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

FOURTH SECTION

DECISION

Application no. 48719/19
Vasile-Ion DRAGOMIR
against Romania

The European Court of Human Rights (Fourth Section), sitting on 17 June 2025 as a Committee composed of:

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

and Simeon Petrovski, *Deputy Section Registrar,*

Having regard to:

the application (no. 48719/19) against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 11 September 2019 by a Romanian national, Mr Vasile-Ion Dragomir ("the applicant"), who was born in 1969, lives in Bacău and was represented by L.I. Bulai, a lawyer practising in Bacău;

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. The application concerns the compatibility with Article 6 requirements of the notification of a court decision in civil proceedings related to bankruptcy of a company.

2. The applicant is the former administrator of the limited liability company L.

3. On 20 April 2016 the Bacău County Court opened bankruptcy proceedings in respect of company L. pursuant to the procedure provided for by the Insolvency Act (Law no. 84/2014 on insolvency prevention and

insolvency proceedings) and ordered the company, through its administrator, the applicant, at the time, to cooperate with the court-appointed judicial liquidator.

4. On 12 July 2016 the judicial liquidator lodged an action with the County Court seeking that the applicant, in his capacity of former administrator of company L., be held personally liable for the company's bankruptcy and be ordered to settle its remaining debts. He relied on Article 169 of the Insolvency Act whereby the court could order that part of the company's debt be paid by its administrators or any other person responsible for the bankruptcy.

5. The applicant participated in the proceedings, assisted by his lawyer. He requested that all notifications be sent to his lawyer's office.

6. On 22 November 2018 the court allowed the claim and ordered the applicant to reimburse the company L.'s debt of 853,440 Romanian lei ((RON), corresponding to approximately 185,000 euros (EUR)). It found that the applicant, in breach of his statutory duties, had failed to maintain proper accounting records and to submit the required financial statements to the tax authorities. The operative part of the decision stated that:

> "Subject to appeal, within 7 days from notification, appeal that must be submitted to the Bacău County Court...".

7. On 10 December 2018 the decision was published in the Bulletin of Insolvency Proceedings ("the Bulletin"). On 11 December 2018 the applicant's lawyer also received the decision by post.

8. On 19 December 2018 the applicant, represented by his lawyer, lodged an appeal.

9. At a hearing of 8 March 2019 the Bacău Court of Appeal raised with the parties the potential non-compliance of the applicant's appeal with the statutory time-limit. At the applicant's lawyer's request, it gave the parties time to submit their arguments.

10. In written submissions of 26 March 2019 the applicant argued that the time-limit had started running from the date when the decision had been notified to him by post, and not from the date of its publication in the Bulletin. The judicial liquidator argued that the appeal had been lodged out of time.

11. In a final decision of 5 April 2019 the Bacău Court of Appeal found that the seven-day time-limit for lodging the appeal had started to run on the day of the publication of the County Court's decision in the Bulletin. It noted that, under Article 42 of the Insolvency Act, only the first procedural act must be notified by post. That act was the initial action lodged by the judicial liquidator with a view to starting the present proceedings, and it had been served on the applicant by post. The subsequent acts, including the decision of 11 December 2018, had been correctly served on him via publication in the Bulletin. The post delivery purely aimed to inform the applicant of the decision, thus having no bearing on the calculation of the time-limit. The

court further stressed that, as the applicant was a party to the insolvency proceedings, he had an obligation to know the applicable legal rules. Consequently, noting that the time-limit for lodging the appeal had expired on 18 December 2018 and that the applicant had lodged his appeal on 19 December 2018, the court declared it out of time.

12. The bankruptcy proceedings ended on 8 July 2021. The Bacău County Court declared company L. as bankrupted and struck it from the Trade Register.

13. Relying on Articles 6 and 13 of the Convention, the applicant complained that his right of access to a court had been breached owing to the fact that the Court of Appeal had wrongly rejected his appeal as being out of time, thus demonstrating excessive formalism in the interpretation of the rules on service of procedural acts.

THE COURT'S ASSESSMENT

14. The general principles concerning the right of access to court and service of court notifications were summarised in *Zavodnik v. Slovenia* (no. 53723/13, §§ 70-73, 21 May 2015). The Court also reiterates that its task is not to review the relevant law and practice in abstract, but to determine whether the manner in which the law and practice were applied, or the way in which they affected an applicant, gave rise to a violation of the Convention (ibid., § 74). In doing so, the Court must ascertain whether, given the facts of the case, a fair balance was struck between, on the one hand, the interests of the effective administration of justice and, on the other hand, those of the applicants (ibid., § 75).

15. In the present case, the applicant was aware of the insolvency proceedings given that, in his capacity as its former administrator, he was informed of his duty to cooperate with the judicial liquidator (see paragraph 3 above). Those proceedings had been set in motion more than two years before the service of the 10 December 2018 decision giving rise to the present complaint (see paragraphs 3 and 7 above). Both the applicant and his lawyer participated in the proceedings aimed at engaging his responsibility for the company's bankruptcy (see paragraph 5 above). As the two sets of proceedings mentioned above were both regulated by the Insolvency Act, the applicant and his lawyer ought to have known the specific procedural rules set by that law (see paragraph 11 above). On this point, it is noted that the special service procedure under the Insolvency Act was not in itself contrary to the Convention (ibid., § 76).

16. In the same vein, it is also noted that the applicant did not claim that he was unable to access the Bulletin (contrast, and in so far as relevant, *Farcaș and Others v. Romania*, [Committee], no. 30502/05, §§ 36-37, 5 June 2018).

17. As for the applicant's participation in the impugned proceedings, the Court of Appeal raised with the parties the matter of compliance with the time-limits (see paragraph 9 above). The applicant had the opportunity to present his arguments (see paragraph 10 above) and the court, after having examined them, gave a detailed explanation based on the specific notice procedure under the applicable law (see paragraph 11 above). The applicant neither argued nor did he submit any evidence of any inconsistency of the domestic practice on the matter.

18. Admittedly, the concurrent service of the decision by post and via the Bulletin could have potentially created confusion as to the starting date of the time-limit for lodging the appeal, since the County Court did not specify in the operative part of the decision that that time-limit would start running from the publication in the Bulletin (see paragraph 6 above). However, bearing in mind the applicant's knowledge of the applicable law in view of his status in the proceedings (see paragraphs 2, 3 and 15 above), coupled with the fact that he was assisted by a lawyer, it cannot be said that the very essence of the applicant's right of access to court had been impaired (contrast *Majski v. Croatia (no. 2)*, no. 16924/08, §§ 66-72, 19 July 2011).

19. Lastly, it is not necessary to examine separately the admissibility and merits of the complaint under Article 13 of the Convention, given that the requirements of that Article are absorbed by the more stringent requirements of Article 6 of the Convention (see *Grzęda v. Poland* [GC], no. 43572/18, § 352, 15 March 2022).

20. Consequently, the Court considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

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 10 July 2025.

Simeon Petrovski Deputy Registrar	Faris Vehabović President