



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

FOURTH SECTION

DECISION

Application no. 3509/23
D.I.T.P.
against Romania

The European Court of Human Rights (Fourth Section), sitting on 29 September 2026 as a Committee composed of:

Ana Maria Guerra Martins, *President*,

Anne Louise Bormann,

Sebastian Rădulețu, *judges*,

and Simeon Petrovski, *Deputy Section Registrar*,

Having regard to:

the application (no. 3509/23) 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 January 2023 by a Romanian national, Ms D.I.T.P. (“the applicant”), who was born in 2014, lives in Cernica and was represented by Ms N. Popescu, a lawyer practising in Bucharest;

the decision to give notice of the application to the Romanian Government (“the Government”), represented by their Agent, Ms O.F. Ezer, of the Ministry of Foreign Affairs;

the decision not to have the applicant’s name disclosed;

the decision to give priority to the application (Rule 41 of the Rules of Court);

the observations submitted by the respondent Government and the observations in reply submitted by the applicant;

the comments submitted by the association Broken Chalk, which was granted leave to intervene by the President of the Section;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns the State’s positive obligations to ensure the applicant’s access to education in the absence of her parents’ cooperation or

agreement as to which school she should attend, as well as the right to respect for the applicant's private and family life in relation to the alleged lack of expeditiousness of the domestic courts and their alleged failure to take the applicant's best interests into account. The applicant mainly relied on Article 8 of the Convention and Article 2 of Protocol No. 1 to the Convention.

2. The applicant's parents divorced in 2021 and they retained shared parental authority. The domestic courts determined that the applicant and her brother should reside with their mother. At that time, the applicant was enrolled in a private school AISB which she had been attending since she was two years old. The school's educational programme is based on foreign standards with a foreign language of instruction. The applicant's enrolment at the school was established by a contract signed between the school and the parents at the beginning of each school year.

3. On 13 April 2021 the school informed the applicant's mother that, because of the father's aggressive behaviour towards the teaching staff, the school had refused to sign a contract with him or to have any communication with him during the coming school year. An addendum to the contract expressly stating that the applicant's father should have no contact with the school was sent to the applicant's mother. Subsequently, the applicant's father signed a notarised statement, giving consent to the applicant's re-enrolment at the school, but he refused to agree to the additional conditions imposed by the school. The school refused to accept the statement and requested that the contract and addendum be signed by both parents.

4. The school year at the AISB started on 17 August 2021 and ended on 17 June 2022. In the absence of a signed contract in respect of the 2021/2022 school year, the applicant could not attend the school. She stayed at home until October 2021 when her mother enrolled her at another private school, which was also attended by her younger brother. The father consented to that decision. Both children are currently enrolled at that school.

5. On 27 August 2021 the applicant's mother lodged an action for an interim injunction, seeking to obtain a court order in the absence of the father's consent authorising the applicant's re-enrolment at the AISB for the school year 2021/2022. On 13 September 2021 the Bucharest District Court dismissed the request as ill-founded on the grounds that the contract proposed by the school would have limited the father's parental rights beyond what had been established by the 2021 decision (see paragraph 2 above). The applicant's mother appealed and on 8 February 2022 the Bucharest County Court sent the case back to the District Court for re-examination.

6. On 28 April 2022, while the above proceedings were pending, the applicant's mother also asked the District Court to issue an order in the absence of the father's consent authorising the applicant's re-enrolment at the AISB in respect of the school year 2022/23. On 20 May 2022 the District Court dismissed the action holding that it was no longer in the child's best

interests to move back to her old school so late in the school year. The decision was upheld by the Bucharest County Court by a final decision of 5 September 2022.

7. Relying on Article 2 of Protocol No. 1 to the Convention, the applicant complained about the absence of a mechanism that would allow for the mother's urgent requests described above to secure the applicant's right to education to be examined in a swift and efficient manner. She argued that she had been prevented from continuing her education at the school of her choosing.

8. Invoking Articles 6 and 8 of the Convention, the applicant complained that the authorities had failed to decide on the request lodged by her mother on her behalf in a timely manner, thus infringing her right to private and family life. In her view, the courts had failed to assess her best interests, in particular in terms of continuing her education at the school she had attended since the age of two.

THE COURT'S ASSESSMENT

9. The Court, being the master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 114 and 126, 20 March 2018), will examine the applicant's complaints under Articles 6 and 8 above from the standpoint of the latter Article alone (see, for example, *Eberhard and M. v. Slovenia*, nos. 8673/05 and 9733/05, § 111, 1 December 2009).

10. The Court refers to the general principles set out in *Velyo Velez v. Bulgaria* (no. 16032/07, §§ 31-33, ECHR 2014 (extracts)), where it emphasised the importance of the right to education – protected by the Convention but which may be subject to limitations – while acknowledging that education is an activity that is complex to organise and expensive to run, whereas the resources that the authorities can devote to it are necessarily finite. Furthermore, in *Sanlisoy v. Turkey* ((dec.) no. 77023/12, §§ 65-66, 8 November 2016) the Court stated that the refusal of one private school to admit a pupil did not breach the State's obligations under Article 2 of Protocol No. 1 to the Convention and that that Article did not require the admission of a child to a private school.

11. The Court points out that although Article 2 of Protocol No. 1 does not contain any specific procedural requirements, the decision-making process regulating the exercise of the right to education must be fair and such as to afford due respect to the interests protected by this provision (see *C.P. v. the United Kingdom* (dec.), no. 300/11, § 47, 6 September 2016). Similarly, Article 8 implies that the decision-making process involved in measures of interference must be fair and swift, as the passage of time may result in a *de facto* determination of the matter (see *T.C. v. Italy*, no. 54032/18, § 57, 19 May 2022).

12. In that regard, the Court acknowledges that the decision-making process in the present case initiated by the applicant's mother (see paragraphs 5 and 6 above) was excessively long, as it took the domestic courts over one year to give a final decision on the merits, by which time the applicant had already adapted to her new school and another transfer was found to be contrary to her best interests. However, the effect of the duration of the domestic proceedings on the applicant's situation cannot be imputed to the domestic authorities alone, as the application for interim measures was lodged only on 27 August 2021, once the school year had already started (see paragraph 4 above), and the applicant's parents had been aware of the school's requirements since 13 April 2021 (see paragraph 3 above).

13. Nevertheless, while the length of the impugned proceedings may be an important factor, the main issue in the case lies in the question of whether, in the circumstances of the case as a whole, the State could be said to have complied with its positive obligations under the relevant Convention provisions (see, *mutatis mutandis*, *J.N. v. Poland*, no. 10390/15, § 106, 10 November 2022).

14. The Court observes that the obstacles encountered by the applicant in the process of re-enrolment at the AISB resulted, on the one hand, from the parents' conflictual relationship and, on the other, from the conditions imposed by the school itself (see paragraph 3 above) which were particularly restrictive and, as the Bucharest District Court initially found (see paragraph 5 above), would have limited the father's authority to the point of rendering the shared parental authority ineffective.

15. The Court also observes that the applicant was able to continue her education with almost no interruption, starting the school year 2021/2022 just over a month late (see paragraph 4 above). Moreover, the applicant has not provided any information on any damage to her educational development that might have been caused by the delay.

16. Lastly, the Court finds that, contrary to the submissions of the applicant and the third-party intervener, the domestic court made a balanced and reasonable assessment of the interests at stake and found that it was in the applicant's best interests to continue attending the school at which she is currently enrolled, a decision to which both parents had consented. The Court sees no reason to depart from the domestic court's findings.

17. Consequently, the Court considers that the respondent State has sufficiently discharged its positive obligations under Article 8 of the Convention and Article 2 of Protocol No. 1 to the Convention.

18. It follows that this application is manifestly ill-founded and must be rejected pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

D.I.T.P. v. ROMANIA DECISION

Done in English and notified in writing on 22 October 2026.

Simeon Petrovski
Deputy Registrar

Ana Maria Guerra Martins
President