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

FOURTH SECTION

DECISION

Application no. 32342/15
Adriana BALAZS
against Romania

The European Court of Human Rights (Fourth Section), sitting on 8 February 2022 as a Committee composed of:

Gabriele Kucsko-Stadlmayer, *President,*
Iulia Antoanella Motoc,
Pere Pastor Vilanova, *judges,*
and Ilse Freiwirth, *Deputy Section Registrar,*

Having regard to:

the application (no. 32342/15) against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 26 June 2015 by a Romanian national, Ms Adriana Balazs, who was born in 1979 and lives in Răscruci ("the applicant") and was represented by Mr D.C. Moș, a lawyer practising in Cluj-Napoca;

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

the parties' observations;

Having deliberated, decides as follows:

SUBJECT-MATTER OF THE CASE

1. By prosecutor's decision of 29 January 2014, the applicant was charged with fraud and forgery having caused pecuniary damage to a private person. The decision, that had been notified to the applicant, mentioned that the private person had joined the proceedings as civil party and had asked for the restitution of the damage incurred in the amount of 30,000 Romanian Lei (ROL, approximately 6,700 euros).

2. On 17 March 2014 the preliminary chamber judge of the Gherla District Court verified the lawfulness of the prosecutor's decision above, took

note that the applicant's lawyer had made no requests or complaints and declared the case ready for trial.

3. At the first hearing, the court informed the applicant of her procedural rights. The prosecutor asked the court to convict the applicant as charged and to order her to pay the damages in favour of the civil party. The civil party requested that the applicant be ordered to pay the damages in the amount of ROL 30,000. When specifically asked by the judge, the applicant, represented by a lawyer, stated that she did not have any requests or arguments to raise and no evidence to propose. She had further recognised her guilt and requested to be tried in accordance with the simplified procedure available to those who accept the charges brought against them.

4. On 19 May 2014 the Gherla District Court, taking note of the applicant's recognition of guilt, examined the facts of the case and the evidence put forward by the investigation and found it established that the applicant had committed with intent the offences with which she had been charged, offences that had caused pecuniary damage to the civil party. The court convicted the applicant of fraud and forgery to a suspended sentence and ordered her to pay ROL 30,000 to the civil party in respect of pecuniary damage.

5. The applicant, represented by a new lawyer, appealed against that judgment asking to be acquitted of fraud and that the civil party's claim for damages be rejected. In her reasons for appeal, the applicant complained that the Gherla District Court had not given any reasons for its decision in respect of the damage and no evidence had been administered on this issue.

6. At the first hearing before the court of appeal the applicant, represented by her lawyer, reiterated her reasons for appeal and asked the court to allow the submission of evidence in order to prove the correct amount of damages to be awarded. The court rejected the request having in mind the nature of the recognition of guilt proceedings and the stage of the proceedings.

7. On 2 December 2014 the Cluj Court of Appeal dismissed the applicant's appeal. The court reviewed the facts of the case as admitted by the applicant during the investigation and before the Gherla District Court and took note that, in her appeal, the applicant had not denied the commission of forgery. Considering that the offence of forgery had been committed for the purpose of the subsequent fraud that had caused material damage to a private person and noting that the applicant had chosen the simplified recognition of guilt proceedings and thus, benefitted from a more lenient sentence, the Cluj Court of Appeal found that the district court had adopted a correct decision that was in accordance with the law. Moreover, the sanctions applied to the applicant had been lawful as to their quantum and manner of execution. Therefore, there was no reason to allow the applicant's appeal.

8. Relying on Articles 6 § 1 and 13 of the Convention, the applicant complained of the Gherla District Court's failure to give reasons for its

decision on the award of damages and the subsequent lack of reply by the Cluj Court of Appeal to her reasons of appeal in this connection.

THE COURT'S ASSESSMENT

9. The applicant alleged that she had accepted, before the prosecutor and the courts, only the facts on which the charges had been based but not the amount of the damages requested by the civil party. That being so, the courts should have administered evidence on this aspect and given reasons for their decisions. In the absence of such reasons, her right to a fair trial and to an effective remedy had been breached.

10. The Government submitted, based on opinions collected from numerous national courts, that the applicant's choice to benefit from the simplified procedure of the admission of guilt implied the admission of the charges as formulated by the prosecutor, including the damage caused by the offences on trial. This procedure allowed for a speedier trial on the basis of the evidence put forward during the investigation and a lenient sentence for the accused. Having in mind that the applicant failed to raise any arguments in connection with the damage before the first instance court, the court of appeal had adopted an adequately reasoned decision at that stage of the proceedings. In this context, the domestic courts had correctly applied the legal provisions governing the admission of guilt procedure and the proceedings as a whole had been fair.

11. The Court will examine the applicant's complaints solely under Article 6 § 1 of the Convention, taking the view that the guarantees of Article 13 are absorbed by the stricter guarantees of Article 6.

12. The general principles for assessing whether national courts have given reasons for their decision in compliance with the fair trial guarantees set forth by Article 6 § 1 have been summarised in *Boldea v. Romania* (no. 1997/02, §§ 28-30, 15 February 2007). The extent to which this duty to give reasons applies may vary according to the nature of the decision and must be determined in the light of the circumstances of the case (see *García Ruiz v. Spain* [GC], no. 30544/96, § 26, ECHR 1999-I).

13. In the present case the Court notes that the applicant had been informed of the charges against her and of the civil party's request for damages, was represented by a lawyer, was informed of her procedural rights and was given the opportunity to put forward her arguments before a court in fully adversarial proceedings (see paragraphs 1-3 above). She chose to make use of the simplified procedure of the admission of guilt (stipulated by Articles 374(4) and 396(10) of the Code of Criminal Procedure), without contesting before the first instance court any of the findings of the investigation or the amount requested by the civil party and without proposing any evidence (see paragraphs 2 and 3 above). In this context and in the light of the opinions given by national courts (see paragraph 10 above),

it can be reasonably construed that the Gherla District Court had considered that the applicant had accepted all the findings of the investigation, including the specific amount of the damages. Moreover, in the absence of any requests or complaints raised by the applicant in connection with the damages as established by the prosecution, the Gherla District Court cannot be criticised for not expanding its reasoning on this issue. In addition, the Court does not discern any breach of the rights of the defence or a failure from the domestic court to reply to arguments raised by the applicant. The decision of the Gherla District Court, that examined the facts and the evidence put before it, cannot be qualified as arbitrary to the point of prejudicing the fairness of proceedings.

14. Subsequently, before the Cluj Court of Appeal, the applicant had again the opportunity to put forward her arguments and was represented by a lawyer (see paragraphs 5 and 6 above). It results from the file that the court of appeal gave reasons for rejecting the applicant's request for new evidence (see paragraph 6 above) which, in the Court's opinion, could be understood as being an implicit reasoning for the rejection of the applicant's reasons for appeal in connection with the civil damages. On this point, the Court reiterates that while Article 6 guarantees the right to a fair hearing, it does not lay down any rules on the admissibility of evidence as such, which is primarily a matter for regulation under national law (see *García Ruiz*, cited above, § 28). Moreover, the Court notes that the court of appeal reviewed the findings and the sanctions imposed by the lower court and rejected the applicant's appeal in accordance with the law (see paragraph 7 above).

15. In the light of the foregoing considerations, the Court concludes that the applicant had the benefit of adversarial proceedings. At the various stages of those proceedings she was able to submit the arguments she considered relevant to her case. The factual and legal reasons for the first instance court decision were set out within the limits of the procedural requirements for the admission of guilt proceedings which she had accepted. In the judgment at the appeal stage the Cluj Court of Appeal endorsed the statement of the facts and the legal reasoning set out in the judgment at first instance in so far as they did not conflict with its own findings and gave reasons for rejecting the applicants' request for new evidence. The applicant may not therefore validly argue that this judgment lacked reasons.

16. In conclusion, the Court considers that, taken as a whole, the proceedings in issue were fair for the purposes of Article 6 § 1 of the Convention. It follows that the application must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 3 March 2022.

Ilse Freiwirth Deputy Registrar	Gabriele Kucsko-Stadlmayer President