



Grand Chamber hearing concerning an individual's complaint that he was convicted twice in criminal proceedings of the same acts

The European Court of Human Rights is holding a **Grand Chamber**¹ hearing today **Wednesday 3 October 2018 at 9.15 a.m.** in the case of **Mihalache v. Romania** (application no. 54012/10).

The case concerns Article 4 of Protocol No. 7 to the European Convention on Human Rights (right not to be tried or punished twice).

The hearing will be broadcast from 2.30 p.m. on the Court's Internet site (www.echr.coe.int). After the hearing the Court will begin its deliberations, which will be held in private. Its ruling in the case will, however, be made at a later stage.

On 3 May 2008 Mr Mihalache was stopped by the police while driving and underwent a breathalyser test. As the test was positive the police officers requested that the applicant accompany them to a hospital for a blood test to determine his blood alcohol level. Mr Mihalache refused.

In July 2008 the public prosecutor's office instituted criminal proceedings against him for refusing to undergo biological tests to determine the level of alcohol in his blood. In August 2008 the public prosecutor's office terminated the proceedings on the grounds that the acts committed were not sufficiently serious to constitute an offence. However, it ordered Mr Mihalache to pay an administrative fine equivalent to around 250 euros (at the time). Mr Mihalache paid the fine.

In January 2009 the higher-ranking public prosecutor's office set aside the administrative fine, taking the view that the penalty had not been appropriate in view of the degree of danger to society and the acts of which the applicant was accused, the nature of the social norms he had breached and the specific circumstances in which the acts had been committed. The criminal proceedings were reopened and Mr Mihalache was tried and sentenced to a suspended term of one year's imprisonment by a final judgment of the Galati Court of Appeal of 14 June 2010.

Relying on Article 4 of Protocol No. 7 to the European Convention of Human Rights (right not to be tried or punished twice), Mr Mihalache complains of being convicted twice of the same offence.

Procedure

The application was lodged with the European Court of Human Rights on 10 September 2010.

On 19 June 2013 [notice](#) of the application was given² to the Romanian Government, together with questions from the Court.

On 27 March 2018 the Chamber to which the case had been allocated relinquished jurisdiction in favour of the Grand Chamber.

1 Under Article 30 of the European Convention on Human Rights, "Where a case pending before a Chamber raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber, unless one of the parties to the case objects."

2. In accordance with Rule 54 of the Rules of Court, a Chamber of seven judges may decide to bring to the attention of a Convention State's Government that an application against that State is pending before the Court (the so-called "communications procedure"). Further information about the procedure after a case is communicated to a Government can be found in the Rules of Court.

Composition of the Court

The case will be heard by a Grand Chamber, composed as follows:

Guido **Raimondi** (Italy), *President*,
 Angelika **Nußberger** (Germany),
 Linos-Alexandre **Sicilianos** (Greece),
 Ganna **Yudkivska** (Ukraine),
 Robert **Spano** (Iceland),
 Vincent A. **De Gaetano** (Malta),
 Paulo **Pinto de Albuquerque** (Portugal)
 Helen **Keller** (Switzerland),
 Egidijus **Kūris** (Lithuania),
 Iulia Antoanella **Motoc** (Romania),
 Branko **Lubarda** (Serbia),
 Stéphanie **Mourou-Vikström** (Monaco),
 Georges **Ravarani** (Luxembourg),
 Georgios A. **Serghides** (Cyprus),
 Marko **Bošnjak** (Slovenia),
 Péter **Paczolay** (Hungary),
 María **Elósegui** (Spain), *judges*,
 Alena **Poláčková** (Slovakia),
 Lətif **Hüseynov** (Azerbaijan),
 Jon Fridrik **Kjølbro** (Denmark), *substitute judges*,

and also Søren **Prebensen**, *Deputy Grand Chamber Registrar*.

Representatives of the parties

Government

Catrinel **Brumar**, *Agent*,
 Sorana Delia **Popa**, *Adviser*;

Applicant

Matei **Bratu**, *Counsel*.

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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.