



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

FOURTH SECTION

DECISION

Application no. 54710/18
Dan NICA
against Romania

The European Court of Human Rights (Fourth Section), sitting on 27 January 2026 as a Committee composed of:

Faris Vehabović, *President*,

Lorraine Schembri Orland,

Sebastian Rădulețu, *judges*,

and Valentin Nicolescu, *Acting Deputy Section Registrar*,

Having regard to:

the application (no. 54710/18) against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 13 November 2018 by a Romanian national, Mr Dan Nica (“the applicant”), who was born in 1960 and lives in Galați and was represented by Mr V. Enescu, a lawyer practising in Bucharest;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The case concerns criminal proceedings opened against the applicant by the authorities, in alleged violation of Articles 5, 6, 7, 8, 13, 17 and 18 of the Convention, taken alone or in conjunction.

2. The applicant is a former Minister of Communications of Romania and current member of the European Parliament.

3. On an unspecified date a prosecutor attached to the National Anticorruption Directorate (*Direcția Națională Anticorupție*) opened a criminal investigation in respect of the applicant for suspected abuse of office. It was alleged that – in his capacity as Minister of Communications, and together with other members of the government – he had authorised the purchase from a private company of Microsoft software licences for use in public institutions without organising a call for tenders.

4. On 31 January 2018 the prosecutor closed the criminal proceedings against the applicant on the grounds that the prosecution of his case had been time-barred since 2014.

5. The applicant challenged that decision before a superior prosecutor, arguing that the proceedings should have been closed on the grounds that the alleged offence had not taken place, had not been provided for in domestic criminal legislation, or had not been committed with the requisite level of intent. In addition, he argued that the actions and measures taken by the prosecutor against him had been unlawful. He submitted in that regard that he had been investigated for acts which had not constituted a criminal offence at the time when they had allegedly been committed, or in respect of which the criminal prosecution had been time-barred by the time the investigation had started; he and his communications had also been kept under surveillance from July until October 2014, and he had been placed under judicial supervision (*control judiciar*) by the authorities from December 2016 until April 2017. Furthermore, the investigation had been conducted without the approval of the country's President, which had been required by law with regard to investigations into members of the government.

6. On 26 March 2018 the superior prosecutor dismissed the applicant's challenge. He held that, according to the evidence in the case file, the criminal proceedings against the applicant could only have been closed on the grounds that the prosecution had become time-barred. No further evidence capable of supporting a different conclusion could be collected in the case because the applicant had not asked for the proceedings to be continued under Article 319 of the Code of Criminal Procedure (CCP). Moreover, proceedings which were eventually found to be time-barred were not, in themselves, capable of causing harm to the individual concerned or of invalidating the decision to close the case. Investigators could only determine that the prosecution of a case was time-barred after reviewing developments in the case-law and examining all the available evidence, thereby determining the exact legal classification of the alleged conduct and the point at which that conduct had stopped. Furthermore, a superior prosecutor could review the lawfulness of a prosecutor's actions only during an investigation. Once that investigation had been closed, the lawfulness of the prosecutor's actions could only be verified within the framework of proceedings before a court.

7. The applicant contested the prosecutor's and superior prosecutor's decisions before a pre-trial judge attached to the High Court of Cassation and Justice, essentially reiterating the arguments described in paragraph 5 above.

8. By a final interlocutory judgment of 14 May 2018, the pre-trial judge rejected the applicant's challenge as inadmissible. She held that, in accordance with the relevant criminal procedure rules, a pre-trial judge was not vested with any criminal investigative powers and could only examine whether a prosecutor's decision had been lawful and well-founded. The applicant's request for the pre-trial judge to change the grounds on which the prosecutor had closed the proceedings against him fell outside the scope of a pre-trial judge's review. Nonetheless, under Article 319 of the CCP, individuals whose cases had been closed on the grounds that the prosecution had become time-barred and who considered themselves innocent could ask for additional evidence to be adduced to their case files in order to have their innocence recognised through the closure of their cases on other grounds. Yet the applicant had not asked for a continuation of the proceedings under Article 319 of the CCP in order to prove that the prosecutor could have closed the proceedings on grounds other than those on which he had relied.

9. The applicant complained under Article 6 § 2 of the Convention of a violation of his right to be presumed innocent. He argued that, by refusing to examine his challenge against the prosecutor's actions and decision on the grounds that he had not pursued the remedy provided by Article 319 of the Code of Criminal Procedure, the pre-trial judge had shifted the burden of proof and had imposed on him an obligation to prove his innocence.

10. The applicant further complained, expressly or in substance, under Article 6 §§ 1 and 3 of a violation of his right to a fair hearing, arguing that (i) the acts imputed to him had not constituted a criminal offence at the time when they had allegedly been committed, (ii) the criminal prosecution had been time-barred by the time the proceedings against him had started, (iii) the investigators' surveillance of him and his communications from July until October 2014 had been unlawful, (iv) the authorities had denied him access to some of the evidence in the case file, (v) the investigation had been conducted without the approval of the President, which had been required by law with regard to investigations into members of the government, and (vi) the pre-trial judge's refusal to examine his challenge against the prosecutor's actions and decision had been unlawful.

11. In addition, the applicant complained under Article 5 of the Convention of a violation of his right to liberty on account of the allegedly unlawful judicial supervision under which he had been placed by the authorities from December 2016 until April 2017. Under Article 7 of the Convention, he also complained of a violation of his right not to be punished without law, because (i) the acts imputed to him had not constituted a criminal offence at the time when they had allegedly been committed and (ii) the investigation had been conducted without the approval of the President, which had been required by law.

12. Furthermore, he complained expressly or in substance under Article 8 of the Convention of a violation of his right to respect for his private and family life owing to (i) the investigators' alleged unlawful surveillance of him and his communications from July until October 2014 and (ii) the adverse effects of the authorities' alleged unlawful investigation on his national and international political reputation. Relying on Article 13 of the Convention taken in conjunction with Article 6, the applicant also complained of a violation of his right to an effective remedy on account of the pre-trial judge's alleged unlawful refusal to examine his challenge against the prosecutor's actions and decision.

13. Lastly, relying in substance on Articles 17 and 18 of the Convention taken in conjunction with Article 6, the applicant complained that the national authorities had merely intended to damage his political career, submitting that they had conducted a criminal investigation in respect of him for acts that had not constituted a criminal offence at the time when they had allegedly been committed and without having obtained the appropriate approval from the President.

THE COURT'S ASSESSMENT

A. Alleged violation of Article 6 § 2 of the Convention

14. The Court is of the view that the main issue in the present case concerns the applicant's complaint described in paragraph 9 above.

15. The general principles concerning the right to be presumed innocent, as enshrined in Article 6 § 2, may be found in *Caraian v. Romania* (no. 34456/07, § 74, 23 June 2015) and *Nealon and Hallam v. the United Kingdom* ([GC], nos. 32483/19 and 35049/19, §§ 168-69, 11 June 2024).

16. In the applicant's case, the criminal proceedings against him were closed at the pre-trial stage by the prosecutor on the grounds that the prosecution of the offence for which the applicant was being investigated was time-barred. Nevertheless, the applicant contested that decision before the pre-trial judge and essentially asked the judge in question to examine whether certain actions and measures taken against him by the prosecutor had been lawful and whether the proceedings against him could have been closed on one of the grounds described in paragraph 5 above, rather than on the grounds on which the prosecutor had relied. The pre-trial judge was therefore faced with the applicant's request for a review of the legal and factual circumstances that had constituted the basis for the prosecutor's decision and could not but draw conclusions in respect of the circumstances in dispute.

17. Turning to the language used by the pre-trial judge in her decision of 14 May 2018, the Court notes that she merely pointed to the scope of the review that a pre-trial judge could conduct in cases and circumstances similar to those of the applicant. She indicated the remedy that the applicant should have pursued in order to obtain an examination on the merits of the requests and arguments that he had raised before her, and she proceeded to describe the purpose of the remedy in question. In so doing, the pre-trial judge did indeed use terms such as “innocence” and “innocent”. Nevertheless, she used them in the context of a general argument that was rather impersonal and which, in the Court’s view, cannot be read as either stating or suggesting that the applicant was guilty of the criminal offence for which he had been investigated (see paragraph 8 above).

18. As to the finding of the pre-trial judge that the applicant had not asked for the continuation of the proceedings in order to prove that the prosecutor could have closed them on other grounds, the Court notes that the pre-trial judge was merely referring to the scope of the remedy provided by Article 319 of the Code of Criminal Procedure and to the question whether the case file contained sufficient evidence that could justify the closure of the applicant’s case on grounds other than those on which the prosecutor had relied. It did not concern the question of the applicant’s guilt or an alleged obligation for him to prove his innocence.

19. In the light of the above, the Court is not persuaded that the reasons given by the pre-trial judge for rejecting the applicant’s challenge against the prosecutor’s decision shifted the burden of proof onto him and were incompatible with the presumption of innocence.

It follows that this part of the application is manifestly ill-founded within the meaning of Article 35 § 3 and must be rejected pursuant to Article 35 § 4 of the Convention.

B. Alleged violation of Article 5, Article 6 §§ 1 and 3, and Articles 7, 8, 13, 17 and 18 of the Convention, taken alone or in conjunction

20. The Court has examined the complaints submitted by the applicant under Article 5, Article 6 §§ 1 and 3, and Articles 7, 8, 13, 17 and 18 of the Convention, taken alone or in conjunction (see paragraphs 10-13 above). Having regard to all the material in its possession and to its findings in paragraphs 16-19 above, and in so far as they fall within its jurisdiction, the Court finds that the complaints in question do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or the Protocols thereto.

It follows that this part of the application is manifestly ill-founded within the meaning of Article 35 § 3 and must be rejected pursuant to Article 35 § 4 of the Convention.

NICA v. ROMANIA DECISION

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 19 February 2026.

Valentin Nicolescu
Acting Deputy Registrar

Faris Vehabović
President