



Romanian proceedings which led to businessman's detention under European Arrest Warrant in UK met Convention criteria

In its decision in the case of [B.A.A. v. Romania](#) (application no. 70621/16) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerned the applicant's complaint about an arrest order issued by the Romanian authorities.

The Court held that the authorities had adhered to Convention criteria when ordering the applicant's arrest, which was eventually carried out in the United Kingdom under a European Arrest Warrant.

In particular, the authorities had provided sufficient notification of the proceedings against him, had confirmed that he had absconded, and had given him an opportunity to either appear in person or have a lawyer represent him. It also accepted the domestic courts' view that a more lenient measure would not have been effective.

The case did not disclose any violation of the Convention and had to be rejected as manifestly ill-founded.

Principal facts

The applicant is a German national who was born in 1978 and is currently in London.

In 2014 the Romanian prosecuting authorities started an investigation into Mr B.A.A for allegedly giving bribes to judges and embezzlement, while his father was indicted with corruption. The two were well-known businessmen who had made investments in the country.

In 2016 the courts granted a request from the prosecutor to order Mr B.A.A.'s arrest and pre-trial detention, finding that there was a reasonable suspicion of corruption. The evidence for their decision included witness statements, official documents and recordings of telephone conversations, indicating that the applicant had apparently tried to bribe judges to obtain preferential treatment for companies in which he and his father had financial interests and had committed embezzlement.

The courts also concluded that the applicant had absconded and that it was not possible to envisage any more lenient measure than detention. They noted in particular that the authorities had unsuccessfully tried to notify the applicant of the proceedings, in Monaco and in London, by email and by telephone. He had apparently disconnected his telephone in Monaco after the local police had informed him of the Romanian authorities' attempts to serve the necessary documents on him.

The Romanian authorities issued a European Arrest Warrant for the applicant and he was eventually arrested in London in 2018. According to the latest information, he is still in detention pending extradition awaiting an appeal hearing by the High Court of England and Wales.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 24 November 2016.

Relying in particular on Article 5 (right to liberty and security), Mr B.A.A. complained about the warrant for his arrest, arguing that there had been no real need to arrest him two years after the start of the investigation and that the courts had not examined whether it was possible to impose a less strict measure. He also alleged under Article 18 (limitation on use of restrictions on rights) taken

together with Article 5 that the Romanian authorities had ordered his arrest as a means to eliminate his family's companies from the market.

The decision was given by a Committee of three judges, composed as follows:

Paulo **Pinto de Albuquerque** (Portugal), *President*,
Faris **Vehabović** (Bosnia and Herzegovina),
Carlo **Ranzoni** (Liechtenstein),

and also Andrea **Tamietti**, *Deputy Registrar*.

Decision of the Court

Article 5

The Court noted that although the applicant had been arrested and put into detention in the United Kingdom, the reason for that process was the European Arrest Warrant issued by Romania. It therefore had to examine Romania's actions in the context of the complaint.

It reiterated that detention pending trial could be compatible with the Convention if it was based on a reasonable suspicion that a person had committed an offence, if it aimed to bring that person before a competent legal authority and was lawful.

If detention had been ordered because someone had failed to appear when summoned, the authorities had to ensure the individual had had enough notice and time to comply with the order and they had to take reasonable steps to confirm that he or she had actually absconded.

The Court found that the suspicions against the applicant were based on extensive evidence which was enough to satisfy an objective observer that he might have committed the offences in question.

The arrest warrant had been issued for the purpose of bringing him before a court in Romania, which had not been possible up to that point because he had left the country, a situation which could not be imputed to the authorities.

Furthermore, the warrant had been issued because the applicant had apparently absconded as efforts to contact him at his last known address in Monaco, though his companies' headquarters, or by email and telephone had been unsuccessful. Indeed, he had apparently disconnected his telephone after being contacted by the Monegasque police.

In Romania, he had been represented by a lawyer and his allegations of not being duly served with the notification of the proceedings had been examined by the courts, whose assessment the Court accepted. It also saw no reason to depart from their findings about the need to detain him rather than impose a more lenient measure.

The Court found that the domestic authorities had taken reasonable steps to inform the applicant of the proceedings and to confirm that he had absconded. He had had the possibility to appear before the courts in person or through a lawyer of his own choice. There was nothing in the case file to show the lawyer had been hindered in representing his client or presenting arguments.

Based on the material before it, the Court could not discern any violation of Article 5 § 1 (c) of the Convention and the applicant's complaint had to be rejected as manifestly ill-founded.

Article 18

The applicant had not proven "beyond reasonable doubt" that the authorities' actions had been aimed at removing his family's companies from the domestic market. The Court found no appearance of a violation of Article 18 and rejected this complaint as manifestly ill-founded.

The decision is available only in English.

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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.