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

FOURTH SECTION

DECISION

Application no. 61547/19
Alina Elena BADEA
against Romania

The European Court of Human Rights (Fourth Section), sitting on 23 September 2025 as a Committee composed of:

Ana Maria Guerra Martins*, President*,
Anne Louise Bormann,
Sebastian Răduleţu*, judges*,

and Crina Kaufman, *Acting Deputy Section Registrar,*

Having regard to:

the application (no. 61547/19) against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 5 November 2019 by a Romanian national, Ms Alina-Elena Badea ("the applicant"), who was born in 1988, lives in Craiova, and was represented by Ms E.C. Larion, a lawyer practising in Piteşti;

the decision to give notice of the application to the Romanian Government ("the Government"), represented by their Agent, Ms O.F. Ezer, of the Ministry of Foreign Affairs;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. By a final decision of 5 April 2018, the Bucharest Court of Appeal sentenced the applicant to an aggregated suspended sentence of two years and two months. By a final decision of 25 April 2018, the same court sentenced the applicant to an aggregated suspended sentence of two years and four months for different crimes than those concerned by the decision of 5 April 2018.

2. On the basis of Article 585 of the Code of Criminal Procedure, which allows for sentences to be amended if it is later discovered that the defendant

has been convicted in a parallel set of proceedings, the Probation Service requested that the Bolintin Vale District Court ("the District Court") aggregate the sentences imposed on the applicant by the above-mentioned final decisions (see paragraph 1 above).

3. The applicant, who was present at the hearing before the District Court and represented by a lawyer, pointed out that the penalties were concurrent and also requested that they be aggregated.

4. By a judgment of 15 October 2018, the District Court first deconstructed the sentences imposed on 5 April and 25 April 2018 into their original components. The court then applied Article 39 of the Criminal Code, which provides that, where multiple sentences are aggregated, the court applies the most severe prison sentence imposed for the individual offences as a base and it then adds a judicial increase of one-third of the sum of the remaining sentences. Applying that rule, the District Court arrived at an aggregated prison sentence of three and a half years, which the applicant was ordered to serve in prison, given that Article 91 of the Criminal Code provides that only prison sentences shorter than three years may be suspended.

5. The applicant lodged an appeal against that judgment with the Giurgiu County Court ("the County Court"), without providing any grounds for appeal. In accordance with judicial practice, she could have presented her grounds for appeal in writing at the latest during the first hearing in the appellate court.

6. At the hearing on 11 April 2019 the applicant, represented by her lawyer, requested that the County Court ask the High Court of Cassation and Justice to clarify certain legal provisions pertaining to the calculation of aggregated sentences.

7. The County Court adjourned the case to allow the prosecution time to prepare its submissions on the applicant's request. The audio-recording of the hearing indicated that the court had initially proposed a date of 19 April 2019 for the next hearing but had eventually set a date of 23 May 2019, following a request from the applicant's lawyer. However, 19 April 2019 was noted in the interlocutory judgment as the date of the next hearing, and it was that date that was later recorded in the court's electronic system, instead of 23 May 2019.

8. In accordance with Article 353 of the Code of Criminal Procedure, the applicant was not issued a summons for the hearing of 19 April 2019, as both she and her lawyer had been present at the hearing when the court had announced the date of the following hearing.

9. On 19 April 2019 the County Court heard the case in the absence of the applicant and her lawyer, who were unaware of the hearing on that day. The court heard the prosecution's arguments relating to the applicant's request (see paragraph 6 above) and on the merits of the case, and declared the case closed.

10. The County Court delivered its final decision on 19 April 2019, rejecting the applicant's request, finding that it related to sentences which had been served in part, whereas the applicant had not started serving either of her sentences, in so far as both sentences had been suspended. It further found that the applicant had not provided any specific grounds for appeal, and then it engaged, of its own motion, in an analysis of all the elements of fact and law of the impugned judgment, concluding that the District Court had calculated the final aggregated sentence correctly.

11. The operative part of the County Court's decision was served on the applicant on 2 May 2019. She started serving her sentence on 7 May 2019.

12. Relying on Article 5 § 1 of the Convention, the applicant complained that the County Court had scheduled the hearing in her case to be held on 23 May 2019, but had held it on 19 April 2019, thus placing her in post-conviction detention sooner than she would have been detained had the original schedule been respected.

13. Relying on Article 6 of the Convention, she complained that the proceedings against her had been unfair, because she had been deprived of her right to be present in court on 19 April 2019 and thus of the right to prepare and present her defence.

THE COURT'S ASSESSMENT

A. Complaint under Article 5 of the Convention

14. The Government submitted that the complaint under Article 5 of the Convention was incompatible *rationae materiae* with the provisions of the Convention. The Court finds it unnecessary to deal with that objection since it considers that the complaint should in any event be rejected for the following reasons.

15. At the outset, the Court notes that the applicant's detention falls within the scope of Article 5 § 1 (a) of the Convention, which permits the lawful detention of a person after conviction by a competent court (see *Barborski v. Bulgaria*, no. 12811/07, §§ 39-40, 26 March 2013). The general principles concerning detention after conviction by a competent court are set out in *James, Wells and Lee v. the United Kingdom* (nos. 25119/09 and 2 others, §§ 187-95, 18 September 2012). The Court reiterates that where a person is deprived of his or her liberty pursuant to a conviction by a competent court, the supervision required by Article 5 § 4 is incorporated in the decision by the court at the close of judicial proceedings and no further review is therefore required (see *Kafkaris v. Cyprus* (dec.), no. 9644/09, § 58, 21 June 2011).

16. The Court observes that the applicant's initial convictions of 5 April 2018 and 25 April 2018 were pronounced by the Bucharest Court of Appeal and that the judgments were in conformity with the procedural and

substantive rules of Romanian law, an element which the applicant does not dispute.

17. However, the Court must also satisfy itself that the deprivation of liberty was in keeping with the purpose of protecting the applicant from arbitrariness (see *James, Wells and Lee*, cited above, §§ 191-92, and *Szabo v. Sweden* (dec.), no. 28578/03, ECHR 2006-VIII). In that regard, the Court notes that the enforcement of the applicant's sentence was based on the County Court's decision of 19 April 2019 establishing the final aggregated sentence. The domestic courts calculated that sentence by applying public legal provisions, in respect of which they had no margin of appreciation. The provisions were thus entirely foreseeable to the applicant (see paragraph 4 above) and there was no need for the courts to make any fresh assessment as to the facts of the case or the applicant's guilt. Consequently, there was a sufficient causal link between the convictions and the applicant's deprivation of liberty.

18. Moreover, the Court notes that, save for the request of her lawyer on 11 April 2019 (see paragraph 6 above), the applicant did not provide grounds for her appeal (see paragraph 5 above) in order to question the manner in which the District Court established the final aggregated sentence. Given the very technical nature of the proceedings establishing the final aggregated sentence, the fact that the applicant was present during the proceedings before the District Court and was assisted by a lawyer (see paragraph 3 above), that her request presented to the County Court was rejected with reasons given (see paragraph 10 above), and that the County Court, after a fresh examination of the case, confirmed that the calculation of the final aggregated sentence had been correct (see paragraph 10 above), the Court considers that the applicant's absence at the hearing of 19 April 2019 does not, in itself, render her deprivation of liberty arbitrary. Although the applicant started serving her sentence earlier than she had expected, its duration remained unaltered (compare *Szabo*, cited above).

19. In the light of the above, this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

B. Complaint under Article 6 of the Convention

20. The relevant principles on the applicability of Article 6 and the notion of "determination of a criminal charge" are summarised in *T. v. the United Kingdom* ([GC], no. 24724/94, § 108, 16 December 1999), *Nurmagomedov v. Russia* (no. 30138/02, §§ 44-51, 7 June 2007) and *Kereselidze v. Georgia* (no. 39718/09, § 30, 28 March 2019).

21. In the present case, the relevant proceedings, which ended with the County Court's decision of 19 April 2019, concerned only the calculation of the final aggregated sentence for convictions that were already final (see

paragraphs 1 and 2 above). During those proceedings, the domestic courts were not in a position to assess the facts or to attribute a different legal characterisation of the facts established in the final decisions of the Bucharest Court of Appeal of 5 April and 25 April 2018, nor were they empowered to quash the final convictions (contrast *Eckle v. Germany*, 15 July 1982, § 77, Series A no. 51; *Aleksandr Dementyev v. Russia*, no. 43095/05, §§ 23-26, 28 November 2013; and *Kereselidze*, § 32, cited above). Those proceedings merely involved a mathematical operation, excluding any judicial discretion, in so far as the calculation method and its implications for execution were clearly determined by law (see paragraph 4 above; see *Nurmagomedov*, § 49, cited above).

22. The Court therefore considers that the proceedings finalised by the decision of 19 April 2019 did not involve a "determination of a criminal charge" against the applicant. It follows that Article 6 of the Convention does not apply to the proceedings in question. This complaint is therefore incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 16 October 2025.

Crina Kaufman Acting Deputy Registrar	Ana Maria Guerra Martins President