EUROPEAN COURT OF HUMAN RIGHTS

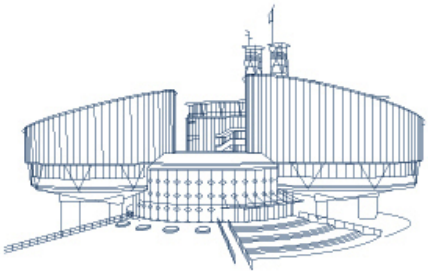
# PRESS RELEASE

## INCOMPLETE ENFORCEMENT OF DOMESTIC JUDGMENTS FAVOURING APPLICANT JUDGES DID NOT VIOLATE CONVENTION

## Puşcaşu and Others v. Romania

ECHR 263 (2026) 22.10.2026

Press release issued by the Registrar of the Court



In its decision of 13 October 2026 in the case of Puşcaşu and Others v. Romania (applications nos. 2598/24, 2721/24, 11485/24, 13549/24 and 13550/24), the European Court of Human Rights, sitting as a Chamber of seven judges, unanimously declared the applications inadmissible as being manifestly ill-founded. The decision is final.

The case concerned the failure to fully enforce court decisions ordering the Romanian State to pay the applicants, all judges or former judges, various sums of money as compensation for pay practices that had been found to be discriminatory in comparison with other categories of judges, prosecutors and civil servants.

Without ruling on the Government's objections, the Court reiterated that it was not its task to take the place of the domestic courts and that it was primarily for the national authorities, notably the courts, to resolve problems of interpretation of domestic legislation. The Court observed, however, that over time, without formally amending the successive laws governing the remuneration of judges and prosecutors, the case-law of the Constitutional Court and the Court of Cassation had contributed to the reconfiguration of the legal framework for the remuneration of judges. Furthermore, where national judges were called upon to rule on components of the remuneration which they themselves could receive, their participation in the adoption of such decisions was liable to give rise to a conflict of interest, in so far as their personal financial interest could interfere with the impartial performance of their judicial duties.

Moreover, the courts might have appeared to go beyond their traditional role of interpreting and applying the law, a situation capable of creating the impression of an institutional conflict of interest, disclosing tension between the judiciary and the legislative and executive powers. The Court reiterated that it was not the task of the national courts to take the place of the competent national authorities in matters of fiscal and economic policy, as the definition of spending priorities and the allocation of public resources fell within the

competence of the executive and the legislature, which enjoyed a wide latitude ("margin of appreciation") in that area.

Declaring the applications inadmissible as being ill-founded, the Court reiterated, first of all, that it was not open to the State to cite a lack of funds or other resources as an excuse for not honouring a judgment debt. However, the case at hand was linked to exceptional circumstances and economic and fiscal constraints with which the authorities had had to deal in a difficult economic environment. In that context, the national authorities had to be regarded as having put in place, in an acute and prolonged crisis and despite the lack of available financial resources, a series of successive adjustments that had enabled them to ensure the gradual enforcement of those decisions, while pursuing a policy of long-term fiscal consolidation and guaranteeing the continuity of essential public functions and services. That approach reflected the efforts made by the national authorities to strike a balance between the public and private interests at stake.

In those circumstances, and also having regard to the applicants' particular situation, the Court could not find, despite the considerable delays in the case at hand, that the failure to fully enforce the decisions at issue had impaired the very essence of the applicants' right to have the court decisions enforced, or that it had imposed an individual and excessive burden on them.

## PRINCIPAL FACTS AND COMPLAINTS

The applicants are five Romanian nationals who were born between 1971 and 1986 and live in Deva, Coaş and Sibiu (Romania). They are all judges or former judges who have obtained court decisions in their favour ordering the Ministry of Justice and the courts in which they served to pay them financial benefits, the following amounts of which are, according to the applicants, still outstanding: 60,000 euros (EUR), EUR 30,000, EUR 107,454, EUR 571,891.74 and EUR 381,868.12 respectively.

Between 2006 and 2009 Romanian judges and prosecutors brought numerous legal actions seeking a finding of pay discrimination in comparison with other categories of judges, prosecutors and civil servants who had received a more favourable remuneration package. Those actions generally led the courts to find an unjustified difference in remuneration and to award either the rights claimed or compensation.

Given the large amounts at stake, which represented a significant burden for the State budget, the government enacted several successive pieces of legislation from 2009 onwards in order to stagger their payment. The State paid the sums it considered to be due to the judges and prosecutors under the decisions delivered from 2006 to 2010 in successive annual instalments from 2008 to 2015.

A new dispute arose in the period 2016-2021, concerning the interpretation of the court decisions delivered in the years 2006-2010 and the establishment of the incomes of judges and prosecutors in the new legislative framework, which provided that remuneration should be harmonised by aligning it with the highest level practised within a given institution or public authority, for a given category of staff. In that context, the Constitutional Court, in decision no. 794/2016, held that the basic-salary rights obtained by court decisions also had to be taken into account in determining the highest salary for all civil servants in a given situation. In interpretative decision no. 36/2018, the High Court of Cassation and Justice found that, in applying the pay harmonisation mechanism, the amount of remuneration received within a given category had to be determined on the basis of any increases and indexations granted by final court decisions to judges, prosecutors or civil servants in a comparable situation, regardless of whether the competent expenditure authority had issued a remuneration order. After the entry into force of Framework Law no. 153/2017, a new series of pay disputes arose between judges and prosecutors, on the one hand, and the Ministry of Justice and the courts in which they served, on the other. They concerned whether benefits previously granted by case-law or legislation to other judges, prosecutors or civil servants should be extended to them

on the basis of the principles of equality and non-discrimination. Actions seeking enforcement and default interest were also brought.

Considering that the immediate settlement of all remuneration claims was likely to have a significant impact on the State budget, the government continued to enact provisions each year to stagger the payment of those sums and the related interest. Subsequently, in view of the steady increase in the country's government deficit from 2019 onwards, the initiation by the Council of the European Union of an excessive deficit procedure against Romania and the effects of the COVID-19 pandemic, the government continued to issue yearly orders on fiscal and budgetary measures with the aim of reducing public expenditure in what it described as an urgent and extraordinary situation.

In 2023 the government decided that the payment of outstanding instalments would be staggered over five years, starting in 2024. In 2025, as the government deficit had further grown in 2024 to 9.3% of gross domestic product (GDP), and in view of the recommendations made to Romania at European level in 2025, the government issued an emergency order deferring until 2026 all 2025 payments still outstanding at the date of its entry into force.

The Government, in their submissions to the European Court, indicated that for the period 2006-2022, the Ministry of Justice had paid judges and prosecutors a total of 2,556,604,346 Romanian lei (RON), or approximately EUR 604,398,190, pursuant to court decisions and administrative orders. Furthermore, the CSM had paid a total of RON 118,305,943 (approximately EUR 27,641,575) between 2006 and June 2026, while the Court of Cassation had paid a total of RON 4,579,420,000 (approximately EUR 1,002,061,269) for periods from 2010 to 2022. For the period 2006-2025 all other ministries together had paid a total of approximately EUR 73,234,680 to civil servants pursuant to court decisions.

The Government further submitted that for 2026 the Court of Cassation and the Prosecutor General's Office, in their capacity as expenditure authorities, had requested the allocation of a total of approximately EUR 1.4 billion in respect of arrears still owing pursuant to court decisions and administrative orders, as well as interest.

According to information provided by the Government, judges' and prosecutors' average net salary, as established by law, and average net pension far exceeded the average salaries in other public institutions and the average net pension in the public system.

The applicants, in their applications to the Court, relied on Article 6 (right of access to a court) and Article 1 of Protocol No. 1 (protection of property). They complained that the court decisions in their favour concerning various financial benefits had not been fully enforced and that there had been an infringement of their right of access to a court and their right to the peaceful enjoyment of their possessions.

## OUTCOME

## REASONING OF THE COURT

Having regard to the similarity of the applications, the Court found it appropriate to examine them jointly in a single decision.

The Court reiterated that it was not its task to take the place of the domestic courts and that it was primarily for the national authorities, notably the courts, to resolve problems of interpretation of domestic legislation. The Court observed, however, that over time, without formally amending the successive laws governing the remuneration of judges and prosecutors, the case-law of the Constitutional Court and the Court of Cassation had contributed to the reconfiguration of the legal framework for the remuneration of judges. Furthermore, where judges were called upon to rule on components of the remuneration which they themselves could receive, their participation in the adoption of such decisions was liable to give rise to a conflict of interest, in so far as their personal financial interest could interfere with the impartial performance of their judicial duties.

Moreover, the courts might have appeared to go beyond their traditional role of interpreting and applying the law, a situation capable of creating the impression of an institutional conflict of interest,

disclosing tension between the judiciary and the legislative and executive powers. The Court reiterated that it was not the task of the national courts to take the place of the competent national authorities in matters of fiscal and economic policy, as the definition of spending priorities and the allocation of public resources fell within the competence of the executive and the legislature, which enjoyed a wide margin of appreciation in that area.

The Court did not find it necessary to rule on the Government's objections (incompatibility *ratione personae*, lack of victim status and abuse of rights), as it considered that the applicants' complaints were inadmissible for the following reasons.

Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention

The Court reiterated that it was not open to the State, in the light of its Convention requirements, to cite a lack of funds or other resources as an excuse for not honouring a judgment debt. However, the case at hand was linked to exceptional circumstances, characterised in particular by the significance and unforeseeability of the financial obligations imposed on the State and by the economic and fiscal constraints with which the authorities had had to deal in a difficult economic environment.

The Court observed that the extent of the rights granted by court decisions to the judges and prosecutors concerned had been gradually clarified through case-law developments in the second wave of disputes. Similarly, although the legislature's initial intention had been to exclude rights obtained by court decision from the determination of the highest salary, those rights had, owing to the combined effect of Constitutional Court and Court of Cassation decisions, been incorporated into the system and extended to all judges and prosecutors in a given situation. The Court further observed that the proliferation of court actions and interpretative decisions had rendered difficult any preliminary estimate of the overall cost of those claims and their impact on public finances.

The Court pointed out that the staggering, re-staggering and deferral of payments had been implemented through foreseeable legislation. It considered that the objectives set out in that legislation were in the general interest and pursued the legitimate aim of reducing public expenditure, rebalancing the budget and improving the country's economic health. Moreover, the Court had previously accepted that in an acute economic crisis, a State could take the steps it deemed necessary, not only to remedy the immediate budget shortfall, but also to ensure sustainable fiscal consolidation.

In that context, even though the court decisions in the applicants' favour had still not been fully enforced and a deferral of payment had been decided, the national authorities had to be regarded as having put in place, in an acute and prolonged crisis and despite the lack of available financial resources, a series of successive adjustments that had enabled them to ensure the gradual enforcement of those decisions, while pursuing a policy of long-term fiscal consolidation and guaranteeing the continuity of essential public functions and services. That approach reflected the efforts made by the national authorities to strike a balance between the public and private interests at stake.

It was not for the Court to decide whether alternative measures could have been adopted in order to reduce the government deficit and overcome the economic crisis – those matters came within the State's margin of appreciation. Furthermore, it was not the task of the national courts to take the place of the national authorities in matters of fiscal and economic policy, as the definition of spending priorities and the allocation of public resources fell within the competence of the executive and the legislature, which enjoyed a wide margin of appreciation in that area.

The Court noted that all the measures examined formed part of a broader austerity programme aimed at having more members of the civil service and Romanian society as a whole contribute to the fiscal effort. In addition, the sums due to all other civil servants were much smaller than those owed to judges and prosecutors.

The Court accepted that the outstanding sums claimed by the applicants were substantial. However, the applicants' monthly income, past and present, was in any event considerably higher than the average salary or pension in Romania, and even exceeded the remuneration received by the highest

State officials. The Court could not consider that the applicants were a vulnerable group and that the failure to pay the sums in question immediately and in full had deprived them of their sole means of subsistence or had exposed them to the risk of having insufficient resources to support themselves. The Court therefore found that the applicants had not shown that the failure, to date, to fully enforce the court decisions in their favour had placed an individual and excessive burden on them.

Lastly, the Court repeated that in the context of exceptional economic and fiscal difficulties such as those in the case at hand, the competent national authorities, namely the legislature and the executive, were better placed to take account of the member State's particular socio-economic environment and to adopt, in the exercise of their respective powers, measures capable of reconciling the relevant interests. Since the measures implemented struck a fair balance between the competing interests at stake, it was not for the Court to call into question their appropriateness. That would infringe the principle of subsidiarity and put the Court at risk of taking the place of the national authorities, in an area where they enjoyed a wide margin of appreciation.

In those circumstances, the Court could not find, despite the considerable delays in the case at hand, that the failure to fully enforce the decisions at issue had impaired the very essence of the applicants' right to have the court decisions enforced, or that it had imposed an individual and excessive burden on them. It followed that those complaints were manifestly ill-founded and had to be rejected.

Accordingly, the Court unanimously declared the applications inadmissible.

## PROCEDURE
## AND COMPOSITION OF THE COURT

The applications were lodged with the European Court of Human Rights on 3 January, 5 April and 10 May 2024.

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

Lado **Chanturia** (Georgia), *President*,
Faris **Vehabović** (Bosnia and Herzegovina),
Anja **Seibert-Fohr** (Germany),
Ana Maria **Guerra Martins** (Portugal),
Sebastian **Răduleţu** (Romania),
András **Jakab** (Austria),
Corinna **Wissels** (the Netherlands),

and also Hasan **Bakırcı**, *Section Registrar*.

*The decision is available only in French.*

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