

Press release issued by the Registrar

Decision on admissibility

[Adrian Mihai Ionescu v. Romania](#) (application no. 36659/04)

Application inadmissible

**FIRST APPLICATION BY THE COURT OF THE NEW ADMISSIBILITY CRITERION
INTRODUCED BY PROTOCOL NO.14**

Principal facts

The applicant, Mr Adrian Mihai Ionescu, was born in 1974 and lives in Bucharest. In an action brought before the Bucharest Court of First Instance, he sought damages in the amount of 90 euros from a road transport company. He had travelled between Bucharest and Madrid with the company and alleged that it had failed to observe the safety and comfort requirements set out in its advertising material (use of fully reclining seats, change of coach in Luxembourg and availability of six drivers).

On 7 January 2004 the court dismissed his action, observing that none of the clauses referred to by Mr Ionescu appeared in the contract of carriage. The court did not rule on a request by the applicant for the production of certain items of evidence by the company. Mr Ionescu subsequently appealed on points of law to the same court, but the case was referred to the High Court of Cassation and Justice. In a final judgment delivered on 2 April 2004 in the absence of the parties, who had not been summoned to appear, the High Court declared the appeal null and void on the ground that it had not stated the reasons why the first-instance court's decision was alleged to be unlawful. Mr Ionescu applied to have that judgment set aside; his application was dismissed on 26 January 2005 as no appeal lay against the judgment.

Complaints, procedure and composition of the Court

Mr Ionescu complained, firstly, that the Court of First Instance had failed to rule on his request for the production of evidence. He further complained that the proceedings in the High Court of Cassation and Justice had not been conducted in public, that his appeal on points of law had been declared null and void and that the High Court's judgment had not been subject to appeal. He relied on Article 6 § 1 (right to a fair hearing) of the European Convention on Human Rights.

The application was lodged on 1 October 2004.

The decision on admissibility was given on 1 June 2010 by a Chamber composed of seven judges:

Josep **Casadevall** (Andorra), **President**,
Elisabet **Fura** (Sweden),
Corneliu **Bîrsan** (Romania),
Alvina **Gyulumyan** (Armenia),
Egbert **Myjer** (the Netherlands),
Ineta **Ziemele** (Latvia),
Ann **Power** (Ireland), **judges**,

and also Santiago **Quesada**, **Section Registrar**.

Decision of the Court

Complaint concerning the proceedings in the Court of First Instance

The Court reiterated that the admissibility of evidence was primarily a matter for national law. In this case, the Court of First Instance had carried out a wholly independent assessment of the evidence adduced by the parties and given adequate reasons for its judgment, following adversarial proceedings. The applicant's first complaint was therefore manifestly ill-founded.

Complaint concerning the proceedings in the High Court of Cassation and Justice

The Court noted at the outset that these complaints were not incompatible with the provisions of the Convention, manifestly ill-founded or an abuse of the right of application. However, since the [entry into force of Protocol No. 14 to the Convention on 1 June 2010](#), a new admissibility criterion was applicable: an application is inadmissible where *"the applicant has not suffered a significant disadvantage, unless respect for human rights as defined in the Convention and the Protocols thereto requires an examination of the application on the merits and provided that no case may be rejected on this ground which has not been duly considered by a domestic tribunal"*. The Court considered it necessary to examine of its own motion whether the present case fell into this category.

It examined, firstly, whether the applicant had suffered any significant disadvantage (the main aspect of the new criterion). This was not the case, since the alleged financial loss was limited (90 euros, according to Mr Ionescu) and there was no evidence that the applicant's financial circumstances were such that the outcome of the case would have had a significant effect on his personal life.

Secondly, it examined whether respect for human rights required an examination of the application on the merits. The answer was again negative, since the relevant legal provisions had been repealed, and the issue before the Court was therefore of historical interest only.

Lastly, the Court noted that the case had been "duly considered" on the merits by a tribunal, namely the Bucharest Court of First Instance.

The three conditions of the new admissibility criterion had therefore been satisfied.

Accordingly, the Court, by a majority, declared the application inadmissible.

The decision is available in French and English. This press release is a document produced by the Registry; the summary it contains does not bind the Court. The decision is accessible on its Internet site (<http://www.echr.coe.int>).

Press contacts

echrpess@echr.coe.int / +33 3 90 21 42 08

Frédéric Dolt (tel: + 33 (0)3 90 21 53 39) or

Emma Hellyer (tel: + 33 3 90 21 42 15)

Tracey Turner-Tretz (tel: + 33 (0)3 88 41 35 30)

Kristina Pencheva-Malinowski (tel: + 33 (0)3 88 41 35 70)

Céline Menu-Lange (tel: + 33 (0)3 90 21 58 77)

Nina Salomon (tel: + 33 (0)3 90 21 49 79)

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.