



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

FOURTH SECTION

CASE OF VASILE RUSU v. ROMANIA

(Application no. 53021/20)

JUDGMENT

Art 6 §§ 1 and 3 (c) (criminal) • Fair hearing • Defence in person • Examination *in absentia* of the applicant's appeal against his conviction and further refusal to annul the proceedings and grant him a retrial did not amount to a disproportionate measure • Applicant lawfully summoned for the appeal proceedings and informed about the appeal hearings, allowing him to effectively participate in the proceedings if he wished • Applicant had concrete and up-to-date knowledge about various developments and procedural decisions in the appeal proceedings • Rejection of the applicant's request to stay the appeal proceedings or adjourn the appeal examination hearing, due to his inability to attend because of the Covid-19 pandemic restrictions on international travelling, not unreasonable given previous adjournments granted and his attitude • Overall fairness of proceedings ensured

Prepared by the Registry. Does not bind the Court.

STRASBOURG

4 November 2025

FINAL

04/02/2026

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

In the case of Vasile Rusu v. Romania,

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

Lado Chanturia, *President*,
Faris Vehabović,
Lorraine Schembri Orland,
Anja Seibert-Fohr,
Anne Louise Bormann,
Sebastian Rădulețu,
András Jakab, *judges*,

and Simeon Petrovski, *Deputy Section Registrar*,

Having regard to:

the application (no. 53021/20) against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Romanian national, Mr Vasile Rusu (“the applicant”), on 12 November 2020;

the decision to give notice of the application to the Romanian Government (“the Government”);

the parties’ observations;

Having deliberated in private on 14 October 2025,

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

INTRODUCTION

1. The case concerns allegations that the criminal proceedings against the applicant were unfair, in so far as he did not attend hearings before the Court of Appeal because it had allegedly failed to properly summon him and, subsequently, because he was prevented from doing so by the restrictions imposed on international travel during the Covid-19 pandemic.

THE FACTS

2. The applicant was born in 1963 and lives in Bucharest. He was represented by Mr R.D. Cosma, a lawyer practising in Bucharest.

3. The Government were represented by their Agent, Ms O.F. Ezer, of the Ministry of Foreign Affairs.

4. The facts of the case may be summarised as follows.

I. THE APPLICANT’S INDICTMENT

5. In an indictment of 25 July 2017 issued by the Timișoara anti-corruption department of the prosecutor’s office eleven people, including the applicant, were sent for trial on several economic and corruption-related charges. The applicant, a director of a company, was accused of having

participated in 2009 – when the criminal investigation started (the scope of the investigation into the applicant’s activities was extended in February 2017) – in complex financial transactions involving the defendants and several companies resulting in their having allegedly committed the offences of complicity in tax evasion, participation *lato sensu* (*participație improprie*) in money laundering and forming an organised criminal group.

6. The indictment was based on financial, fiscal and accounting documents, a judicial accountancy expert report, transcripts of the defendants’ telephone calls (obtained by wiretapping) and statements by the defendants and witnesses. It noted that the co-defendants had benefited throughout the criminal investigation from qualified legal assistance.

7. By the time the indictment was issued the applicant had already been interviewed by the prosecutor during the criminal investigation on 20 March 2017. After the criminal trial had begun and the applicant had been formally informed about the charges against him on 7 April 2017, he was interviewed again on 24 April and 12 July 2017.

II. THE PROCEEDINGS AT FIRST INSTANCE

8. In a first-instance judgment of 2 April 2019 the Arad District Court (“the District Court”) found the applicant guilty of complicity in tax evasion and participation *lato sensu* in money laundering, and sentenced him to six years’ imprisonment. It found that the evidence showed beyond any reasonable doubt that the applicant had actively contributed to concealing the sale-purchase of petroleum products by a company in order to evade tax obligations and then, in agreement with another defendant, had taken part in the laundering of money from the tax evasion through fictitious contracts with other companies. He was acquitted of the charge of forming an organised criminal group.

9. The District Court found that the applicant had committed those offences as a repeat offender and ordered the activation of a suspended sentence that had been imposed on him on foot of a previous conviction. Consequently, it gave the applicant a total prison sentence of nine years.

10. Under the judgment’s civil limb, the applicant and several other defendants were ordered to pay damages amounting to 14,195,391 Romanian lei (RON) (equivalent to 2,981,348.13 euros (EUR)) to the State. The District Court also ordered the confiscation from the applicant of the proceeds of the offence that exceeded the above-mentioned damages, namely RON 53,067.45 (equivalent to EUR 11,145.34).

11. The District Court noted that, despite a summons to appear before the court having been sent to his known addresses in Romania, the applicant had been absent from trial. He had not filed any documents, nor had he submitted any requests for evidence. He had been defended by a court-appointed lawyer who had attended the trial.

III. THE APPEAL PROCEEDINGS

12. On 4 April 2019, by fax, the applicant lodged an appeal against his conviction, indicating that he would expand on the grounds of appeal in a separate memorandum.

13. By a letter dated 10 April 2019 the applicant requested that the first-instance judgment and all relevant procedural documents be served on him at an address in the United Kingdom. He submitted in that connection a copy of a tenancy agreement signed in December 2018 by him and his partner, P.B., as tenants. P.B. had been a witness at the criminal trial after charges initially levelled against her had been dropped in the indictment.

14. On 12 April 2019 the applicant again mentioned, by fax, that he was lodging an appeal against his conviction and that he would submit the grounds in a separate memorandum. He requested that the procedural documents be sent to his address in the United Kingdom by post and stated that he had no other means of communication. He also mentioned that he no longer lived in Romania and did not have any contact with the persons living at his former address in Romania. He enclosed a copy of his tenancy agreement in the United Kingdom. It is unclear, based on the documents made available to the Court, whether he eventually filed any grounds for appeal.

15. The Ministry of Finance and the public prosecutor also lodged appeals against the first-instance judgment. The former sought to have the sum ordered under civil head to be paid increased, while the latter sought, *inter alia*, to obtain the conviction of the applicant on the charge of forming an organised criminal group and an increase in the prison sentence in view of the “nature and seriousness of the offences”.

16. The applicant was summoned to appear before the Timișoara Court of Appeal (“the Court of Appeal”); the summons was sent to his address in the United Kingdom, as per his request.

17. On 20 June 2019, upon the request of the Court of Appeal, the Timiș Bar named a court-appointed lawyer for the applicant and some of the other appellants. A hearing was set for 26 June 2019.

18. On 25 June 2019 the applicant, by fax and expressly referencing the hearing of the following day, asked the Court of Appeal for additional time to engage counsel. At the hearing on 26 June 2019, the Court of Appeal granted the request of several appellants, including the applicant, and adjourned the consideration of the appeal to allow the appellants to engage defence counsel, warning that that would be the only adjournment that would be granted for them to prepare their defence. To decide so, it also took into account the prosecutor’s request for an adjournment in order to consider the appellants’ appeal. Another hearing was set for 25 September 2019.

19. By an email of 24 September 2019 sent from the email address of a company, the applicant, expressly referencing the hearing of the following day, asked the Court of Appeal to change his court-appointed lawyer on the

ground that the latter was also defending another appellant whose interests were contrary to those of the applicant.

20. At the hearing of 25 September 2019 the applicant's court-appointed lawyer confirmed that the applicant's interests and those of the other appellant (who had admitted the facts of which he was accused and had cooperated with the investigators) were opposite. Consequently, the Court of Appeal granted the applicant's request, and, on 30 September 2019, the Timiș Bar designated a new court-appointed lawyer for the applicant. That lawyer continued to represent him to ensure his defence in all the hearings until the end of the proceedings at the Court of Appeal.

21. The next hearings took place on 4 October, 28 October and 14 November 2019. The applicant continued to be summoned to appear by way of registered letters sent to his address in the United Kingdom.

22. At the hearing of 14 November 2019 the public prosecutor and the applicant's co-appellants began presenting their requests for evidence. The public prosecutor also informed the Court of Appeal that, according to information exchanged with the authorities in the United Kingdom, the applicant had been arrested there on 3 May 2019 but later released and placed under judicial supervision (sometime before 25 October 2019), and there was no indication that he resided at a different address than the one that he had provided himself. The Court of Appeal found that there was no proof that the applicant had received the summonses sent by registered letters. It therefore made inquiries with the postal services. The Romanian Post Office informed the Court of Appeal in December 2019 that none of the registered summonses had reached the applicant and that they had been "declared lost" during their processing by postal workers in the United Kingdom.

23. Consequently, at the hearing of 19 December 2019, the Court of Appeal ordered the applicant to be summoned by letter rogatory in the United Kingdom and also by email to the addresses that the applicant had used previously to communicate with the court. A new hearing was set for 21 February 2020.

24. On 30 December 2019 the Ministry of Justice forwarded the request for mutual assistance to the British authorities.

25. On 7 February 2020 the English police drew up a report stating that a police officer's attempts to deliver the summons to the applicant had been unsuccessful. The officer stated that he had visited the applicant's home on three different dates, but that the applicant had been absent each time, and that the applicant had also been emailed with no response; nonetheless, the neighbours confirmed that the applicant was living at that address. On 11 February 2020 the British authorities informed the Romanian authorities of the outcome of their efforts and that, although it had been requested, a signed certificate of receipt of the documents had not been received from the applicant.

26. At the hearing on 21 February 2020, the Court of Appeal noted that the difficulties encountered in summoning the applicant had led to several postponements of the hearing and, consequently, decided to separate the proceedings by ordering that the applicant's appeal be examined separately, under a new reference file number, so as not to delay the outcome of the appeal for the remaining appellants. The Court of Appeal scheduled the next hearing in the applicant's appeal proceedings for 29 April 2020.

27. On 24 February 2020 the Court of Appeal sent a new request to the Department of International Judicial Cooperation of the Ministry of Justice for a summons to appear for the hearing scheduled for 29 April 2020 to be delivered to the applicant by the British authorities. The Court of Appeal noted that none of the summonses sent by post had reached the applicant. It appears from the case file that the summons for the hearing of 29 April 2020 was also not handed to the applicant, who was not found at the address he had indicated. A further attempt initiated by the Court of Appeal on 13 March 2020, when Covid-19 had emerged and become a global pandemic, was met with a refusal from the United Kingdom authorities owing to procedural constraints.

28. By a letter scanned and attached to an email of 14 April 2020 (sent from his partner's email address) and by a fax dated 15 April 2020, the applicant requested, pursuant to the Decree of the President of Romania of 16 March 2020 instituting a state of emergency on account of the Covid-19 pandemic (Decree no. 195/2020, see paragraphs 38-39 below), that the appeal proceedings be stayed for the duration of the state of emergency. Alternatively, and referring to the new file reference number his case had received after the disjoinder (see paragraph 26 above), he requested an adjournment of the hearing set for 29 April 2020 on the grounds that he was unable to travel to Romania to attend it because of the cancellation of flights from the United Kingdom and the impossibility of driving across Europe owing to the mandatory quarantine. He indicated that he wished to be heard by the Court of Appeal and that he intended to engage a lawyer for his defence.

29. On 27 April 2020 the applicant reiterated his request for a stay of the appeal proceedings or, failing that, an adjournment of the hearing. That request took the form of a letter attached to an email sent the same day to the Court of Appeal by his partner, P.B., who also sent it by fax. The applicant stated that the United Kingdom's borders had been closed since 20 March 2020 and that he was prohibited from leaving that country unless he obtained a specific approval, which would last for an unknown length of time, on the basis of Covid-19 testing that he had enrolled for and which was scheduled to take place on 4 June 2020. He also reiterated his wish to appear before the Court of Appeal to "clarify the facts and to demonstrate [my] innocence of the charges as presented in the indictment and in the judgment of the first instance [court]."

30. At the hearing on 29 April 2020, the court-appointed lawyer supported the request for an adjournment, adding that she was not able to communicate with the applicant. The Court of Appeal rejected the request for a stay of proceedings on the grounds that Decree no. 195/2020 did not apply to cases concerning money laundering. It also rejected the request to postpone the hearing on the grounds that the appeal had been adjourned several times and it considered that the applicant's request was merely an attempt to delay proceedings further.

31. During the hearing the applicant's court-appointed lawyer asked for the appeals lodged by the Ministry of Finance and the public prosecutor's office to be dismissed and for the applicant to be acquitted of all the charges on the ground that there was no evidence of his guilt. In the alternative, the lawyer asked for the sentence to be reduced. It doesn't appear from the documents made available to the Court that the applicant or his court-appointed lawyer submitted any written submissions throughout the appeal proceedings or, notably, at the end of that hearing.

32. In a final judgment of 13 May 2020, the Court of Appeal upheld the conviction and sentence imposed on the applicant at first instance (see paragraph 9 above). Under the civil limb, it upheld the order that damages be paid and the amount thereof, and ordered the seizure of the applicant's assets, but annulled the confiscation order in respect of the sum of RON 53,067.45 (see paragraph 10 above).

IV. EXTRAORDINARY APPEAL FOR ANNULMENT

33. On 5 September 2020 the applicant lodged an extraordinary appeal for annulment (*contestație în anulare*) against the judgment of 13 May 2020 on the ground that the appeal had been heard in his absence, even though he had not been lawfully summoned to appear. He also argued, in particular, that, by having rejected his request for a stay of the proceedings or for an adjournment of the hearing of 29 April 2020, considering the restrictions imposed during the Covid-19 pandemic applicable to international travel, the Court of Appeal had infringed his right to defend himself and to be heard personally during the proceedings. As the summons for that hearing had not been served on him at his address in the United Kingdom he had not been aware of the new file after the disjoinder. Moreover, he had not been in contact with his court-appointed lawyer, nor was Article 260 § 3 of the Code of Criminal Procedure ("the CCP") applicable in his case, meaning that the display of the summons on the notice board at the Court of Appeal had not sufficed.

34. In a judgment of 8 September 2020, the Timisoara Court of Appeal dismissed the appeal on the ground that, under Article 426 of the CCP, that remedy could lead to the annulment of a final decision only if the person concerned had not been lawfully summoned to appear or if the person concerned had been prevented from appearing before the court and had been

unable to inform the court accordingly. The applicant had not been in either of those two situations.

35. For the purposes of the extraordinary appeal and considering the first situation provided for by Article 426 of the CCP, the Court of Appeal found that the applicant had been lawfully summoned for the hearing of 29 April 2020 when the examination of the appeal took place: summonses had been sent to all his known addresses in Romania, displayed on the notice board at the Court of Appeal, and sent by letter rogatory to the address that the applicant had indicated in the United Kingdom. The court noted, as regards the address in the United Kingdom, that he had not been found there. In any event, it observed that the applicant had been aware of the date of the hearing on 29 April since he had requested an adjournment of it.

36. The Court of Appeal held that even accepting that the applicant had shown that he had been unable to attend the hearing because of the Covid-19 pandemic, he had nevertheless informed the Court of Appeal of his absence. Therefore, the second condition for allowing the challenge, set out in the second situation contained in Article 426 of the CCP, had not been met. It found that even were the Court of Appeal's rejection of his request to be considered unfounded that could at most be described as an "error of judgment" and did not give rise to a right to have the judgment of 13 May 2020 set aside as no procedural flaw had occurred.

37. The applicant was arrested and began to serve his prison sentence on 10 May 2023.

RELEVANT LEGAL FRAMEWORK

38. By Presidential Decree no. 195 of 16 March 2020 ("Decree no. 195/2020"), the President of Romania declared a state of emergency on Romanian territory owing to the Covid-19 pandemic. The state of emergency was extended for 30 days by Presidential Decree no. 240 of 14 April 2020.

39. The relevant provisions of Decree no. 195/2020 read as follows:

Article 42

"(1) During the state of emergency, the judicial activity of the courts shall continue in cases of particular urgency. ...

...

(3) In the proceedings referred to in paragraph 1, the courts shall, to the extent possible, take the necessary measures for hearing[s] to be held via videolink and shall communicate the procedural documents by fax, electronic mail or any other means of ensuring the transmission of such document[s] and the confirmation of [their] receipt.

(4) The courts may decide to postpone hearing[s] in the cases referred to in paragraph 1 upon the request of an interested party when [he or she] is under house arrest, quarantined or hospitalised on account of the Covid-19 pandemic. Where the application for a postponement is rejected on the grounds that the case must be dealt with during the state of emergency, the courts shall postpone the handing down of the judgment, upon the request of the interested party or of its own motion, so as to allow the parties to lodge written submissions.”

Article 43 § 2

“Criminal proceedings pending before the courts, including pre-trial proceedings, shall be suspended *ipso jure* during the state of emergency, with the exception of ... and of the following cases: ... cases concerning acts of terrorism or money laundering.”

40. The relevant provisions of the Code of Criminal Procedure (“the CCP”) read as follows:

Article 259

“1. The suspect, the defendant, the parties to the proceedings and the other participants in the trial shall be summoned using their home addresses or, if they are unknown, at the addresses of their places of work ...

2. The suspect or the defendant must inform the judicial body of any change of address within three days at the latest. He or she shall be informed of this obligation at the hearing and of the consequences of failure to comply with this obligation.

3. The suspect or the defendant who has indicated a different address during the criminal proceedings shall be summoned to appear using the address indicated.

...

9. If the suspect or the defendant lives abroad, the summons to appear shall be issued, for the first hearing, in accordance with the rules of international criminal law applicable in respect of the requested State, under the law. In the absence of such rules or where the applicable international law so permits, the summons to appear shall be issued by registered letter. In this case, the acknowledgement of receipt of the registered letter, signed by the addressee, or the refusal to acknowledge receipt of the registered letter, is proof that the summons procedure has been completed. For the first hearing, the defendant or his or her lawyer will be informed by summons that he or she must provide an address in Romania, an electronic address or an electronic mail address for all communications concerning the trial. If he or she fails to provide this information, communications will be sent to him or her by registered letter, with the receipt for delivery of the letter to the Romanian post office ... serving as proof that the procedure has been completed.

...

13. The summons by electronic mail or by another electronic messaging system shall be sent to the electronic address or to the contact details that have been indicated for this purpose to the judicial body by the person concerned by the summons or by his/her representative.”

Article 260 § 3

“If the registered letter summoning a suspect or defendant residing abroad cannot be delivered, or the addressee’s State does not allow the summons by post, the summons shall be displayed at the relevant prosecutor’s office or the court, as the case may be.”

Article 364 §§ 2 and 3

“2. The trial may take place in the absence of the defendant if he or she is missing, evades the trial or has changed his or her address without bringing it to the attention of the judicial bodies and, the [necessary] checks having been carried out, his or her new address is not known.

3. The trial may also take place in the absence of the defendant if, although legally summoned, he or she is unjustifiably absent from the trial.”

Article 421 § 1

“In giving judgment on appeal, the court may render the following rulings:

...

2. allow the appeal and:

(a) overturn the judgment of the first instance [court] and give a new judgment, proceeding in accordance with the rules governing the ruling on the criminal and the civil aspects of the case by the court of first instance. ...

...”

Article 426

“The annulment of final criminal judgments may be sought in the following cases:

(a) where the appeal proceedings were conducted without a party having been legally summoned or where, although legally summoned, the party was unable to appear and unable to inform the court of this impossibility ...”

41. Article 228 of Law no. 302/2004 on international judicial cooperation in criminal matters (“Law no. 302/2004”), as in force at the material time, provided that international judicial assistance included cooperation in such actions such as delivering letters rogatory and the holding of hearings via videolink.

42. According to Article 230 of Law no. 302/2004, an international letter rogatory in criminal matters consisted of the power (*împuternicirea*) which a judicial authority of the requesting State gave to the authorities of another State so that the latter could carry out, in its place and on its behalf, judicial acts in the context of a criminal trial. The hearing of the suspect or accused could be the subject of a letter rogatory (Article 231 § 1 (a)).

43. Article 235 of Law no. 302/2004 governs hearings held via videolink. The statements of the accused abroad could be taken via videolink when it was not desirable or possible for the person in question to be present in person on Romanian territory. The request for a hearing via videolink had to set out the reason why the person to be questioned could not appear in person. The hearing was conducted directly by or under the direction of the competent judicial authority of the requesting State, in accordance with its domestic law.

The provisions concerning the hearing via videolink could be applied to the hearing of the suspect or accused “if the person concerned consents” and if there was an agreement between the Romanian authorities and the authorities of the requested State.

THE LAW

ALLEGED VIOLATION OF ARTICLE 6 §§ 1 AND 3 (c) OF THE CONVENTION

44. The applicant alleged that he had not received a fair hearing at the Court of Appeal. He complained that the Court of Appeal had considered and dismissed his appeal when he had been unable to participate or defend himself. He relied on Article 6 §§ 1 and 3 (c) of the Convention, which reads, in so far as relevant, as follows:

“1. In the determination of ... any criminal charge against him, everyone is entitled to a fair and public hearing ...

3. Everyone charged with a criminal offence has the following minimum rights: ...

(c) to defend himself in person or through legal assistance of his own choosing ...”

A. Admissibility

45. The Government submitted that the applicant’s rights of defence had not been infringed and that the application was therefore inadmissible for being manifestly ill-founded. The applicant contested those submissions.

46. Having regard to the material before it, the Court considers that the present application raises a question under Article 6 §§ 1 and 3 (c) of the Convention concerning the respondent State’s respect for the applicant’s right to participate in the procedure and defend himself. The application is therefore not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention.

47. The Court further notes that the application is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties’ submissions

(a) The applicant

48. The applicant argued that his right to a fair trial had been infringed in that he had been prevented from presenting his defence before the Court of Appeal. He claimed that, had he been present at the hearing of 29 April 2020, he would have been able to give evidence before the Court of Appeal to support his appeal with a view to enlightening the judges as to his position.

The Court of Appeal should in any event have stayed the criminal proceedings owing to the state of emergency and the Covid-19 pandemic as the proceedings didn't concern money laundering related to acts of terrorism (see Article 43 § 2 of Decree no. 195/2020, paragraph 39 above).

49. The applicant submitted that he had never received any summons at his home in the United Kingdom and thus that he had never been validly summoned, contrary to the conclusion by the Timisoara Court of Appeal in its decision of 8 September 2020 on his extraordinary appeal in annulment (see paragraphs 34 and 35 above). He further disputed the relevance of the provisions of the CCP relied upon by the Government and their related submissions, pointing out that as the summonses hadn't reached him, he hadn't refused them (Article 259 § 9 of the CCP), and argued that the display of the summons at the Court of Appeal (in accordance with Article 260 § 3 of the CCP) couldn't have compensated for the failure to issue him with a summons in the United Kingdom (see paragraph 40 above). As for the sending of the summons by email, namely to his partner's email address, that had not been proved and had been ineffective because he himself did not have an email address.

50. The applicant did not deny that he had been aware of the existence of the criminal trial against him, but argued that he asked for adjournments in the context of the Covid-19 pandemic and because he had not known about the disjoinder of the cases or about the date of the hearing when the case would be examined. He disputed the Court of Appeal's finding that his application for an adjournment had been dilatory. He stated that the previous adjournments had not been ordered by the Court of Appeal exclusively upon his request and/or to his sole benefit, and that it had been objectively impossible for him to have been present at the hearing on 29 April 2020 because of the restrictions imposed during the Covid-19 pandemic on international travel.

(b) The Government

51. The Government submitted that the domestic authorities had used all available means to ensure the applicant's presence at the hearings before the Court of Appeal. In that connection, they quoted extracts from Articles 259-260 of the CCP (see paragraph 40 above) and stated that the applicant had been summoned to appear using all his known addresses in Romania and abroad, and also by displaying the summons at the Court of Appeal. Moreover, the domestic authorities had used international mutual assistance (namely a letter rogatory) to notify the applicant of the pending criminal proceedings by sending a summons to his home in the United Kingdom. They also mentioned that, in order to ensure compliance with the legal summons procedure and to enable the applicant to participate in the proceedings and ensure his defence, the Court of Appeal had ordered the adjournment of the hearing several times.

52. The Government criticised the applicant for failing to provide the domestic authorities with an email address which would have enabled him to access certain documents in the appeal file and would have made it possible to hold a hearing via videolink which the applicant could have joined. The Government maintained that, in view of his various applications to the Court of Appeal, some of which had been granted, the applicant had been aware of the proceedings before that court.

53. They therefore argued that, by failing to attend the Court of Appeal hearings and by his overall conduct during the entire trial, including during the first-instance proceedings, the applicant had sought to delay the outcome of the proceedings or even to escape justice. The Court of Appeal's reason to continue on 29 April 2020 with the examination of the case was in line with the risk acknowledged by the Court that the impossibility of holding a trial by default could paralyse the conduct of criminal proceedings in that it could lead, for example, to dispersal of evidence, expiry of the time-limit for prosecution or a miscarriage of justice (reference was made to *Colozza v. Italy*, 12 February 1985, § 29, Series A no. 89). Moreover, given the crimes of which the applicant had been charged, the Court of Appeal had not been in a position to grant the applicant's request and stay the proceedings owing to the state of emergency (see paragraph 39 above).

54. As to the applicant's defence before the Court of Appeal, the Government considered that it had been effective and that the court-appointed lawyers had acted diligently in the applicant's interests. They pointed out that the Court of Appeal had acceded to various applications made by the applicant, including for the replacement of his initial court-appointed lawyer who had had a conflict of interest.

55. In conclusion, the Government submitted that the proceedings as a whole were fair.

2. *The Court's assessment*

(a) **General principles**

(i) *General considerations*

56. The right to a fair trial under Article 6 § 1 is an unqualified right. However, what constitutes a fair trial cannot be the subject of a single unvarying rule but must depend on the circumstances of the particular case (see *O'Halloran and Francis v. the United Kingdom* [GC], nos. 15809/02 and 25624/02, § 53, ECHR 2007 III). The Court's primary concern under Article 6 § 1 is to evaluate the overall fairness of the criminal proceedings (see, among many other authorities, *Taxquet v. Belgium* [GC], no. 926/05, § 84, ECHR 2010; *Schatschaschwili v. Germany* [GC], no. 9154/10, § 101, ECHR 2015; and *Ibrahim and Others v. the United Kingdom* [GC], nos. 50541/08 and 3 others, § 250, 13 September 2016).

(ii) Trial in absentia and presence at the appeal hearing

57. Although this is not expressly mentioned in paragraph 1 of Article 6, the object and purpose of the Article taken as a whole show that a person “charged with a criminal offence” is entitled to take part in the hearing. In particular, sub-paragraph (c) of paragraph 3 guarantees to “everyone charged with a criminal offence” the right “to defend himself in person” and it is difficult to see how a person could exercise these rights without being present (see, among many others, *Sejdovic v. Italy* [GC], no. 56581/00, § 81, ECHR 2006-II; see also *Colozza*, cited above, § 27, and *Belziuk v. Poland*, 25 March 1998, § 37, *Reports of Judgments and Decisions* 1998-II).

58. Although proceedings that take place in the accused’s absence are not in themselves incompatible with Article 6 of the Convention, a denial of justice nevertheless undoubtedly occurs where a person convicted *in absentia* is subsequently unable to obtain from the court a fresh determination of the merits of the charge, in respect of both law and fact, where it has not been unequivocally established that he or she has waived his or her right to appear and to defend him or herself (see *Sejdovic*, cited above, § 82; see also *Colozza*, cited above, § 29; and *Somogyi v. Italy*, no. 67972/01, § 66, ECHR 2004-IV) or that he or she intended to escape trial (see *Medenica v. Switzerland*, no. 20491/92, § 55, ECHR 2001-VI).

59. The Convention leaves the Contracting States wide discretion as regards the choice of the means put in place to ensure that their legal systems are in compliance with the requirements of Article 6. The Court’s task is to determine whether the result called for by the Convention has been achieved. In particular, the procedural means offered by domestic law and practice must be shown to be effective where a person charged with a criminal offence has neither waived his or her right to appear and to defend him or herself nor sought to escape trial (see *Medenica*, cited above, § 55, and *Somogyi*, cited above, § 67).

60. Furthermore, a person charged with a criminal offence must not be left with the burden of proving that he or she was not seeking to evade justice or that his or her absence was due to *force majeure* (see *Colozza*, cited above, § 30). At the same time, it is open to the national authorities to assess whether the accused showed good cause for his or her absence or whether there was anything in the case file to warrant a finding that he or she had been absent for reasons beyond his or her control (see *Sejdovic*, cited above, § 88; see also *Medenica*, cited above, § 57).

(iii) Notification of a hearing

61. The right to a public hearing would be devoid of substance if a party to a case were not apprised of a hearing in such a way as to have an opportunity to attend it, should he or she decide to exercise the right to appear that is established in the domestic law (see *Yakovlev v. Russia*, no. 72701/01,

§ 21, 15 March 2005, and *Vyacheslav Korchagin v. Russia*, no. 12307/16, § 64, 28 August 2018).

62. Article 6 § 1 cannot be construed as conferring on litigants the right to obtain a specific form of service of court documents, such as by registered post (see *Kolegovy v. Russia*, no. 15226/05, § 40, 1 March 2012; *Perihan and Mezopotamya Basın Yayın A.Ş. v. Turkey*, no. 21377/03, § 39, 21 January 2014; and *Avotiņš v. Latvia* [GC], no. 17502/07, § 119, 23 May 2016). Nonetheless, the Court considers that in the interests of the administration of justice a litigant should be notified of a court hearing in such a way as to not only have knowledge of the date, time and place of the hearing, but also to have enough time to prepare his or her case and to attend the court hearing (see *Kolegovy*, cited above, § 40, and the cases cited therein; *Aždajić v. Slovenia*, no. 71872/12, § 48, 8 October 2015; and *Vyacheslav Korchagin*, cited above, § 65).

(b) Application of these principles to the present case

(i) Preliminary remarks

63. The Court observes that the applicant's complaint concerns his right to defend himself in person in the sense of participating in the appeal proceedings and presenting personally his point of view when the case was examined by the Court of Appeal on 29 April 2020; he has not called into question before the Court the quality of his defence by the court-appointed lawyers.

64. Turning to the facts of the instant case, the Court notes that the applicant was aware of the criminal proceedings and of the charges brought against him, having been interviewed three times during the criminal investigation, first as a suspect, then as an accused (see paragraph 7 above). Moreover, the Court observes that the proceedings in the first-instance court subsequently, similarly to the appeal proceedings before the Court of Appeal, continued in his absence, yet the applicant's complaint does not make any reference to that stage of the proceedings. Nevertheless, mindful of its duty to assess the overall fairness of criminal proceedings, but within the limits of the applicant's complaint to the Court, the Court cannot but conclude that the applicant – who according to the District Court's judgment had been legally summoned to appear, but did not submit any applications or evidence – was not prevented, had he wished so, from attending the hearings, being heard or presenting arguments in his defence before the District Court. He moreover managed to appeal against the judgment handed down by the District Court (see paragraphs 11-14 above).

65. Consequently, the present case is distinguishable from previous case-law on the matter where the applicants did not have sufficient knowledge of the proceedings brought against them (see, especially, *Colozza*,

cited above, § 32; *Sejdovic*, cited above, §§ 96-102; or *Hu v. Italy*, no. 5941/04, §§ 52-59, 28 September 2006).

66. On the other hand, the Court notes that it cannot be considered that the applicant waived his right to attend the appeal hearing, since he had expressly requested the adjournment of the hearing or a stay of the proceedings (see paragraphs 28-29 above and, *mutatis mutandis*, *Bivolaru v. Romania* (no. 2), no. 66580/12, § 135, 2 October 2018). In order to assess whether such requests, and more generally the applicant's attitude in response to the steps taken by the judicial authorities to allow his participation in the proceedings (see *ibid.*, § 129), can be qualified as dilatory to the point of aiming at escaping justice, which is what the Court of Appeal concluded, the Court will ascertain the relevant circumstances, while remaining mindful of the State's margin of appreciation in the matter of assessing whether there was a good cause for the accused's absence. In doing that, the Court will address in turn the two main arguments that the applicant advanced in support his complaint: (i) he had never been validly summoned to appear before the Court of Appeal; and (ii) the Court of Appeal had erroneously rejected his application to have the appeal proceedings stayed or for the hearing of 29 April 2020 to be adjourned (see paragraphs 48-50 above).

(ii) Summons to appear before the Appeal Court

67. The Court notes that throughout the appeal proceedings the Court of Appeal summoned the applicant using his address in the United Kingdom, as per his request (see paragraphs 13-14 and 16 above). However, when it received no proof of delivery and found that the registered letters had been marked as lost, it initiated an international cooperation mechanism, namely a letter rogatory, to have the summons to appear delivered to the applicant by local agents appointed in the framework of that mechanism. Despite the efforts of the Court of Appeal and the repeated attempts of the British authorities, it appears that the applicant remained unreachable, although his neighbours confirmed that he was in fact living at the relevant address (see paragraph 25 above).

68. Furthermore, the Court observes that, wishing to reach the applicant, the Court of Appeal also sent summons to him at all the postal addresses he had been using during the first instance proceedings and by displaying the summons on the notice board at the court, and even by sending them to the email addresses that had been used to contact the Court of Appeal on behalf of the applicant (see paragraph 23 above).

69. Taking into consideration the above-mentioned measures, the Court of Appeal that heard his extraordinary appeal for annulment ruled that the applicant had been lawfully summoned for the appeal proceedings (see paragraph 35 above). Taking note of the terms of Articles 259 and 260 § 3 of the CCP, to which the parties referred before the Court of Appeal and in the proceedings before the Court (see paragraphs 40, 49 and 51 above), and of

the primary role of the domestic courts in the interpretation of the relevant domestic provisions, the Court sees no reason to consider their interpretation as overly formalistic and manifestly unreasonable in the circumstances (contrast with *Gakharia v. Georgia*, no. 30459/13, §§ 48-49, 17 January 2017). Concurring with the Court of Appeal's remark in its decision of 8 September 2020 concerning the hearing of 29 April 2020 (see paragraph 35 *in fine* above), the Court observes moreover that the applicant had due knowledge of the dates of at least several of the hearings, given that he had lodged applications clearly referring to the respective dates, in which he requested the Court of Appeal: (i) for additional time to engage counsel (hearing of 26 June 2019; see paragraph 18 above); (ii) to change his first court-appointed lawyer on the ground of conflict of interest (hearing of 25 September 2019; see paragraphs 19-20 above), and iii) to stay the proceedings or at least to adjourn the hearing because of the Covid-19 pandemic (hearing of 29 April 2020; see paragraphs 28-29 above).

70. Furthermore, the Court observes that the content of the applicant's specific requests for adjournment, including his mention of the new file reference number after the disjoinder ordered by the Court of Appeal on 21 February 2020 (see paragraphs 26 and 28 above), prove that the applicant also had concrete and up-to-date knowledge about the various developments in the appeal proceedings and the procedural decisions taken by the Court of Appeal.

71. The Court further notes that the applicant never claimed that he had been prevented in any manner from attending at least those two above-mentioned hearings of 26 June and 25 September 2019 and, as a result of the Court of Appeal granting his requests (see paragraphs 18 and 20 above), from hiring a lawyer of his choice or submitting arguments and/or evidence in his defence.

72. Therefore, as regards the applicant's complaint of not having been lawfully summoned by the Court of Appeal, the Court concludes that the Court of Appeal duly discharged its duties and informed the applicant about the hearings, allowing him to effectively participate in the proceedings had he so wished.

(iii) Applicant's request to have the appeal proceedings stayed or for the hearing of 29 April 2020 to be adjourned

73. From the outset, the Court notes that, in the light of the Article 43 § 2 of Decree no. 195/2020, it has no reason to consider, as alleged by the applicant, that the Court of Appeal's refusal to stay the criminal proceedings at the hearing of 29 April 2020 represented an arbitrary or otherwise manifestly unreasonable interpretation of the above-mentioned provision (see paragraphs 30 and 39 above).

74. As regards the refusal of the Court of Appeal to adjourn the hearing of 29 April 2020, which the applicant alleged had prevented him from

engaging a lawyer and participating in and giving evidence at that hearing in the context of the travel restrictions imposed during the Covid-19 pandemic, the Court considers that such refusal, the ground for which was the applicant's dilatory strategy, cannot be assessed in isolation without considering the applicant's attitude in the face of the previous steps taken by the judicial authorities to allow his participation in the proceedings (see, *mutatis mutandis*, *Bivolaru (no.2)*, cited above, § 129).

75. First, the Court has already observed that the Court of Appeal had by that time adjourned the proceedings once so that the applicant could engage a lawyer of his choice, with a view to preparing his defence, and warned him that another adjournment on that ground would not be granted. In the light of that background and of the fact that the applicant neither took advantage of that opportunity nor complained of the quality of the defence provided by the court-appointed lawyers, the Court of Appeal reasonably had difficulties to trust the genuineness of the applicant's subsequent request for another adjournment based on the same ground (see paragraphs 18, 20 and 28 *in fine* above). Moreover, while noting that at the hearing of 29 April 2020 the court-appointed lawyer supported the applicant's request for adjournment and added that she was not able to communicate with the applicant (see paragraph 30 above), the Court also observes that the applicant's failure to appoint a lawyer of his own choosing and his failure to communicate with, including by email, either the Court of Appeal or the court-appointed lawyer, could not be seen supportive of a genuine willingness on his part to actively participate in the proceedings. Like the Government, the Court cannot but note in that respect that, despite the applicant's constant affirmation that he did not have any other means of communication apart from his (postal) address in the United Kingdom, the British authorities had tried to contact him using an email address to which they believed he had access and, moreover, the applicant himself had managed to contact the Court of Appeal, and forward a scanned document, using his partner's email address (see paragraphs 14, 25 and 28 above).

76. Second, the Court observes that at no point during the criminal proceedings against him, of which the applicant was well aware, did he show any interest in participating in those proceedings by submitting written submissions or proposing or giving evidence; that is true of both the first-instance and the appeal proceedings, and therefore includes the period prior to the introduction of strict restrictions owing to the Covid-19 pandemic (see paragraphs 11, 14 *in fine* and 31 *in fine* above). The Court further observes that, even though he should have been aware of the possibility, given the context and the applicable legislation laid out above, that his application seeking an adjournment might be refused and his case examined by the Court of Appeal, the applicant did not provide that court with any concrete examples of or precise details as to what information/evidence he would be able to produce before the Court of Appeal and how exactly it would prove his

innocence (see paragraph 29 *in fine* above). Lastly, the Court cannot but observe that this change of attitude – namely his sudden alleged wish to appear in person before the Court of Appeal – occurred at the very moment when, because of the Covid-19 pandemic and the introduction of restrictions on travel, the applicant's physical participation in the proceedings became impossible, with there being significant uncertainty as to when the conditions preventing his appearance might change, even according to his own assessment (see paragraph 29 above).

77. In the light of the above, and against the background of a criminal case concerning facts dating to 2009 that first came before the courts in 2017 (see paragraph 5 above), the Court does not find unreasonable in itself the Court of Appeal's characterisation as dilatory of the applicant's request described above.

78. However, in ensuring that considerations such as the right to trial within a reasonable time and those related to the efficiency of justice (see paragraph 53 above) do not impact disproportionately the applicant's right to a fair trial, the Court finds it necessary to assess whether the Court of Appeal had, in the context of this specific case, other effective means to ensure the applicant's participation. It observes that Law no. 302/2004 provided the judicial authorities with two means of hearing an accused person who was abroad and unable to appear in person, namely video-conferencing and letters rogatory (see paragraphs 41-43 above and also *Bivolaru (no.2)*, cited above, § 137), and that Decree no. 195/2020 also provided that, to the extent possible, the domestic courts that continued to process their cases during the state of emergency had to take the necessary measures for hearings to be held via videolink (see Article 42 § 3 in paragraph 39 above). The Court has previously held, including in the context of the Covid-19 pandemic, that, when the domestic courts are confronted with the participants' inability to physically attend hearings, participation in proceedings by videolink is not, in itself incompatible with the requirement of a fair and public trial, as long as the measure in any given case serves a legitimate aim and that the arrangements are compatible with that requirement (see, *mutatis mutandis*, *Jallow v. Norway*, no. 36516/19, § 64, 2 December 2021; *Alppi v. Finland* (dec.), no. 15736/22, § 19, 28 November 2023; and the case-law cited therein).

79. However, in the circumstances of the present case and considering the general attitude of the applicant towards the criminal proceedings against him (see paragraph 76 above), the fact that he was unreachable by the British authorities attempting to serve him the summons to appear, and the fact that he indicated that he didn't have an email address and avoided any electronic communication (see paragraphs 14 and 75 above) – which are indispensable to video-conferencing – the Court finds the fact that the Court of Appeal failed to propose to the applicant that he participate in the hearing either by

way of letters rogatory or by appearing via videolink cannot be held against it (see also, *mutatis mutandis*, *Bivolaru (no.2)*, cited above, § 142).

80. Third, the Court further notes that the applicant was convicted at first instance by the District Court and sentenced to prison (see paragraphs 8-9 above). In the appeal proceedings about which the applicant complained, the Court of Appeal upheld both the conviction and the sentence, and only modified the civil limb of the judgment (see paragraph 32 above). Thus, the Court of Appeal merely upheld the applicant's conviction and sentence as decided at the first-instance level (contrast, *Constantinescu v. Romania*, no. 28871/95, §§ 56-61, ECHR 2000-VIII). Lastly, the Court also attaches importance to the fact that the case was examined on its merits, that the remedies available under domestic law were used by the applicant, regardless of his physical presence at the trial, and that his extraordinary appeal for annulment was carefully examined by the Court of Appeal, which presented reasonable grounds that there was no evidence of arbitrariness in the judgments against him, before rejecting the appeal (see paragraphs 34-36 and 69 above).

81. In the light of the above, the Court considers that the Court of Appeal made every effort that could reasonably be expected of it within the existing legal framework to allow the applicant to participate in the appeal proceedings (see, *mutatis mutandis*, *Bivolaru (no.2)*, cited above, § 145) and that the applicant had largely contributed, by his attitude throughout the whole proceedings, to bringing about the situation in which, when the hearing at which his appeal was examined took place on 29 April 2020 against the background of the Covid-19 pandemic, he was prevented from taking part in it (see, *mutatis mutandis*, *Medenica*, cited above, § 58).

82. The foregoing considerations are sufficient to enable the Court to conclude that, in the circumstances of the case and regard being had to the margin of appreciation allowed to the domestic authorities, the examination of the applicant's appeal *in absentia* and the refusal to annul the proceedings and grant him a retrial did not amount to a disproportionate measure. Therefore, regard being had to the proceedings as a whole, the overall fairness of the criminal proceedings against the applicant was ensured.

83. There has accordingly been no violation of Article 6 §§ 1 and 3 (c) of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been no violation of Article 6 §§ 1 and 3 (c) of the Convention.

VASILE RUSU v. ROMANIA JUDGMENT

Done in English, and notified in writing on 4 November 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Simeon Petrovski
Deputy Registrar

Lado Chanturia
President