



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

DECISION

Application no. 2898/20
Marian DUMITRU
against Romania

The European Court of Human Rights (Fourth Section), sitting on 8 September 2026 as a Committee composed of:

Anja Seibert-Fohr, *President*,

András Jakab,

Corinna Wissels, *judges*,

and Simeon Petrovski, *Deputy Section Registrar*,

Having regard to:

the application (no. 2898/20) against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 12 December 2019 by a Romanian national, Mr Marian Dumitru (“the applicant”), who was born in 1985 and is detained in Bucharest, and was represented by Mr D. Caraman, a lawyer practising in Bucharest;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the fairness of criminal proceedings against the applicant in relation to events which took place on 26 June 2010. The applicant invokes Article 6 §§ 1 and 3 (d) of the Convention.

2. On 27 June 2010 a criminal investigation was opened in respect of the applicant and two other co-accused, owners of a meat processing plant and members of the same family, the two co-accused being the applicant’s father and the applicant’s cousin. They were accused of beating three of their employees, V.I., S.G. and D.G.I., on 26 June 2010 because they had stolen 51 lambs.

3. One of the victims, V.I., died at the scene on the date of the incident and the other two were taken to the hospital, as their lives were in danger. The *post mortem* examination of V.I. showed that his death had been caused

by multiple traumas resulting from blows with hard objects. S.G. gave a statement while in the hospital, which was video recorded. In his statement, he explained how they had been beaten and the role played by each of the accused, including the applicant. The other victim, D.G.I., gave a video-recorded statement during the on-site inspection, in which he explained that on 26 June 2010, they had been brought by an employee of the family into a hall, where they had been beaten for three hours with chains, a baseball bat and a wooden spoon by the applicant, his father and the applicant's cousin. Two of the victims had been put into a refrigerated van and left until the temperature had reached 4 degrees. Several witnesses (I.M., I.E., L.C., S.C., M.T., M.A. and G.M.), who were employees of the accused family's business, provided statements that corroborated those of the victims.

4. The competent public prosecutor charged the other two co-accused with murder and attempted murder. He disjoined the case regarding the applicant, as he could not be located, and ordered the continuance of the criminal investigation against him *in absentia*. According to recordings of intercepted telephone conversations in the case file, the applicant kept in touch with his family during the criminal proceedings against his father and cousin. The case file also contained transcripts of tapped telephone conversations between the accused's family and the surviving victims. By a final decision of 10 July 2015, the Bucharest Court of Appeal convicted the two co-accused on one count of murder and two counts of attempted murder.

5. After the applicant's arrest in May 2016, he was charged with the same criminal offences as the other two co-accused.

6. During the criminal proceedings before the domestic courts, S.G. and D.G.I. altered their statements, claiming that they had initially testified under pressure exerted by the police investigators. Several witnesses provided more vague accounts, stating that they could not remember what they had seen in 2010. However, some witnesses (including M.A., G.M., S.C. and I.E.) maintained their initial versions of events.

7. The applicant, who was assisted by a lawyer of his own choosing throughout the entire proceedings, provided statements before both the trial and appeal courts, presenting his own version of the events. In his statement before the trial court, he acknowledged that he had beaten the three victims with his feet, a chain and a wooden spoon. In his statement before the appeal court, he mentioned that he had been attacked by the deceased victim and had had to defend himself. According to recorded telephone conversations in the file, the applicant shared this latter version with both the surviving victims and several witnesses.

8. The applicant requested a fresh forensic examination of V.I., which was rejected on the grounds that such an examination already existed in the case file. He also challenged the lawfulness of the intercepted telephone conversations involving him, his family and respectively, the victims and the witnesses. The courts at both levels of jurisdiction stated that the interception

of telephone conversations had been lawfully authorised and that the transcripts of those conversations had been fully corroborated by other evidence in the file.

9. On 24 June 2019 the Bucharest Court of Appeal convicted the applicant of aggravated murder and attempted murder and sentenced him to 14 years' imprisonment.

10. In convicting the applicant, the domestic courts at both levels of jurisdiction relied on the statements of the two surviving victims and several witnesses given during the criminal investigation opened immediately after the events of 26 June 2010. Despite the subsequent changes in the victims' statements, both domestic courts found that their pre-trial statements, which had been video recorded, were sufficiently supported by other evidence in the case file. This included on-site inspections, forensic and medical reports and the recognition of the applicant in photographic line-ups on 8 June 2011 by D.G.I. The statements of the witnesses who had maintained their initial accounts provided further corroboration, reinforcing the evidence against the applicant. Additionally, according to tapped telephone conversations between the accused and the surviving victims, the victims and the witnesses had been under constant pressure from the applicant's family to change their statements. They had reportedly been threatened and promised money in exchange for altering their accounts.

11. The applicant complained under Article 6 §§ 1 and 3 (d) of the Convention that he had been denied a fair trial, as he had not had the opportunity to challenge the lawfulness of the evidence gathered during the criminal investigation against him. He challenged the use by the domestic courts of the statements of the victims and witnesses allegedly made under duress during the criminal investigation as incriminating evidence against him, instead of the statements given on oath before the trial court. He also alleged that he had been convicted on the basis of transcripts of the unlawfully intercepted conversations between the victims and the co-accused.

THE COURT'S ASSESSMENT

12. The main principles concerning the admissibility and assessment of evidence are set out in *Bochan v. Ukraine (no. 2)* ([GC], no. 22251/08, § 61, ECHR 2015), *Schatschaschwili v. Germany* ([GC], no. 9154/10, § 101, ECHR 2015) and *Moreira Ferreira v. Portugal (no. 2)* ([GC], no. 19867/12, § 83, 11 July 2017).

13. As the requirements of paragraph 3 of Article 6 are to be seen as particular aspects of the right to a fair trial guaranteed by paragraph 1, the Court will examine the complaints under both provisions taken together and will determine whether the proceedings, considered as a whole, were fair (see *Blokhin v. Russia* [GC], no. 47152/06, § 194, 23 March 2016).

14. With respect to the applicant's allegation that he did not have the opportunity to challenge the lawfulness of the evidence gathered during the criminal investigation against him, the Court notes that the applicant did not provide any justification for his absence when the surviving victims and witnesses provided their testimony. Moreover, it is hard to believe that he was unaware of the proceedings, especially since the other two co-accused were present during the proceedings against them and the recorded telephone conversations in the file showed that the applicant was in constant contact with them (see paragraph 4 above). On this basis, the Court concludes that the applicant was aware of the ongoing investigation against him (contrast *Sejdovic v. Italy* [GC], no. 56581/00, § 101, ECHR 2006-II) and his absence was related to an attempt to evade trial. Accordingly, he created a situation which prevented him from appearing before the investigating authorities and the courts that were conducting the criminal proceedings.

15. After his arrest, he was able to present his version of the events in the presence of a lawyer of his own choosing as he was directly heard by the domestic courts at both levels of jurisdiction (see paragraph 4 above). In the criminal proceedings against him, the courts admitted and examined all evidence gathered by the investigating authorities or referred to during the criminal proceedings against the applicant's co-accused (see paragraph 10 above). The applicant was able to challenge the admission of the pre-trial statements of the victims and witnesses and to put forward arguments to exclude that evidence as unreliable (see *Šekerija v. Croatia*, no. 3021/14, § 120, 5 November 2020). The courts also re-examined in person the surviving victims and several witnesses in the presence of the applicant and his lawyer. The victims altered their pre-trial statements, claiming that those statements had been made under duress. Some witnesses could not recall the events and others maintained their initial account (see paragraph 6 above).

16. As regards the question whether there was a good reason for the courts to admit in evidence and attach more weight to the pre-trial statements (see *Makeyan and Others v. Armenia*, no. 46435/09, § 47, 5 December 2019) than to the statements given during the trial, the Court notes that the domestic courts, in their free assessment of the evidence, found the pre-trial statements to be more credible. In particular, they noted that the victims' pre-trial statements, which they gave to the investigating authority while they were in the hospital or during the on-site investigation, were video recorded (see paragraph 3 above) and that, according to the video-recordings, they had given the statements without any pressure from the investigating authority. Furthermore, they considered that the fact that the victims had retracted their previous statements had been conditioned by external influences and their being placed under psychological pressure by the accused and his family (as proven by the telephone recordings; see paragraph 10 above). The victims or witnesses never raised any domestic complaints that their pre-trial statements had been obtained unlawfully.

17. Furthermore, the applicant's guilt was established on the basis of a large body of evidence, including his statements, testimony from several witnesses who confirmed their pre-trial statements when cross-examined before the courts in the proceedings against the applicant (see paragraph 6 above) and forensic and medical reports (see paragraph 10 above).

18. As to the courts' reliance on intercepted conversations between the victims and the applicant's co-accused and other members of his family, the Court notes that the applicant was given the opportunity to challenge the authenticity of that evidence and oppose its use (see *Bykov v. Russia* [GC], no. 4378/02, § 90, 10 March 2009). Furthermore, there is nothing in the file that casts doubt on its reliability or accuracy.

19. Taking into account all the considerations above, the Court considers that the criminal proceedings against the applicant, taken as a whole, do not disclose any appearance of a violation of Article 6 §§ 1 and 3 (d) of the Convention.

20. Accordingly, the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 1 October 2026.

Simeon Petrovski
Deputy Registrar

Anja Seibert-Fohr
President