

Press release issued by the Registrar

CHAMBER JUDGMENT
TĂȚAR v. ROMANIA

The European Court of Human Rights has today notified in writing its Chamber judgment¹ in the case of *Tătar v. Romania* (application no. 67021/01).

The Court held unanimously that there had been a **violation** of Article 8 (right to respect for private and family life) of the European Convention on Human Rights, on account of the Romanian authorities' failure to protect the right of the applicants, who lived in the vicinity of a gold mine, to enjoy a healthy and protected environment.

The Court awarded the applicants 6,266 euros (EUR) for costs and expenses. It dismissed, by five votes to two, their claim for just satisfaction. ([The judgment is available only in French.](#))

1. Principal facts

The applicants, Vasile Gheorghe Tătar and Paul Tătar, father and son, are Romanian nationals who were born in 1947 and 1979 respectively. At the relevant time they lived in Baia Mare (Romania). Paul Tătar has lived since 2005 in Cluj-Napoca (Romania).

The company S.C. Aurul S.A., now operating as S.C. Transgold S.A., obtained a licence in 1998 to exploit the Baia Mare gold mine. The company's extraction process involved the use of sodium cyanide. Part of its activity was located in the vicinity of the applicants' home.

On 30 January 2000 an environmental accident occurred at the site. A United Nations study reported that a dam had breached, releasing about 100,000 m³ of cyanide-contaminated tailings water into the environment. The report stated that S.C. Aurul S.A. had not halted its operations.

After the accident Vasile Gheorghe Tătar filed various administrative complaints concerning the risk incurred by him and his family as a result of the use of sodium cyanide by S.C. Aurul S.A. in its extraction process. He also questioned the validity of the company's operating licence. The Ministry of the Environment, in November 2003, informed him that the company's activities did not constitute a public health hazard and that the same extraction technology was used in other countries.

¹ Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

The first applicant also brought criminal proceedings, in 2000, complaining that the mining process was a health hazard for the inhabitants of Baia Mare, that it posed a threat to the environment and that it was aggravating his son's medical condition, namely asthma.

By an order of 20 November 2001 the Romanian courts discontinued the criminal proceedings concerning the accident of 30 January 2000 on the ground that the facts complained of did not constitute offences. No judicial order or decision concerning the other complaints has been issued to date.

2. Procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 17 July 2000 and was declared admissible on 5 July 2007. A public hearing took place in the Human Rights Building, in Strasbourg, on 23 October 2007.

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

Boštjan M. **Zupančič** (Slovenia), *President*,
Corneliu **Bîrsan** (Romania),
Elisabet **Fura-Sandström** (Sweden),
Alvina **Gyulumyan** (Armenia),
Egbert **Myjer** (the Netherlands),
Ineta **Ziemele** (Latvia),
Isabelle **Berro-Lefèvre** (Monaco), *judges*,

and also Stanley **Naismith**, *Deputy Section Registrar*.

3. Summary of the judgment¹

Complaints

Relying on Article 2 (right to life) of the European Convention on Human Rights, the applicants complained that the technological process used by S.C. Transgold S.A. Baia Mare (formerly S.C. Aurul S.A. Baia Mare) put their lives in danger, and that the authorities had failed to take any action in spite of the numerous complaints filed by Vasile Gheorghe Tătar. In its admissibility decision of July 2007 the Court ruled that the applicants' complaints should be examined under Article 8 (right to respect for private and family life).

Decision of the Court

Article 8

The Court observed that pollution could interfere with a person's private and family life by harming his or her well-being, and that the State had a duty to ensure the protection of its citizens by regulating the authorising, setting-up, operating, safety and monitoring of industrial activities, especially activities that were dangerous for the environment and human health.

¹ This summary by the Registry does not bind the Court.

The Court did not doubt the reality of the medical condition of Paul Tătar, who was diagnosed in 1996 and who required medical assistance, nor that of the toxicity of sodium cyanide and of the pollution detected, in excess of the authorised norms, by international organisations in the vicinity of the applicants' home following the environmental accident.

The Court noted that, in the light of what was currently known about the subject, the applicants had failed to prove the existence of a causal link between exposure to sodium cyanide and asthma. It observed, however, that the existence of a serious and material risk for the applicants' health and well-being entailed a duty on the part of the State to assess the risks, both at the time it granted the operating permit and subsequent to the accident, and to take the appropriate measures.

The Court observed that a preliminary impact assessment conducted in 1993 by the Romanian Ministry of the Environment had highlighted the risks entailed by the activity for the environment and human health and that the operating conditions laid down by the Romanian authorities had been insufficient to preclude the possibility of serious harm.

The Court further noted that the company had been able to continue its industrial operations after the January 2000 accident, in breach of the precautionary principle, according to which the absence of certainty with regard to current scientific and technical knowledge could not justify any delay on the part of the State in adopting effective and proportionate measures.

The Court also pointed out that authorities had to ensure public access to the conclusions of investigations and studies. It reiterated that the State had a duty to guarantee the right of members of the public to participate in the decision-making process concerning environmental issues. It stressed that the failure of the Romanian Government to inform the public, in particular by not making public the 1993 impact assessment on the basis of which the operating licence had been granted, had made it impossible for members of the public to challenge the results of that assessment. The Court further noted that this lack of information had continued after the accident of January 2000, despite the probable anxiety of the local people.

The Court concluded that the Romanian authorities had failed in their duty to assess, to a satisfactory degree, the risks that the company's activity might entail, and to take suitable measures in order to protect the rights of those concerned to respect for their private lives and homes, within the meaning of Article 8, and more generally their right to enjoy a healthy and protected environment.

Judge Zupančič, joined by Judge Gyulumyan, appended a partly dissenting opinion to the judgment of the Court.

The Court's judgments are accessible on its Internet site (<http://www.echr.coe.int>).

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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.