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

FOURTH SECTION

DECISION

Application no. 35499/17
Alexandrina MLADIN
against Romania

The European Court of Human Rights (Fourth Section), sitting on 8 October 2024 as a Committee composed of:

Tim Eicke*, President*,
Ana Maria Guerra Martins,
Mateja Đurović*, judges*,
and Simeon Petrovski, *Deputy Section Registrar,*

Having regard to:

the application (no. 35499/17) against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 6 May 2017 by a Romanian national, Ms Alexandrina Mladin ("the applicant"), who was born in 1943, lives in Bucharest and was represented by Ms S. Barbu, 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 Government's observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the seizure of the applicant's assets for the purpose of their subsequent confiscation as proceeds of crime, in criminal proceedings against a third party.

2. The seizure of a house and adjacent land – to which the applicant had title under a sales contract concluded with her son – was ordered by the prosecutor on 7 July 2016 in the context of an ongoing investigation for bribe-taking, money laundering and forgery against the applicant's son, who was a mayor of a small town. The measure was based on Article 249 § 1 of

the Code of Criminal Procedure ("the CCP") governing the seizure of proceeds of crime for the purpose of subsequent confiscation and Article 20 of Law no. 78/2000 on combating corruption ("Law 78/2000") that provided for the obligation to seize the proceeds of crimes of corruption. The measure was recorded in the land register. The applicant remained in possession of the house and land, but was prevented from disposing with them.

3. On 9 November 2016 the preliminary chamber judge of the Bucharest County Court dismissed a complaint lodged by the applicant against the seizure order, as the case was already in the trial phase and any complaints were to be addressed to the trial judge deciding the case on the merits.

4. On 22 March 2017 the applicant was granted the status of a third-party intervener in the criminal proceedings before the Bucharest County Court. In these proceedings, the applicant, represented by a lawyer of her choice, challenged the seizure order arguing that it had been unlawful as it concerned assets that had not been owned by the accused and could not constitute proceeds of his crimes. From the documents in the file, it appears that her representative, who, unlike the applicant who was absent throughout the proceedings, attended some hearings, did not make any requests before the Bucharest County Court.

5. On 6 March 2019 the Bucharest County Court, after having thoroughly reviewed the available evidence (numerous witness statements, documents and expert reports) convicted the accused as charged. It also confirmed the seizure of the applicant's assets, considering it lawful in view of the ample evidence that the accused had invested the proceeds of crimes in the assets in question and that the sales contract had been concluded after the criminal investigation had started in order to hide these proceeds.

6. The applicant appealed against that judgment and asked for the seizure order to be lifted, arguing that she had acquired the seized property in good faith. She requested that the Court of Appeal re-examine some evidence that had been presented before the first-instance court.

7. With a final judgment of 25 May 2021 and after having reviewed all the evidence before it, including some of the evidence admitted in first-instance that the applicant specifically requested to be re-examined, the Bucharest Court of Appeal acquitted the accused and lifted the seizure order.

8. The applicant complained under Article 6 § 1 of the Convention of a breach of her right of access to a court owing to the dismissal of her complaints in connection with the seizure order. The applicant also complained that the seizure order had been applied for an excessive time and it had constituted an unlawful and disproportionate interference with her rights under Article 1 of Protocol No. 1 to the Convention.

THE COURT'S ASSESSMENT

A. Complaint under Article 6 § 1 of the Convention

9. The Court 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 *Silickienė v. Lithuania*, no. 20496/02, §§ 45-46, 10 April 2012, and *Yldirim v. Italy* (dec.), no. 38602/02, ECHR 2003-IV).

10. The Court has previously examined the Romanian legal framework on the issue of seizure and confiscation from applicants as third parties in criminal proceedings against other people and found it to be in compliance with the fair trial guarantees set out in Article 6 § 1 of the Convention (see *Telbis and Viziteu v. Romania,* no. 47911/15, §§ 53-58, 26 June 2018). In this regard, the Court has held that the domestic legislation gives third parties the opportunity, if they so wish, to participate fully in the proceedings in which a seizure or confiscation measure is decided (ibid., § 54).

11. In the present case, the applicant's complaint lodged before the preliminary chamber judge was indeed dismissed without examination on the merits. However, at the time of that dismissal, criminal proceedings were pending on the merits before the same court. In those proceedings the applicant was summoned to appear before the trial court and was accepted as a third party (see paragraph 4 above, and compare *Silickienė*, cited above, § 48, where the applicant was not a party to the criminal proceedings at all). Moreover, the applicant was represented by a lawyer of her choice and had ample opportunity to present her arguments on points of fact and law before the court (see paragraphs 4 and 6 above). The first-instance court duly examined and responded to the applicant's arguments in the light of the available evidence and concluded that the assets seized formed part of the direct proceeds of the accused's criminal activity and had not been lawfully acquired by the applicant (see paragraph 5 above). Subsequently, the Court of Appeal accepted the applicant's request and reviewed the relevant evidence. It heard the applicant's arguments and, after it acquitted the accused, it lifted the seizure order (see paragraphs 6-7 above).

12. In the light of the above, the Court considers that the Romanian authorities afforded the applicant reasonable and sufficient opportunity to protect her interests adequately. 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

13. The Court points out that it has already examined similar complaints and found the impugned seizure orders to be in compliance with the

provisions of Article 1 of Protocol No. 1 to the Convention (see *Telbis and Viziteu*, cited above, §§ 72-82).

14. In the present case, it also finds that the impugned measure was prescribed by law (Article 249 § 1 of the CCP, and Article 20 of Law 78/2000, see paragraph 2 above) and was effected in accordance with the general interest of the community (see *Telbis and Viziteu*, cited above, § 74).

15. As regards the proportionality of the measure at stake, the Court refers to its findings in *Telbis and Viziteu* (cited above, §§ 75-79), as well as in *Mărgărit and Others v. Romania* ((dec.) [Committee] no. 17500/15 and 3 other applications, §§ 39-44, 1 October 2019), which likewise apply to the present case.

16. It further notes that the measure in issue was in force for four years and ten months (see paragraph 7 above). Throughout this period, the seized assets remained in the applicant's possession (see paragraph 2 above) and she does not claim that they deteriorated during the seizure or that she incurred other damage or losses. Therefore, bearing in mind the complexity of the criminal proceedings in the present case which related to corruption in public office, as well as the fact that the applicant had access to courts, which verified the lawfulness and necessity of that measure, the Court finds that the overall length of time during which the applicant's assets were seized was not unjustified (compare *Căpăţînă v. Romania*, no. 911/16, § 56, 28 February 2023).

17. Having regard to all the above considerations, the Court concludes that the interference with the applicant's right to the peaceful enjoyment of her possessions was not disproportionate to the legitimate aim pursued (see *Telbis and Viziteu*, cited above, § 81, and *Bongiorno and Others v. Italy,* no. 4514/07, §§ 44-51, 5 January 2010).

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

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 7 November 2024.

Simeon Petrovski	Tim Eicke
Deputy Registrar	President