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

FOURTH SECTION

DECISION

Application no. 9348/19
Dumitru PANDIU
against Romania

The European Court of Human Rights (Fourth Section), sitting on 23 September 2025 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. 9348/19) against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 1 February 2019 by a Romanian national, Mr Dumitru Pandiu ("the applicant"), who was born in 1950, lives in Râmnicu-Vâlcea and was represented by Ms P.M. Popa, a lawyer practising in Bucharest;

the decision to give notice of the complaints under Article 6 of the Convention concerning the overall length of the proceedings, the delay in the preparation of the written reasons for the Court of Appeal's judgment of 29 November 2016 (see paragraph 5 below) and the lack of impartiality of Judge M.P. (see paragraphs 4 and 11 below) to the Romanian Government ("the Government"), represented by their Agent, Ms O.F. Ezer, of the Ministry of Foreign Affairs, and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns the alleged unfairness of civil proceedings against the applicant in violation of Article 6 of the Convention.

2. On 23 November 2010 a private party brought civil proceedings against the applicant and other persons, seeking the revocation of an invention patent owned by them.

3. On 11 December 2012 and 11 November 2015, the Bucharest County Court, and the Court of Appeal, respectively, dismissed the proceedings and an appeal brought by the private party, as ill-founded.

4. On 19 April 2016 the High Court of Cassation and Justice, sitting as a bench which included M.P., allowed an appeal on points of law lodged by the private party against the Court of Appeal's above-mentioned judgment, and quashed it. It held in essence that the lower court had misinterpreted some of the rules concerning invention patents and had therefore failed to examine whether the patent owned by the applicant had fulfilled certain specific conditions needed for it to be considered valid. The Court of Cassation remitted the case to the Court of Appeal for re-examination and ordered it to determine whether the patent in dispute fulfilled the conditions in question.

5. On 29 November 2016 the Court of Appeal re-examined the private party's appeal against the County Court's judgment (see paragraph 3 above) and held that the patent did not fulfil the conditions mentioned in paragraph 4 above. Accordingly, the Court of Appeal revoked the patent.

6. The written reasons for the judgment of 29 November 2016 were not made available to the parties until 5 February 2018 despite administrative requests lodged by the applicant with the Court of Appeal on 17 July and 9 October 2017 asking for the reasons in question to be provided promptly.

7. On 5 February 2018 the Directorate for Judicial Inspection of Judges ("the DJIJ") dismissed as ill-founded a disciplinary complaint made by the applicant on 16 January 2018 against the judges who had delivered the judgment of November 2016 for the excessive delay in the preparation of the written reasons for their judgment.

8. On 19 February 2018 the applicant appealed on points of law to the Court of Cassation against the judgment of 29 November 2016, arguing that the Court of Appeal had misinterpreted the rules concerning invention patents and had wrongly assessed the evidence. The case was assigned to a bench of judges presided over by M.P. (see paragraph 4 above).

9. On 24 April 2018 the applicant sought the recusal of M.P. on the grounds that she had been a member of the bench of judges who had delivered the judgment described in paragraph 4 above. He relied on Articles 24 § 1 and 27 § 7 of the Code of Civil Procedure ("the CCP").

10. By an interlocutory judgment of 14 May 2018, the Court of Cassation, sitting as a bench which did not include M.P., dismissed the recusal request. It held that Article 24 § 1 of the CCP was inapplicable to M.P.'s case because the article in question concerned judges who had been called to re-examine a case in which a judgment delivered by them had been quashed and the case remitted for re-examination, and that the application of that article could not be extended to other situations by interpretation. The Court of Cassation

found that M.P. had not already expressed an opinion on the case within the meaning of Article 27 § 7 of the CCP given that the applicant had not argued that M.P. had dealt with questions of fact during the first round of proceedings which she had then been called on to re-examine during a second round of proceedings. In any event, M.P.'s findings from the first round of proceedings were binding and could no longer be called into question during the second round of proceedings.

11. By a final judgment of 22 May 2018 (available on 6 August 2018) the Court of Cassation, sitting as a bench presided over by M.P., dismissed the applicant's appeal on points of law. It held in essence that the factual circumstances established by the Court of Appeal in its judgment described in paragraph 5 above could not be reviewed during appeal-on-points-of-law proceedings. Moreover, the Court of Appeal had followed the binding interpretation given by the Court of Cassation to the rules concerning invention patents (see paragraph 4 above), which could not be called into question during the second round of proceedings.

12. The applicant complained of an alleged violation of his right to a fair hearing on account of (i) the length of proceedings and the excessive delay in the preparation of the written reasons for the Court of Appeal's judgment of 29 November 2016 and (ii) Judge M.P.'s lack of impartiality.

THE COURT'S ASSESSMENT

A. Preliminary objections

13. The Government considered that the application was inadmissible because the applicant had lodged his complaints with the Court outside the six-month time-limit. Moreover, he had failed to exhaust the domestic remedies available for his complaints concerning the excessive length of proceedings and the delay in the preparation of the written reasons for the judgment of 29 November 2016. In particular, he had not brought tort law proceedings seeking compensation or challenged the DJIJ's decision (see paragraph 7 above) before the courts.

14. The Court finds it unnecessary to examine all the above-mentioned objections because the application is in any event inadmissible for the following reasons.

B. Alleged violations of Article 6 of the Convention

1. Length of proceedings and delay in the preparation of reasons

15. The Court notes that while it has essentially found that administrative requests or disciplinary proceedings (see paragraphs 6-7 above) cannot be viewed as amounting to an effective remedy for complaints concerning excessive length of proceedings or a delay in preparing a written judgment, it

has held that, as of May 2015, general tort law proceedings seeking compensation are an effective remedy for such complaints (see *Mierlă and Others v. Romania* (dec.), no. 25801/17 and 2 others, §§ 90-92, 104-08 and 109-11, 17 May 2022).

16. The Court sees no reason to depart from its above-mentioned findings in the present case. It notes in this connection that even though the proceeding against the applicant ended on 22 May 2018 there is no evidence in the file that he brought general tort law proceedings before the national courts seeking compensation for the alleged excessive length of the proceedings or the delay in preparing the written reasons for the judgment of 29 November 2016.

17. It follows that this part of the application is inadmissible and must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

2. Lack of impartiality of Judge M.P.

18. The Court reiterates the principles set out in its case-law concerning judges' lack of impartiality (see *Micallef v. Malta* [GC], no. 17056/06, §§ 93-99, ECHR 2009).

19. In the instant case, there is no evidence that Judge M.P. acted with any personal bias against the applicant. The applicant's concerns regarding M.P.'s impartiality originated in the fact that the judge in question had delivered two judgments in two separate rounds of proceedings concerning the same case. The Court accepts that this situation could have raised doubts in the applicant's mind about M.P.'s impartiality.

20. The Court has to decide whether those doubts were objectively justified and the answer to this question depends on the circumstances of the case (see *Korzeniak v. Poland*, no. 56134/08, § 52, 10 January 2017).

21. In this connection, the Court notes that on 19 April 2016 a bench of judges of the Court of Cassation, which included M.P., quashed the Court of Appeal's judgment and remitted the case to that court only because it had reached a different conclusion to the lower court on the interpretation of some of the rules concerning invention patents. The examination of the case by the Court of Cassation did not touch on questions of fact, and its interpretation of the rules concerning patents was final and acquired the status of *res judicata*. The Court of Cassation pointed out that it was for the Court of Appeal to examine any questions of fact that were relevant to the case (see paragraphs 4 and 10-11 above).

22. When the case reached the Court of Cassation again during the second round of proceedings, the bench presided over by M.P. was called to review only whether the lower court had complied with the Court of Cassation's instructions. It is true that in its judgment of 22 May 2018 the Court of Cassation referred to aspects concerning both points of fact and points of law. However, those references constituted merely an acknowledgement of the

points raised by the applicant in that regard and were made only to indicate to him that those points had either fallen outside the scope of the assessment that could be conducted by the Court of Cassation or that they had been addressed by that court's earlier judgment and had become *res judicata* (see paragraph 11 above), meaning that any judge, including M.P., was bound by the findings made by the Court of Cassation in that regard in its judgment of 19 April 2016 (see, *mutatis mutandis*, *Ilie v. Romania* [Committee] (dec.), no. 26220/10, § 42, 3 September 2019).

23. The Court is not therefore persuaded that the issues examined by the Court of Cassation on 19 April 2016 and those examined on 22 May 2018 were the same or that there was scope for the Court of Cassation on 22 May 2018 to review the validity of its judgment delivered during the previous round of proceedings, which had become final. Thus, on 22 May 2018, the Court of Cassation was not called upon to assess and determine whether it had correctly applied the relevant domestic law in the applicant's case or whether it had committed an error in interpreting or applying the relevant law in the previous round of proceedings (contrast *San Leonard Band Club v. Malta*, no. 77562/01, §§ 63-64, ECHR 2004-IX).

24. The Court further notes that the applicant sought the recusal of Judge M.P., complaining of bias because she had already sat in the case and had delivered the judgment of 19 April 2016 (see paragraph 9 above). Nevertheless, that request was dismissed after it was duly examined by the Court of Cassation, sitting as a bench which did not include M.P. (see paragraph 10 above). The court explained that none of the grounds for disqualification provided for by the CCP, on which the applicant had relied, had been met with regards to Judge M.P.

25. The Court reiterates that it is primarily for the national authorities, notably the courts, to resolve problems of interpretation of domestic legislation. Save in the event of evident arbitrariness, it is not the Court's role to question the interpretation of the domestic law by the national courts (see *Nejdet Şahin and Perihan Şahin v. Turkey* [GC], no. 13279/05, §§ 49-50, 20 October 2011). In this connection, the Court notes that the applicant did not put forth any evidence that would suggest that the interpretation given by the domestic courts to the relevant legal provisions concerning impartiality of judges had amounted to an arbitrary or unreasonable application of that law in the particular circumstances of the case. It takes the view therefore that the reasons put forth by the domestic courts in dismissing the complaint of bias were sufficient to dispel any concerns about a lack of impartiality on the part of Judge M.P.

26. In view of the foregoing, the Court finds that the applicant's misgivings about the impartiality of the above-mentioned judge cannot be regarded as objectively justified.

27. It follows that this part of the applications is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 16 October 2025.

Valentin Nicolescu Acting Deputy Registrar	Faris Vehabović President