



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

FOURTH SECTION

CASE OF ANA IONESCU AND OTHERS v. ROMANIA

(Applications nos. 19788/03 and 18 others)

JUDGMENT
(Revision¹)

Art 41 • Just satisfaction • Revision • Awards made to deceased applicant to be paid to his heir

STRASBOURG

3 March 2020

FINAL

03/07/2020

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

1. Revision of the judgment of 26 February 2019

In the case of Ana Ionescu and Others v. Romania,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Ganna Yudkivska, *President*,

Paulo Pinto de Albuquerque,

Krzysztof Wojtyczek,

Carlo Ranzoni,

Georges Ravarani,

Marko Bošnjak,

Péter Paczolay, *judges*,

and Andrea Tamietti, *Section Registrar*,

Having deliberated in private on 11 February 2020,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in nineteen applications against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”), mostly by Romanian nationals on the various dates indicated in the appended table.

2. In a judgment delivered on 26 February 2019, the Court held that there had been a violation of Article 1 of Protocol No. 1 to the Convention on account of the applicants’ inability to recover possession of their properties despite final court decisions retroactively acknowledging their property rights. The Court also decided to award the applicants in application no. 36384/03 (*Albu and Others v. Romania* – see point 4 of the appended table), 43,200 euros (EUR) in respect of pecuniary damage and EUR 5,000 in respect of non-pecuniary damage and for costs and expenses, and dismissed the remainder of their claims for just satisfaction.

3. On 30 September 2019 the Government informed the Court that on 21 August 2019 they had learned that Mr Petru Nicolae Albu had died on 1 November 2018. They accordingly requested revision of the judgment in accordance with Rule 80 of the Rules of Court.

4. On 22 October 2019 the Court considered the request for revision and decided to give the applicants three weeks in which to submit any observations. Observations were received from Mr Albu’s heir, Ms Emma Albu, on 21 November 2019.

THE LAW

I. REQUEST FOR REVISION

5. The Government requested revision of the judgment of 26 February 2019, which they had been unable to execute because Mr Petru Nicolae Albu had died before the judgment had been adopted.

6. On 21 November 2019 Mrs Emma Albu submitted a certificate attesting to her status as the deceased applicant's heir and a statement in which she expressed her wish to continue the proceedings in his stead. She asked to be granted the just satisfaction awarded by the Court in respect of her late husband, Mr Petru Nicolae Albu.

7. The Court notes from the documents submitted to it that Mrs Emma Albu was the wife of the deceased applicant, Petru Nicolae Albu, and that she is his only heir.

8. In the light of the foregoing, the Court considers that Mrs Emma Albu has standing to pursue the application in her deceased husband's stead. It observes that she has expressed her intention to do so and requested that the judgment be revised.

9. The Court considers that the judgment of 26 February 2019, as rectified on 13 June 2019, should be revised (see, for example, *Wypukot-Piętka v. Poland* (revision), no. 3441/02, 8 June 2010, *Dzhabrailovy v. Russia* (revision), no. 68860/10 and 4 others, 4 February 2016, and *Cangöz and Others v. Turkey* (revision), no. 7469/06, 19 September 2017), pursuant to Rule 80 of the Rules of Court, the relevant parts of which provide:

“A party may, in the event of the discovery of a fact which might by its nature have a decisive influence and which, when a judgment was delivered, was unknown to the Court and could not reasonably have been known to that party, request the Court ... to revise that judgment.

...”

10. The Court accordingly decides to award jointly the heir (Mrs Emma Albu) and the remaining applicants (Mrs Daniela Șandru, Mr Traian Petru Mihăilă and Mrs Ileana Viorica Oancea – see point 4 of the appended table) the amount it previously awarded to the applicants in application no. 36384/03, namely EUR 43,200 in respect of pecuniary damage and EUR 5,000 in respect of non-pecuniary damage and for costs and expenses (see paragraph 2 above).

11. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to revise its judgment of 26 February 2019 insofar as it concerns the claims made under Article 41 of the Convention by the late applicant Mr Petru Nicolae Albu,
and accordingly,
2. *Holds*
 - (a) that the respondent State is to pay jointly Mrs Emma Albu and the remaining applicants in application no. 36384/03 (Mrs Daniela Șandru, Mr Traian Petru Mihăilă and Mrs Ileana Viorica Oancea), within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the amounts indicated in the appended table under point 4 in respect of pecuniary damage, non-pecuniary damage and costs and expenses, to be converted into the currency of the respondent State at the rate applicable at the date of settlement, plus any tax that may be chargeable;
 - (b) that from the expiry of the above-mentioned three months until settlement, simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period, plus three percentage points.

Done in English, and notified in writing on 3 March 2020, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Andrea Tamietti
Registrar

Ganna Yudkivska
President

Appendix

List of 19 applications

No.	Application no. and date of introduction	Applicant's name nationality date of birth place of residence	Represented by	Identification of property	Domestic decision acknowledging the applicants' title to property	Domestic decision confirming the validity of the third parties' title to property	Amounts awarded A) pecuniary and non-pecuniary damage B) costs and expenses in euros (EUR)
1.	19788/03 23/05/2003	Ana IONESCU Romanian b: 27/10/1917 d: 28/11/2012 pursued by heir Adrian IANCU German and Italian 14/02/1954 Rome	Cesare Massimo BIANCA	Apartment no. 9 and the non-returned portion of the land of 1,183 sq m located at 16, Unirii Street, Arad	Final judgment of 10 September 2001 of the Timișoara Court of Appeal	Final judgment of 10 September 2001 of the Timișoara Court of Appeal Final judgment of 21 November 2002 of the Timișoara Court of Appeal (apartment no. 9)	207,500 (202,500+5,000) 2,700
2.	29240/03 28/08/2003	Rodica TĂNASE Romanian 20/03/1947 Deva		112.20 sq m of the ground floor of a building located at 6, Iuliu Maniu Street (Libertății Street), Deva	Final judgment of 18 March 2003 of the Timișoara Court of Appeal	Final judgment of 18 March 2003 of the Timișoara Court of Appeal	61,900 (56,900 + 5,000) –
3.	29286/03 08/08/2003	Sandu BART Romanian 26/04/1930 Iași proceeding in his own name and in his capacity as heir of applicant Ana Bart		House and land of 1,050 sq m located at 39, Calea Națională, Ripiceni	Final judgment of 9 July 2002 of the Suceava Court of Appeal	Final judgment of 9 July 2002 of the Suceava Court of Appeal	13,570 (8,570+5,000) –

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		<p>Ana BART Romanian b: 06/10/1906 d: 18/10/2004</p>					
4.	36384/03 06/08/2003	<p>Petru Nicolae ALBU Romanian b:15/10/1939 d: 01/11/2018</p> <p>Pursued by heir Emma ALBU 9/01/1955 Sibiu</p> <p>Mariana Silvia ALBU Romanian b: 15/10/1939 d: 03/02/2006</p> <p>pursued by heir Daniela ȘANDRU US national 19/07/1960 Miami</p> <p>Traian Petru MIHĂILĂ Romanian 02/10/1940 Deva proceeding in his own name and in his capacity as heir of the deceased applicant Sanda Zoe Mihăilă</p>	Apartment no. 3 located at 3, Oituz Street, Sibiu	Final judgment of 3 February 1999 of the Alba Iulia Court of Appeal	Final judgment of 11 October 2002 of the Alba Iulia Court of Appeal	<p>48,200 (43,200 + 5,000)</p> <p>–</p>	

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		<p>Ileana Viorica OANCEA Romanian 20/03/1934 Bucharest proceeding in her own name and in her capacity as heir of the deceased applicant Sanda Zoe Mihăilă</p> <p>Sanda Zoe MIHAILĂ Romanian b: 12/04/1937 d: 08/01/2004</p>					
5.	37487/03 03/10/2003	<p>Nicolae VENIAMIN French, Romanian 08/04/1946 Boulogne</p> <p>Lascăr VENIAMIN French, Romanian 08/04/1946 Paris</p>	Adrian VASILIU	Buildings and land of 2,337.4 sq m located at 10, Oituz Street (formerly 6, Oituz Street), Bacău	Final judgment of 10 April 2003 the Supreme Court of Justice	Final judgment of 10 April 2003 the Supreme Court of Justice	574,521 (569,521+5,000) –
6.	1195/04 26/11/2003	Marta BERLING Romanian 19/07/1935 Cluj	Mikolt Krisztina KAPCZA	Apartment no. 12-13 (774/2/S/XII, 774/2/S/XIII) located at 34, Republicii Street, Turda	Final judgment of 11 March 1998 of the Turda Court	Final judgment of 3 June 2003 of the Braşov Court of Appeal	77,000 (72,000 + 5,000) 3,300
7.	2676/04 24/11/2003	Ştefan NUȚĂ Romanian 28/05/1946 Palaja	Nicoleta Tatiana POPESCU	Apartment no. 37, 63 sq m, bl. D/3, located at 18, Târgu Neamţ Street, Bucharest, Sector 6	Final judgment of 16 September 1994 of the Court of Bucharest – Sector 6	Final judgment of 2 June 2003 of the Bucharest Court of Appeal	74,300 (69,300 + 5,000) 299.43

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8.	7174/04 02/12/2003	<p>Silvia ALEVRA French 18/09/1940 Paris</p> <p>Eugenia ALEVRA Romanian 26/09/1959 Bucharest</p> <p>Ioana ALEVRA Romanian 01/03/1982 Bucharest</p> <p>Constantin ALEVRA French b:18/01/1926 d: 28/12/2004</p> <p>pursued by heir George Aurel ALEVRA Romanian 25/01/1957 Torrance</p>		House 232 sq m and land of 1,400 sq m located at 208, Nicolae Bălcescu Street (202, Nicolae Bălcescu Street / 178, Calea Domnească), Târgoviște	Final judgment of 14 November 2001 of the Supreme Court of Justice	Final judgment of 10 June 2003 of the Ploiești Court of Appeal	257,000 (252,000 + 5,000) 1,800
9.	8647/04 13/01/2004	<p>Irinel Maria BĂJENARU Romanian 04/03/1976 Oradea</p> <p>Gabriela RUSU Romanian 14/11/1948 Oradea</p>	Gabriela RUSU	<p>Building and land of 1,726 sq m located at 10, Vânători Street, Borsec;</p> <p>2 annexes to a building and land of 737 sq m, located at 210, Calea Domnească, Galați</p>	<p>Final judgment of 15 October 2003 the Galați Court of Appeal</p> <p>Decision of 15 July 2005 of the Mayor of Galați</p>	Final judgment of 15 October 2003 the Galați Court of Appeal	111,970 (106,970 +5,000) 2,275

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		Ioana POENARU Romanian 04/03/1976 Bucharest					
10.	20106/04 29/03/2004	Maria-Magdalena SURU Romanian 30/09/1931 Bucharest	Georgeta ANDREI TSAKIRI	House with appurtenant land located at 15, Iacob Negruzzi Street, Bucharest, Sector 1	Final judgment of 1 October 2003 of the Bucharest Court of Appeal	Final judgment of 1 October 2003 of the Bucharest Court of Appeal	– –
11.	21121/04 17/03/2004	Roxana Issabela Lya GHIATĂ Romanian 09/01/1936 Madrid	Mirela CHELARU	Apartment with appurtenant land, 2 nd floor, 141 sq m, located at 22, Atena Street (formerly Aleea Zoe), Bucharest, Sector 1	Final judgment of 6 May 1999 of the Bucharest Tribunal	Final judgment of 21 October 2003 of the Bucharest Court of Appeal	126,500 (121,500+5,000) –
12.	33435/04 13/12/2003	Mihai Sorin RĂDULESCU Romanian 04/01/1946 Bucharest Radu Florin RĂDULESCU Romanian 10/09/1947 Bucharest	Mihai Sorin RĂDULESCU	Immovable property located at 61, Dr. Lister Street, Bucharest (apartments nos. 1 and 3, with appurtenant garage and land of 226.55 sq m)	Final judgment of 13 March 2001 of the Bucharest Court of Appeal	Final judgment of 16 December 2003 of the Supreme Court of Justice	653,773 (648,773+5,000) –
13.	13354/05 23/03/2005	Eva Margareta CURTICEAN Romanian b:11/04/1936 d:30/11/2006		Apartment no. 4 (134 sq m) and apartment no. 5 (84 sq m), located at 5A, Filimon Sârbu Street (6, Catedralei Street), Arad	Final judgment of 8 October 1998 of the Arad Court	Final judgment of 1 October 2004 of the Timișoara Court of Appeal (apartment no. 5 – formerly no. 6) Final judgment of 25 January 2005 of the	161,749 (156,749 + 5,000) –

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		pursued by heir Sonia CURTICEAN Romanian 27/03/1958 Arad				Timișoara Court of Appeal (apartment no. 4)	
14.	15652/05 21/04/2005	Doina Eugenia VARNA Romanian 22/06/1927 Cluj-Napoca	Diana Alexandra ANDRAȘONI	Apartment no. 13b located at 4, Horea Street, Cluj- Napoca	Final judgment of 29 October 2004 of the Cluj Court of Appeal	Final judgment of 29 October 2004 of the Cluj Court of Appeal	39,000 (34,000 + 5,000) 2,175
15.	6947/07 20/12/2006	Jenica GURAN Romanian b: 01/02/1926 d: 10/09/2010 pursued by heirs: 1) Dumitru Dan GURAN Romanian 04/10/1956 Bucharest 2) Cristian Mihail GURAN Romanian 08/11/1951 Bucharest Aurelia IONESCU Romanian 23/07/1933 Bucharest	Dumitru Dan GURAN	Apartments nos. 4 and 5 located at 224, Șerban Vodă Street, Bucharest, Sector 4	Final judgment of 5 July 2006 of the Bucharest Court of Appeal	Final judgment of 5 July 2006 of the Bucharest Court of Appeal	90,000 (85,000 + 5,000) -

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16.	12838/07 21/02/2007	Michael EHRMANN German 15/11/1963 Töging am Inn Iohann ERHMANN German 22/01/1962 Töging am Inn	Cezariana Ileana BOGOS	House and land of 824 sq m located at 126, Victoriei Street, Valea Lungă (CF 777/b Valea Lungă, nr. topo. 272, 273)	Judgment of 3 October 2006 of the Alba Iulia Court of Appeal acknowledging right to compensation	Final judgment of October 2006 of the Alba Iulia Court of Appeal	– –
17.	35547/07 14/08/2007	Nicolae SIMIZEANU Romanian b: 11/07/1940 d: 26/04/2008 pursued by heirs 1) Simona Maria CIOBANU Romanian 25/04/1968 Techirghiol 2) Nina Vivance Gabriela SIMIZEANU Romanian b: 17/08/1946 d: 02/06/2016 3) Radu Marius SIMIZEANU Romanian 28/10/1969 Techirghiol		Apartment and annex located at 83, Ion Lahovari Street, Constanța	Final judgment of 26 February 2007 of the High Court of Cassation and Justice	Final judgment of 26 February 2007 of the High Court of Cassation and Justice	83,000 (78,000 + 5,000) 2,150

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18.	45689/07 17/07/2007	Șerban Vlad BĂRCĂNESCU Romanian 06/07/1949 Bucharest		Apartment no. 2 located at 83, Tunari Street, Bucharest, Sector 2	Final judgment of 13 May 1998 of the Court of Bucharest - Sector 2	Final judgment of 5 March 2007 of the Bucharest Court of Appeal	50,000 (45,000 + 5,000) 1,950
19.	50994/08 20/10/2008	Marin MOISE Romanian 22/11/1951 Bucharest		Apartment no. 15 located at 5, Lutherană Street, Bucharest, Sector 1	Final judgment of 26 May 2008 of the Bucharest Court of Appeal	Final judgment of 26 May 2008 of the Bucharest Court of Appeal	85,000 (80,000 + 5,000) -