

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

FOURTH SECTION

CASE OF BADEA v. ROMANIA

(Application no. 24011/23)

JUDGMENT

STRASBOURG

24 March 2026

This judgment is final but it may be subject to editorial revision.



In the case of Badea v. Romania,

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

Faris Vehabović*, President*,
Lorraine Schembri Orland,
Sebastian Răduleţu*, judges*,

and Valentin Nicolescu, *Acting Deputy Section Registrar,*

Having regard to:

the application (no. 24011/23) against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 31 May 2023 by a Romanian national, Mr Corneliu-Gabriel Badea ("the applicant"), who was born in 1979, lives in Maggia (Switzerland) and was represented by Mr A. Grigoriu, a lawyer practising in Bucharest;

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 decision to give priority to the application (Rule 41 of the Rules of Court);

the parties' observations;

the decision to reject the Government's objection to examination of the application by a Committee;

Having deliberated in private on 3 March 2026,

Delivers the following judgment, which was adopted on that date:

SUBJECT MATTER OF THE CASE

1. The application concerns proceedings for the return of the applicant's child, X, to Switzerland, the State of her habitual residence.

FACTUAL AND PROCEDURAL BACKGROUND

2. The applicant, a Romanian national, is the father of X, who was born in 2007 out of his relationship with Y.

3. Since 2018, upon the parents' agreement following their separation, X lived with the applicant in Switzerland and visited her mother in Romania.

4. On 24 August 2021 X, then aged 15, refused to return to Switzerland after a holiday in Romania.

5. On 13 October 2021 the applicant lodged proceedings for X's return to Switzerland under the Convention of 25 October 1980 on the Civil Aspects of International Child Abduction ("the Hague Convention").

6. Y opposed the return, alleging, among others, that X had refused to return to Switzerland because of her father's behaviour.

7. On 17 January 2022 the Bucharest County Court ("the County Court") dismissed the application for return. On 28 March 2022 the Bucharest Court of Appeal ("the Court of Appeal") quashed that decision and remitted the case for re-examination to the same court.

8. On 6 June 2022 the newly assigned County Court bench ordered the Bucharest Social Assistance and Child Protection Agency ("the child protection authority") to assess whether X (i) showed signs of physical or emotional abuse by the applicant; (ii) there was a risk that her behavioural disorders would be exacerbated if she were forcibly returned to Switzerland; and (iii) had the maturity to decide where it would be in her best interests to live. It also ordered that X be heard in the presence of a psychologist.

9. On 18 August 2022 a psychologist, D.A., from the child protection authority drew up a psychological report.

10. According to the report, X recounted, among others, an incident in which her father, while helping her untangle her hair, had applied a balm and had told her to remove her sports bra so it would not get dirty and had then continuously looked at her breasts. She also stated that when he would lift her up, he would touch her bottom.

11. With regard to her potential return to Switzerland, X stated that if she were forced to return, she could cut herself again, as she had done once before in Switzerland after schoolmates had laughed at her.

12. The report concluded that the clinical results indicated symptoms associated with emotional abuse or other types of trauma, liable to disturb X's psychological and emotional state. X scored highly in terms of anxiety, post-traumatic stress symptoms and signs of childhood abuse. X had below-average intelligence, but had age-appropriate development, sufficient to form and express a reasoned view as to where it would be in her best interests to live. Her statements regarding a potential return to Switzerland were associated with risk behaviours which she said had occurred while living there, and that, in the light of X's best interests and needs, she should not be exposed to conditions that could worsen psychological and behavioural issues. It was recommended that X undergo psychotherapy and receive psychoeducation on sexuality.

13. On 23 August 2022 the County Court heard X in the presence of a psychologist. X stated that she did not want to return to her father because he was using drugs (cannabis), shouting at her and did not allow her to wash herself. School in Switzerland had not been good because classmates had made fun of her. On her birthday in 2021, her father had given her a drink containing cannabis extract.

14. On 17 October 2022 (decision drafted on 16 December 2022) the County Court dismissed the application for return as unfounded, finding that the exceptions under Article 13 (b) and the following paragraph of the Hague Convention were applicable.

15. Referring to the conclusions of the psychological report (see paragraph 12 above), which it reproduced verbatim, the County Court concluded that the applicant's attitude towards X placed her in an "intolerable situation". The County Court further noted X's refusal to return to Switzerland (see paragraph 13 above), and held that her views, as expressed in court, justified refusing the return, given that at the age of 15 she had sufficient maturity to determine where her interests lay, as supported by the psychological assessment (see paragraph 12 above).

16. As regards the applicability of the exception to return provided under Article 13 (b) of the Hague Convention, the County Court concluded that the evidence as a whole (see paragraphs 9 and 13 above) confirmed that X wished to continue living in Romania and that her return to Switzerland, the idea of which caused her fear and anxiety, would not be psychologically beneficial. Thus, given X's refusal and the potential consequences of her return, it found that it was in X's best interests to remain in her current family environment. Lastly, the County Court found that the potential risk of renewed emotional abuse by the father justified refusing X's return to Switzerland under Article 13 (b).

17. The applicant lodged an appeal on points of law, arguing that the first-instance court had failed to examine essential aspects of the case, had disregarded the evidence he had submitted, and had based its decision solely on the minor's statements, which had not been corroborated by any other evidence. He further complained that, although the court had heard X, it had not questioned her about her allegations of abuse by her father, nor had it addressed the evidence he had produced indicating that she in fact had an affectionate relationship with her family in Switzerland.

18. On 1 February 2023 the Court of Appeal dismissed the appeal and upheld the County Court's decision (see paragraphs 14-16 above).

19. The Court of Appeal reviewed the County Court's findings and held that, in its view, the risk of recurrence of behaviours in which X had previously engaged while in Switzerland (self-harming) constituted the decisive element bringing X's situation within the scope of the exception to return provided under Article 13 (b) of the Hague Convention. The evidence submitted by the applicant did not alter the conclusion reached by the County Court, which had been based on the psychologist's opinion, corroborated by X's account of "episodes of self-harming" while in Switzerland.

20. As to the applicability of the second paragraph of Article 13 of the Hague Convention, the Court of Appeal noted that the exception required that two cumulative criteria be met, which the County Court had established. It confirmed that X's views had been considered only after her level of maturity had been duly evaluated (see paragraph 16 above) and that the factual matters underpinning that assessment fell outside the scope of an appeal on points of law.

21. In his observations on the merits of 26 September 2024, the applicant informed the Court that D.A., who had assessed X (see paragraph 9 above), had purportedly been issued with a written warning for ethical breaches when drawing up the report.

THE COURT'S ASSESSMENT

ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

22. Relying on Article 8 of the Convention, the applicant complained about the outcome of the return proceedings and their length.

23. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention or inadmissible on any other grounds. It must therefore be declared admissible.

24. The principles relating to the application of Article 8 of the Convention to return proceedings under the Hague Convention have been reiterated in *X v. Latvia* ([GC], no. 27853/09, §§ 92-108, ECHR 2013) and those regarding the requirement for expediency in return proceedings in *Adzic v. Croatia* (no. 22643/14, §§ 94-95, 12 March 2015).

25. The Court notes that the domestic courts refused to order X's return to Switzerland, relying on Article 13 (b) and the following paragraph of the Hague Convention. The County Court relied primarily on X's psychological assessment and her statement in court (see paragraphs 14-16 above) and found that the applicant's behaviour had placed X in an "intolerable situation" and that, for the same reasons, she had objected to her return. The Court of Appeal upheld those findings and, in addition, emphasised the psychologist's conclusion that X's return was associated with a risk of renewed self-harming, which it considered decisive for the application of Article 13 (b) (see paragraphs 19-20 above).

26. The applicant informed the Court about the psychologist's purported sanctioning (see paragraphs 9 and 21 above). The Court finds it unnecessary to determine whether the alleged professional failing had any bearing on the applicant's Convention rights, since, in any event, the proceedings as a whole fell short of the procedural safeguards required by Article 8 (see *X v. Latvia*, cited above, § 107).

27. Given that the Court of Appeal upheld the County Court's findings (see paragraphs 19-20 above) and that the latter was the only court to conduct a direct assessment of the evidence, the Court will refer primarily to the County Court's reasoning.

28. The Court notes that the reasoning of the County Court is scant and reveals that the issues before it have not been effectively examined (see *X v. Latvia*, cited above, § 106; and, *a contrario*, *Voica v. Romania*, no. 9256/19, § 67, 7 July 2020). While the County Court found that the applicant had placed X in an "intolerable situation" and that the potential

emotional abuse by her father justified refusing her return (see paragraphs 15-16 above), it reached those conclusions largely by pointing to X's psychological assessment and her statement in court, without engaging with the substance of that evidence and articulating in sufficient detail how the exception under Article 13 (b) – which must be interpreted strictly (see *Maumousseau and Washington v. France*, no. 39388/05, § 73, 6 December 2007) – was made out and how the circumstances alleged by X went beyond what a child might reasonably bear (see *X v. Latvia*, cited above, § 116).

29. The Court cannot but note that X had levelled serious allegations against the applicant (see paragraphs 10 and 13 above, and, *mutatis mutandis*, *S.N. and M.B.N. v. Switzerland*, no. 12937/20, § 13, 23 November 2021). Those allegations were not examined by the County Court, which appears not to have questioned X about them (see, *mutatis mutandis*, *Vladimir Ushakov v. Russia*, no. 15122/17, §§ 101-02, 18 June 2019). Such a failure casts doubt as to whether the decision-making process leading to the adoption of the impugned measure by the County Court was fair and allowed those concerned to present their cases fully, and that the best interests of the child were defended (see *X v. Latvia*, cited above, § 102; see, *mutatis mutandis*, *Karrer v. Romania*, no. 16965/10, §§ 44-49, 21 February 2012; and, for illustrative purposes, *O.C.I. and Others v. Romania* [Committee], no. 49450/17, §§ 40-42, 21 May 2019). The Court reiterates that sufficiently detailed reasoning enables the Court to carry out the European supervision entrusted to it (see *Michnea v. Romania*, no. 10395/19, § 39, 7 July 2020).

30. As regards the exception to return under the second paragraph of Article 13 of the Hague Convention, the Court does not consider the County Court's conclusion regarding X's maturity to be arbitrary or unreasonable (see paragraph 16 above and, *mutatis mutandis*, *S.N. and M.B.N. v. Switzerland*, cited above, §§ 113-15). The Court also accepts that a child's opinion can be an independent exception under the Hague Convention which, on its own, may support the exercise of discretion to refuse to order a return (see *Blaga v. Romania*, no. 54443/10, §§ 78 and 80, 1 July 2014). However, in the present case, there is no indication that the County Court examined the substance of X's objection or engaged with the reasons she had put forward, nor did it explain how her objection justified the exercise of its discretion to refuse to return under the second paragraph of Article 13 of the Hague Convention, other than stating that the criteria for her views to be taken into account had been met (see, *a contrario*, *Raw and Others v. France*, no. 10131/11, §§ 19, 23 and 94, 7 March 2013; *Rouiller v. Switzerland*, no. 3592/08, § 73, 22 July 2014; and *Gajtani v. Switzerland*, no. 43730/07, §§ 107-10, 9 September 2014). By doing so, the County Court did not demonstrate that it had conducted a balancing exercise between the applicant's right to respect for his family life with the other competing interests in the proceedings.

31. Concerning the length of the proceedings, the Court notes that both sets lasted approximately 15 months (see paragraphs 5 and 17 above). Such a delay is hard to reconcile with the duty to handle applications for return expeditiously (see *R.S. v. Poland*, no. 63777/09, § 70, 21 July 2015; *Ferrari v. Romania*, no. 1714/10, § 54, 28 April 2015; and *Iosub Caras v. Romania*, no. 7198/04, § 38, 27 July 2006). The Government gave no satisfactory explanation for that delay.

32. In view of the foregoing, the Court concludes that the domestic proceedings did not satisfy the procedural requirements inherent in Article 8 of the Convention.

33. The Court notes that X has since reached the age of majority (see paragraph 2 above). Thus, there is no basis for the present judgment to be interpreted as obliging the respondent State to take steps to order X's return to Switzerland (see, *mutatis mutandis*, *R.S. v. Poland*, cited above, § 74, 21 July 2015).

APPLICATION OF ARTICLE 41 OF THE CONVENTION

34. The applicant claimed 12,000 euros (EUR) in respect of non-pecuniary damage and EUR 4,000 in respect of costs and expenses incurred before the Court.

35. The Government contested the applicant's claim and submitted that, should the Court find a violation, this should, on its own, constitute just satisfaction. If the Court deems it appropriate to award compensation in respect of non-pecuniary damage, it should only be in an amount that is consistent with the Court's case-law.

36. Having regard to the nature of the violation found and making its assessment on an equitable basis, the Court awards the applicant EUR 7,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

37. Having regard to the documents in its possession, the Court considers it reasonable to award EUR 4,000 covering costs for the proceedings before the Court, plus any tax that may be chargeable to the applicant.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 8 of the Convention;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, the following amounts**,** to be converted into the currency of the respondent State at the rate applicable at the date of settlement:

(i) EUR 7,000 (seven thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
(ii) EUR 4,000 (four thousand euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 24 March 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Valentin Nicolescu Acting Deputy Registrar	Faris Vehabović President