to be rejected pursuant to Article 35 § 4 of the Convention.

*The decision is available only in French.*

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