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

Press Release
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ECHR 349 (2023)
12.12.2023

Investigation into repression of June 1990 Bucharest protests remains ineffective more than 30 years on, despite Court's earlier finding of a violation in 2014

In today's **Chamber** judgment[1] in the case of Ștefan-Gabriel Mocanu and Others v. Romania (applications nos. 34323/21 and 8 others) the European Court of Human Rights held, unanimously, that there had been:

a violation of the procedural aspect of Articles 2 (right to life) and 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights.

The case concerned allegations made by the victims or the heirs of victims of the repression of anti-government protests held in Bucharest in June 1990 as to the lack of an effective investigation.

The Court found that, even after its initial finding of a violation – in its *Mocanu and Others v. Romania*[2] judgment of 17 September 2014 – in connection with an investigation into events that were of importance to Romanian society, a number of shortcomings and deficiencies had been noted in the subsequent investigation, which had justified setting aside not only the prosecutor's application to commence proceedings, but also several investigative measures, and had entailed a breach of the procedural requirements under Articles 2 and 3 of the Convention.

Under Article 46 (binding force and execution of judgments), the Court urged the Romanian State to take all necessary measures to ensure that an investigation was conducted that was capable of promptly and expediently elucidating the circumstances – during the events of 13 to 15 June 1990 – surrounding the death of the father of applicants Stefan-Gabriel and Maria-Raluca Mocanu and the ill-treatment to which the other applicants had allegedly been subjected.

Principal facts

The applicants are nine Romanian nationals who were born between 1949 and 1990. Seven of them complained that they had been subjected to ill-treatment during the repression of the anti-government protests held in University Square in Bucharest in June 1990, after the fall of the communist regime; two of the applicants (Stefan-Gabriel Mocanu and Maria-Raluca Mocanu) complained of the circumstances surrounding the death of their father (Velicu-Valentin Mocanu) from a gunshot fired during those same events.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.
Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

2 *Mocanu and Others v. Romania* [GC], nos. 10865/09 and 2 others, ECHR 2014 (extracts).

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Complaints, procedure and composition of the Court

The applicants alleged that the Romanian authorities' investigation had been ineffective and had failed to identify those responsible for the events complained of and, as appropriate, to punish them. Seven applicants relied on Article 3 (prohibition of inhuman or degrading treatment) and two relied on Article 2 (right to life) of the Convention.

The applications were lodged with the European Court of Human Rights in June and July 2021.

Judgment was given by a Chamber of seven judges, composed as follows:

Gabriele **Kucsko-Stadlmayer** (Austria), *President*,
Faris **Vehabović** (Bosnia and Herzegovina),
Branko **Lubarda** (Serbia),
Armen **Harutyunyan** (Armenia),
Ana Maria **Guerra Martins** (Portugal),
Anne Louise **Bormann** (Denmark),
Sebastian **Răduleţu** (Romania),

and also Andrea **Tamietti**, *Section Registrar.*

Decision of the Court

Reminder of the *Mocanu and Others v. Romania* judgment

The Court pointed out that it had found in its *Mocanu and Others v. Romania* judgment (of 17 September 2014) that the investigation – which, at the time of the most recent information available (as of 2 October 2013), had been pending for more than 23 years, and for more than 19 years since the Convention had been ratified by Romania – had been marked by lengthy periods of inactivity; that there were serious doubts as to the objectivity and impartiality of the investigations conducted by the military prosecutors; that very few investigative measures had been carried out in connection with the criminal complaints filed by the individuals assaulted at the State television headquarters and that the courts had failed to establish the circumstances surrounding the ill-treatment to which several individuals had allegedly been subjected there; that numerous shortcomings noted by the national authorities in connection with the investigation had not been remedied; and that the authorities responsible for the investigation had not taken all the measures reasonably capable of leading to the identification and punishment of those responsible for the events complained of, which had unfolded from 13 to 15 June 1990.

Articles 2 (right to life) and 3 (prohibition of inhuman or degrading treatment)

As to the investigation conducted prior to the *Mocanu and Others* judgment, the Court found that none of the evidence in the present case enabled it to depart from its findings in that judgment.

As to the investigation conducted since the *Mocanu and Others* judgment, the Court found that it had not satisfied the requirements of the Convention as it had resulted in the setting-aside of certain investigative measures and the exclusion of evidence, thereby necessitating – more than 30 years after the initial investigation had been opened – the opening of a new investigation.

While it agreed with the Government that the present case was undeniably complex, the Court noted that the investigation into Velicu-Valentin Mocanu's death was – at the time of the most recent information available (June 2022) – still in the hands of the investigative bodies of the public prosecutor's office nine years after the Court's 2014 finding as to the ineffectiveness of an investigation that had lasted upwards of 23 years, and more than 19 years since the Convention had been ratified by Romania. In the Court's view, the complexity could not, in itself, justify the length of

the investigations and the manner in which they had been conducted over this extremely long period of time. The same was true for the applicants in the other applications, who were civil parties in the same domestic proceedings.

Consequently, the Court found that there had been shortcomings and deficiencies in the investigation conducted since the *Mocanu and Others* judgment, which had impaired its quality and undermined the authorities' ability to determine whether the use of force had been justified in the circumstances of the case, and to identify and, as appropriate, punish those responsible for the events. In addition, the Court was of the view that the applicants' interests in participating in the investigation had not been sufficiently protected. **It therefore found that there had been a violation of Articles 2 and 3 of the Convention under their procedural limbs.**

Application struck out of the Court's list

The Court decided to strike Ms Ecaterina Ștefoglu's application out of its list (Article 37 § 1 (c) of the Convention) as that applicant had died and no one had indicated that they wished to continue the proceedings after her death.

Article 46

The Court observed that, at the time of the most recent information available (June 2022), the investigation was still pending at the level of the military section of the prosecutor's office at the High Court of Cassation and Justice. It further noted that investigative measures had been or were being taken and that the excluded evidence had been or was in the process of being re-examined.

It considered, however, that especially in view of the importance to Romanian society of knowing the truth about the events that had unfolded from 13 to 15 June 1990, the Romanian State, under the supervision of the Committee of Ministers, had to put an end to the situation identified in the present case and found by the Court to have been in breach of the applicants' right, together with that of the many other persons affected, to an effective investigation.

It therefore urged the Romanian State to take all necessary measures (including allocating the necessary human resources for the proper conduct of the criminal proceedings) to ensure that the investigation would be capable, in accordance with the procedural requirements of Articles 2 and 3 of the Convention, of promptly and expediently elucidating the circumstances – during the events that had unfolded from 13 to 15 June 1990 – surrounding the death of the father of applicants Stefan-Gabriel and Maria-Raluca Mocanu and the ill-treatment to which the other applicants had allegedly been subjected, leading, if possible, to the identification and punishment of those individuals potentially responsible for the commission of criminal acts.

Just satisfaction (Article 41)

The Court held that Romania was to pay a total of 115,000 euros (EUR) (EUR 12,500 to six applicants and EUR 20,000 to two applicants) in respect of non-pecuniary damage.

List of applications

- 34323/21 Ștefan-Gabriel MOCANU
- 34900/21 Maria-Raluca MOCANU
- 30168/21 Niculae ALECU
- 31914/21 Ecaterina ȘTEFOGLU
- 31924/21 Petre MURARU
- 32936/21 Cătălin CUATU
- 34336/21 Viorel FRIJANU

- 34877/21 Liliana DIMITRIU
- 35510/21 Nicolae NEȘCU

The judgment is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.