



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

FOURTH SECTION

DECISION

Application no. 32148/23
A.B. and I.M.B.
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. 32148/23) against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 14 August 2023 by two Romanian nationals, Mr A.B. and Ms I.M.B. (“the applicants”), who were born in 1966 and 2014 respectively, live in Bucharest and Braşov respectively, and were represented by Mr A. Grigoriu, 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 applicants’ names 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 applicants;

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 right to respect for the first applicant's private and family life with regard to the non-enforcement of domestic decisions concerning the residence arrangements in respect of the second applicant, as well as the State's positive obligations to ensure the second applicant's access to education in the absence of her parents' cooperation or agreement as to which school she should attend. The applicants invoked Article 8 of the Convention and Article 2 of Protocol No. 1 to the Convention.

A. Residence arrangements in respect of the second applicant and the ensuing proceedings

2. The first applicant, A.B., and Ms M. are the parents of the second applicant, I.M.B.

3. On 23 August 2021 the Bucharest District Court granted the parents a divorce, awarded them shared custody and determined that the second applicant, who was seven years old at the time, should reside with her father in Bucharest. Contact arrangements were established between M. and the second applicant. The County Court upheld that decision in a final decision of 24 May 2022.

4. However, on the basis of the available material it appears that, despite that decision, the applicants never lived together following the parents' divorce. From 10 August 2021 the first applicant lost contact with his daughter and was unaware of her whereabouts as M. refused to answer his calls or messages. M. eventually informed the first applicant that she had moved with the second applicant to Braşov, a city situated about 200 km from Bucharest.

5. On 31 August 2021 the first applicant contacted the Bucharest child protection authority to seek help in bringing his daughter back to Bucharest.

6. On 21 September 2021 the Bucharest child protection authority informed the first applicant of their two prior exchanges with M. and advised him to seek assistance from the police to find the second applicant's new address.

7. On 31 August and 13 October 2021 the first applicant lodged a criminal complaint against M. for non-compliance with the residence arrangements and for child abduction. He explained that he had lost contact with the second applicant, that M. had refused to hand over the child to him, and that he had had no means of contacting them as they had moved away without giving him their new address.

8. On 16 August 2022 the prosecutor's office attached to the Bucharest District Court closed the investigation. It noted that the child lived with her mother in Braşov and refused to stay with her father. She had not therefore been deprived of her liberty, but had simply moved to another city with her

mother. The fact that her father had been unable to see her, albeit only for a short period of time, did not constitute an unlawful deprivation of liberty.

9. In January 2022 the first applicant contacted the Braşov child protection authority and requested that a court bailiff enforce the decision of 23 August 2021 (see paragraph 3 above).

10. On 27 January and 21 February 2022 the applicants and M. met in the bailiff's office. The second applicant told them, in the presence of a psychologist from the Braşov child protection authority, that she refused to stay with her father. The authorities noted the second applicant's refusal to stay with her father and lodged an application with the courts seeking the provision of psychological counselling for the child, which was approved by the court on 11 July 2022.

11. From 31 August to 19 December 2022 the second applicant underwent 12 counselling sessions. A final evaluation was submitted by the psychologist to the court.

B. The second applicant's schooling

12. Soon after the divorce, the first applicant enrolled the second applicant at the T.M. school in Bucharest for the school year 2021/2022. However, after moving to Braşov, M. enrolled the child at the W.S. school, a private school in Braşov. In accordance with her age, she joined the elementary class – that is, the first compulsory year of primary education.

13. On 21 October 2022 the first applicant lodged an action with the Bucharest District Court seeking that the child's enrolment at the W.S. school be cancelled. On 10 April 2023 the court transferred the case to the Braşov District Court, which had jurisdiction over the matter.

14. Pending a final decision on the request of 21 October 2022, the first applicant sought an interim order from the Bucharest District Court suspending the second applicant's enrolment at the W.S. school and ordering that the child return to Bucharest to attend the T.M. school.

15. On 25 January 2023 the Bucharest County Court issued an interim injunction suspending the child's enrolment at the W.S. school in Braşov and ordering the mother to bring her back to Bucharest to allow her to continue her education at the T.M. school.

16. On 6 February 2023 the W.S. school informed M. that the second applicant's enrolment had been suspended. The second applicant would not therefore be able to continue attending the school for the rest of the school year.

17. On 9 August 2023 the first applicant lodged a new action against M., the T.M. school, the W.S. school, and the Bucharest child protection authority, seeking the suspension of the second applicant's enrolment at the W.S. school. M. lodged a counterclaim, requesting that the second applicant's

enrolment at the T.M. school be terminated, and that she be allowed to attend classes at the W.S. school.

C. Subsequent arrangements in respect of the second applicant agreed by the parents

18. In August 2023 the parents reached an agreement that the second applicant could continue to live with her mother and go to school in Braşov. The agreement also contained a contact schedule with the child. In addition, the parents agreed to withdraw their complaints against each other concerning the second applicant. The first applicant also agreed to end the ongoing enforcement proceedings.

19. The second applicant currently lives with her mother in Braşov and goes to school in Braşov. She maintains contact with her father in accordance with the contact schedule set out in the agreement reached by the parents.

20. Both parents informed the domestic courts and bailiff about the agreement and ended all proceedings concerning the custody of the child.

21. Under Article 8 of the Convention, the first applicant complained about the non-enforcement of the decision of 23 August 2021 and the interim injunction of 25 January 2023, and that he had been unable to maintain contact with the second applicant. He considered that the State had failed to comply with its positive obligations in that regard.

22. Under Article 2 Protocol No. 1 to the Convention, he complained on behalf of the second applicant that on account of the non-enforcement of final court decisions, she had been unable to attend school during the school year 2022/2023, in so far as M. had refused to take her to Bucharest where she had been officially enrolled in a school, and the W.S. school in Braşov had suspended her enrolment pursuant to the same court decisions.

THE COURT'S ASSESSMENT

23. The Court does not consider it necessary to address the Government's objection that the first applicant could no longer claim to be a victim of a violation as he had agreed to withdraw his complaints concerning the child (paragraph 18 above) because the complaint raised by him is in any event inadmissible for the reasons set out below.

24. The Court refers to the general principles set out in *Mihailova v. Bulgaria* (no. 35978/02, §§ 79-83, 12 January 2006), where it emphasised that the national authorities' duty to take measures to facilitate reunion is not absolute, since the reunion of a parent with children who have lived for some time with the other parent may not be able to take place immediately and may require preparatory measures to be taken. The nature and extent of such preparation will depend on the circumstances of each case, but the understanding and cooperation of all concerned is always an important

ingredient. Whilst national authorities must do their utmost to facilitate such cooperation, any obligation to apply coercion in this area must be limited since the interests as well as the rights and freedoms of all concerned must be taken into account, and more particularly the best interests of the child and his or her rights under Article 8 of the Convention.

25. In the case at hand, the Court observes that the various domestic authorities remained involved throughout the relevant period, taking a series of appropriate measures in a timely manner with the aim of rebuilding the relationship between the two applicants and enforcing the residence order of 23 August 2021. Specifically, the Bucharest child protection authority counsellors met with M. in an effort to convince her to comply with that order (see paragraph 6 above). Similarly, the Braşov child protection authority supported the bailiff's efforts to enforce the decision of 23 August 2021. It was during the joint meetings with Braşov child protection authority and the bailiff that the second applicant clearly refused to stay with her father (see paragraphs 9 and 10 above). In addition, the second applicant underwent several sessions of psychological counselling (see paragraph 11 above), while continued to refuse to live with her father. Lastly, the competent prosecutor took steps to establish the facts and completed the investigation with reasonable expediency (see paragraphs 7 and 8 above).

26. The Court thus finds that the authorities acted reasonably in the circumstances to enforce the residence order, while taking the second applicant's best interests into account. The fact that those attempts were unsuccessful does not disclose a failure to comply with positive obligations under Article 8 of the Convention (*ibid.*, § 99).

27. With regard to the second applicant's complaints under Article 2 of Protocol No. 1 to the Convention, the Court refers to the general principles set out in *Velyo Velevev 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 *Sanlısoy 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 and that that Article did not require the admission of a child to a private school.

28. In the present case, even assuming that the first applicant could lodge a complaint under Article 2 of Protocol No. 1 on behalf of the second applicant given their conflicting views concerning her living arrangements and education (see *T.A. and Others v. the Republic of Moldova*, no. 25450/20, § 33, 30 November 2021), the second applicant – on whose behalf the complaint would be lodged – has consistently refused to return to Bucharest (see paragraphs 8-10 above).

29. The difficulties faced by the second applicant in the process of enrolling in a school stemmed from the conflictual relationship between her parents and their continued efforts to suspend her enrolment in schools located in the other parent's place of residence. The second applicant's enrolment in school was suspended in February 2023 (see paragraph 16 above) but was later re-established after the parents reached an agreement in August 2023 (see paragraph 18 above). Moreover, no information has been provided on any damage to the second applicant's educational development that might have been caused by the above temporary suspension of her schooling. The domestic authorities responded promptly to the parents' requests and assisted them in finding a solution in the best interests of the child. The first applicant has likewise not established that the respondent State in any way hindered the second applicant's enrolment in a school.

30. 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.

31. 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.

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

Simeon Petrovski
Deputy Registrar

Ana Maria Guerra Martins
President