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

FOURTH SECTION

DECISION

Application no. 40068/19
Şerban Alexandru BRĂDIŞTEANU
against Romania

The European Court of Human Rights (Fourth Section), sitting on 28 April 2026 as a Committee composed of:

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

and Valentin Nicolescu, *Acting Deputy Section Registrar,*

Having regard to:

the application (no. 40068/19) against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 18 July 2019 by a Romanian national, Mr Șerban Alexandru Brădișteanu ("the applicant"), who was born in 1951 and lives in Bucharest, and was represented by Ms A. Diculescu-Șova, a lawyer practising in Bucharest;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the confiscation of assets belonging to the applicant – a doctor and former member of parliament – which were deemed by a court in civil proceedings as unexplained, on the basis of the Romanian legal framework on integrity in public office. It raises issues under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention.

2. On the basis of Article 12 §§ 1 and 2 of Law no. 176/2010 on integrity in public office ("Law no. 176/2010"), the National Integrity Agency (*Agenția Națională de Integritate* – "the ANI") started proceedings to verify the applicant's assets accumulated in the period in which he had held public office. At the end of the verification proceedings, during which the applicant had presented his arguments and submitted documents through a lawyer of his own choice, the ANI concluded that there had been a significant

difference, totalling 3,595,333 euros and 414,000 United States dollars, between the applicant's income and expenses from 2000 to 2005. The case was sent to the Commission for the Verification of Assets attached to the Bucharest Court of Appeal ("the Commission"), in view of the opening of verification proceedings under Article 18 of Law no. 176/2010.

3. After hearing the applicant in the presence of his lawyers and after examining the written evidence submitted, including expert accounting reports, the Commission considered that the applicant had not supported with evidence his allegations that he had merely been the depositary of the amounts in question, which he had been holding for a private person. The Commission decided to notify the Bucharest Court of Appeal under Article 10^4 § 1 (a) of Law no. 115/1996 on the declaration of assets and the verification of assets of dignitaries, members of the judiciary, people holding management positions and public servants ("Law no. 115/1996") so that a decision could be taken regarding whether to confiscate the amounts that had not been explained.

4. After reviewing all evidence adduced and hearing the parties' arguments, the Bucharest Court of Appeal considered that there was definite evidence that the applicant had failed to explain the source of 737,769.60 Swiss francs (CHF) and ordered the confiscation of that amount, pursuant to Article 18 of Law no. 115/1996. The court replied to all arguments raised by the applicant and explained that the verification by the ANI, the subsequent proceedings and the decision of the Commission had been in accordance with the law, the Constitution and the Constitutional Court's case-law. As regards the applicant's allegations that he had previously been acquitted on charges of corruption and therefore the proceedings at hand had breached the *ne bis in idem* principle, the court explained that the proceedings for the verification of assets had not concerned a criminal accusation or sanction and, therefore, had not breached the *ne bis in idem* principle.

5. An appeal on points of law lodged by the applicant against the above-mentioned judgment was rejected with final effect by the High Court of Cassation and Justice on 26 November 2018 (notified to the applicant on 6 March 2019). The court had examined the entire file and had found that the proceedings had been in accordance with the law and that the applicant – who had been represented by lawyers of his choice throughout the entire proceedings – had had ample opportunity to present his arguments that had been thoroughly examined and replied to at all stages of the proceedings. It further confirmed that there was sufficient evidence that the applicant had failed to explain the source of the CHF 737,769.60.

6. Relying on Article 6 § 1 of the Convention, the applicant complained of unfairness of the confiscation proceedings in that he had been forced to bear an excessive burden of proof, in breach of the constitutional principle that property was to be presumed to have been acquired in a licit manner. The applicant further complained that the confiscation of his assets in the absence

of the establishment of his guilt for a criminal or administrative offence had breached Article 1 of Protocol No. 1 to the Convention. Relying on Article 4 of Protocol No. 7 to the Convention, the applicant also complained that he had been tried twice for the same acts. More specifically, after he had been acquitted on charges of corruption, the proceedings for verification of the source of his assets had been opened in connection with the same assets which he had previously been suspected of having acquired through allegedly corrupt acts of which he had been acquitted.

THE COURT'S ASSESSMENT

A. Complaint under Article 6 § 1 of the Convention

7. The Court, firstly, reiterates its well-established case-law that in cases such as the present one, Article 6 § 1 of the Convention is applicable under its civil head (see, among many authorities, *Gogitidze and Others v. Georgia*, no. 36862/05, § 121, 12 May 2015, and *Păcurar v. Romania*, no. 17985/18, § 140, 24 June 2025).

8. The Court has previously examined the applicable Romanian legal framework (see *Păcurar*, cited above, §§ 72-87) and procedures for the confiscation of unexplained assets provided by that legal framework and found them to be in compliance with the fair-trial guarantees set out in Article 6 § 1 of the Convention (ibid., §§ 146-57). In this regard, the Court has held that procedures for the verification of assets are carried out on the basis of the general rules of civil procedure and the domestic legislation gives those whose assets are being verified ample opportunity to participate in the proceedings from the outset (ibid., §§ 155-56).

9. In the present case, the Court observes that the applicant (who was represented by lawyers of his choice) had ample opportunity to present his arguments on points of fact and law before the administrative bodies and the courts at two levels of jurisdiction. He received thoroughly reasoned replies to all his allegations and requests, in the absence of any arbitrariness and in compliance with the applicable law (see paragraphs 3-5 above). The courts duly examined and responded to the applicant's arguments in the light of the available evidence and concluded that certain assets had not been explained by him.

10. In the light of the above, the Court concludes that the applicant's right to a fair trial was not breached in the present case. It follows that 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 1 of Protocol No. 1 to the Convention

11. The Court points out that it has already examined similar complaints and found the impugned confiscation measure to be in compliance with the provisions of Article 1 of Protocol No. 1 to the Convention (see *Păcurar*, cited above, §§ 168-201).

12. In the present case, it also finds that the impugned measure was prescribed by law (Article 18 of Law no. 115/1996; see paragraph 4 above) and effected in accordance with the general interest of intensifying the fight against corruption and preserving integrity in public office. Moreover, the measure had its basis in a legal framework adopted in order to comply with the requirements of the rule of law put forward by the European Commission in the context of Romania's accession to the European Union (see *Păcurar*, cited above, §§ 179 and 182).

13. As regards the proportionality of the measure in issue, the Court refers to its findings in *Păcurar* (cited above, §§ 183-201), which likewise apply to the present case.

14. Accordingly, it notes that on the basis of Laws nos. 115/1996 and 176/2010 – which pursued the aims indicated above – the applicant, as a public servant, was under an obligation to declare his assets and explain their source. The applicable legal framework and the domestic courts' consistent and unified interpretation of that framework indicate that failing to do so would cast doubt on the licit source of the assets in question (see *Păcurar*, cited above, § 101) and trigger the need to apply sanctions in order to preserve the scope of the law (see paragraphs 2 and 3 above).

15. The Court further notes that the proceedings for the verification of the source of the applicant's assets followed clear, foreseeable and generally applicable rules of civil procedure (see *Păcurar*, cited above, §§ 155 and 179) and respected fair-trial guarantees (see paragraph 10 above). The measure was applied on the basis of a thorough examination of the evidence submitted to the courts by both the applicant and the ANI, in proceedings in which the applicant's full participation was ensured at two levels of jurisdiction (see paragraphs 4-5 above). The applicant's personal circumstances were fully taken into account by the courts, which accepted evidence submitted by him, including expert accounting reports, and also evidence provided by his witnesses. The confiscation measure was applied only after several steps of verification and after the courts had formed the opinion that there were significant differences between the applicant's income and his assets. On this point, the Court notes that some of the arguments and evidence produced by the applicant to explain the origin of some of his assets were accepted by the Commission and the courts and led to certain amounts being deducted from the total sum to be confiscated from him (see paragraphs 2 and 5 above).

16. In view of the above, the Court considers that the proceedings in issue in the present case provided the applicant with sufficient safeguards so as to

ensure the proportionality of the measure, and it cannot be concluded that the measure was applied automatically, that the applicant had no opportunity to argue his case or that the domestic courts' findings were tainted with manifest arbitrariness (see, *mutatis mutandis*, *Telbis and Viziteu v. Romania*, no. 47911/15, § 81, 26 June 2018).

17. In the light of the foregoing and having regard to the Romanian authorities' wide margin of appreciation in their pursuit of the policy designed to combat corruption in the public service, the Court concludes that the proceedings for the confiscation of the applicant's assets in question, which were based on a procedure which was moreover in line with the relevant international standards (see paragraph 12 above), did not upset the requisite fair balance between the protection of the right of property and the requirements of the general interest (see *Păcurar,* cited above, § 200).

18. It follows that this complaint must be rejected as manifestly ill-founded, in accordance with Article 35 §§ 3 and 4 of the Convention.

C. Complaint under Article 4 of Protocol No. 7 to the Convention

19. The relevant principles concerning the protection against the duplication of criminal proceedings are summarised in *Mihalache v. Romania* ([GC], no. 54012/10, §§ 47-49, 53-54, 67 and 88-116, 8 July 2019) and most recently in *C.Y. v. Belgium* (no. 19961/17, §§ 35-37, 52-55 and 57-59, 14 November 2023). The three key components of the *ne bis in idem* principle are: whether both sets of proceedings were "criminal" in nature, whether the offence was the same in both sets of proceedings and whether there was a duplication of proceedings (see *Mihalache*, cited above, § 49).

20. The Court has previously held that the proceedings for the verification of assets, such as those in the present case, could not be qualified as "criminal" for the purposes of the Convention (see *Păcurar*, cited above, § 132). It follows that Article 4 of Protocol No. 7 to the Convention is not applicable to these proceedings.

21. Therefore, this complaint is 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 21 May 2026.

Valentin Nicolescu Acting Deputy Registrar	Ana Maria Guerra Martins President