



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

FOURTH SECTION

CASE OF CANTEMIR v. ROMANIA

(Application no. 9915/19)

JUDGMENT

Art 3 (procedural) • Lack of effective investigation into the applicant's ill-treatment during the demonstrations against the regime in December 1989

Prepared by the Registry. Does not bind the Court.

STRASBOURG

16 September 2025

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Cantemir v. Romania,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Lado Chanturia, *President*,
Faris Vehabović,
Lorraine Schembri Orland,
Anja Seibert-Fohr,
Anne Louise Bormann,
Sebastian Rădulețu,
András Jakab, *judges*,

and Simeon Petrovski, *Deputy Section Registrar*,

Having regard to:

the application (no. 9915/19) against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Romanian national, Mr Tiberiu Cantemir (“the applicant”), on 8 February 2019;

the decision to give notice to the Romanian Government (“the Government”) of the application;

the parties’ observations;

Having deliberated in private on 26 August 2025,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns the alleged ineffectiveness of the investigation carried out into the ill-treatment to which the applicant has been subjected in December 1989. The applicant complains under Article 3 of the Convention. The facts of the present case are similar to those in *Association “21 December 1989” and Others v. Romania* (nos. 33810/07 and 18817/08, §§ 12-41, 24 May 2011), and they concern the same historical context and relate to the same domestic criminal proceedings

THE FACTS

2. The applicant was born in 1964 and lives in Bucharest. He was represented by Ms E. Arjoca, a lawyer practising in Bucharest.

3. The Government were represented by their Agent, Ms O.F. Ezer, of the Ministry of Foreign Affairs.

4. At around 9 p.m. on the evening of 21 December 1989, together with his wife, the applicant decided to join the demonstrations in Bucharest. While on the street and approaching the University Square, he and his wife, together with other participants in the demonstrations, were stopped and beaten (struck with blunt objects on the head and body) by military forces (*miliția*). The applicant and his wife were subsequently arrested, forcibly pushed into a bus

and later transferred to a van which took them to the Central Police Station (*Miliția Capitalei*). Once there, the applicant continued to be ill-treated during the night of 21-22 December 1989 (his teeth were broken and he was tied with ropes while he bled). During this time the applicant lost contact with his wife.

5. He was subsequently brought to the Jilava prison, where he received medical attention for the first time. He was released at around 4 p.m. on 22 December 1989, according to the Government, together with other demonstrators, and was reunited with his wife.

6. In 1990 the military prosecutor's office attached to the High Court of Cassation and Justice opened investigations, of its own motion, into the ill-treatment and injury of the applicant and of other participants during the events of December 1989. The main criminal investigation was registered under file no. 97/P/1990.

7. In parallel, another investigation concerning the offences of illegal deprivation of liberty, illegal arrest and abusive investigation against a large number of persons culminated in the committal for trial of senior military and public officials and their subsequent conviction by a decision of the Supreme Court of Justice of 10 May 1991, which became final on 14 November 1991. The Supreme Court's decision did not indicate whether the applicant participated in those proceedings (see, for illustrative purposes, *Bănuțoiu and Ștefoglou v. Romania* [Committee], nos. 64752/13 and 54607/14, § 7, 3 July 2018, and *Giurcanu and Others v. Romania* [Committee], nos. 30365/15 and 2 others, § 7, 16 October 2018).

8. The applicant's case was examined in the main criminal investigation (see paragraph 6 above).

9. On 22 October 1992, the Directorate of Military Prosecutor's Offices (*Direcția procuraturilor militare*) informed the applicant that "according to the investigations conducted to date, it was established that [he] was arrested on the night of 21-22 December 1989 ... because of [his] participation in the demonstrations held against the regime in December 1989". The letter referred to evidence, such as witness declarations and the Jilava Prison room record (*fișă camera penitenciar*).

10. On 2 January 2006, the military prosecutor's office at the High Court of Cassation and Justice informed the applicant of the investigation file as follows:

"Following your request, we inform you that, according to file no. 97/P/1990, on 21 December 1989 you were demonstrating in the University Square against the communist regime, when you were beaten and illegally deprived of liberty by the repression forces and held at the Central Police Station *Miliția Capitalei* and Jilava Prison until 22 December 1989. We are sending you copies of documents from the file."

11. The applicant was heard in the course of the proceedings on several occasions, including on 21 February 1990, 20 October 1992 and 16 January 2006, as an injured party.

12. On 16 January 2006 the applicant asked to join the proceedings as a civil party.

13. On 3 May 2007, on the basis of Law no. 341/2004 rewarding the heroes martyrs and combatants who contributed to the victory of the Romanian Revolution of December 1989 (*Legea recunoștinței față de eroii martiri și luptătorii care au contribuit la victoria Revoluției Române din decembrie 1989*), the applicant was named by an administrative decision of the relevant Parliamentary Committee (*Comisia Parlamentară a Revoluționarilor din Decembrie 1989*) “Combatant for the victory of the Romanian Revolution of December 1989” in the category of “arrested combatant”.

14. On 18 October 2010 and 15 October 2015, decisions by the prosecutor indicated that the applicant had been “arrested on the evening of 21 December 1989 near the University Square by several military (*miliția*) officers” and that he alleged that he had been ill-treated before being taken to Jilava Prison.

15. On 10 August 2018, the applicant gave another statement about the events in December 1989, at the end of which he mentioned that he no longer wanted to participate in the criminal proceedings as an injured party or as civil party. Consequently, his statement was classified by the judicial authorities as a witness statement.

16. On the occasion of the hearing of the applicant on 10 August 2018, the prosecutor drafted two transcripts (*procesele verbale*), in one of which he referred to the applicant as an “injured person” and in the other as a “witness”.

17. The relevant procedural steps taken in the main criminal investigation were described in *Association “21 December 1989” and Others* (cited above, §§ 12-41).

18. On 5 April 2019 the military prosecutor’s office discontinued the investigation in respect of 627 injured persons, including the applicant. According to this decision, the investigation was pursued in relation to three persons, former top-ranking civilian and military officials, and in connection with facts occurred across the country between 22 and 30 December 1989 (see *Lupu and others v. Romania* [Committee], nos. 3107/19 and 16 others, § 6, 17 January 2023). In the context of the present case, the parties did not inform the Court of any further developments.

RELEVANT LEGAL FRAMEWORK

19. The domestic legal provisions relevant to the criminal proceedings instituted in connection with the events of December 1989 are set out in *Association “21 December 1989” and Others* (cited above, §§ 95-100).

20. The relevant provisions of the former Code of Criminal Procedure (as in force until 1 February 2014) regarding the participants in criminal proceedings stated as follows:

Article 15

“An injured person may join the proceedings as a civil party against the accused person or the defendant and against the party that bears civil liability.

Joining the proceedings as a civil party may be undertaken either during the criminal investigation or in court, before the charges are read out ...”

Article 82

“The injured person may be heard as a witness if he or she does not join the proceedings as a civil party or he or she does not participate in those proceedings as an injured party.”

21. The new Code of Criminal Procedure (as in force at the present time) contains the following provisions:

Article 20 § 1

“Participation in the proceedings as a civil party may be initiated until the beginning of the judicial inquiry. The judicial authorities have the obligation to let the injured person know that they have this right.”

Article 22

“The civil party can waive its civil claims, in whole or in part, no later than the closure of the arguments in the appeal proceedings.

The waiver can be done either in writing or orally before the court.

The civil party cannot revert the waiver and is not entitled to institute separate civil proceedings in respect of the same claims”.

Article 81 § 2

“The person who has suffered a physical, material or moral injury as a result of a criminal offence for which proceedings are conducted by judicial authorities of their own motion and who does not wish to participate in the criminal proceedings as an injured party must inform the judicial authorities of that decision, which, if they find it necessary, may then hear the person as a witness.”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

22. The applicant complained that the main criminal investigation conducted until 10 August 2018 (see paragraph 16 above) into the ill-treatment to which he had been subjected in December 1989 was not effective, as provided for in Article 3 of the Convention. Article 3 reads as follows:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

A. Admissibility

1. *The parties' submissions*

23. The Government raised a preliminary objection of incompatibility *ratione temporis* of the present application and another preliminary objection concerning the lack of victim status of the applicant. They argued that the criminal investigation in respect of the applicant had been closed prior to 20 June 1994, the date of the ratification of the Convention by Romania. They referred to the investigation which had been closed in 1991 and had culminated in the conviction of multiple persons by the Supreme Court of Justice (see paragraph 7 above), as the reason that the applicant has lost his victim status.

24. The applicant submitted that he had not participated in the above-mentioned investigation closed in 1991, whereas he had been a party to the main criminal investigation, which had still been ongoing at the time of the introduction of the present application before the Court on 8 February 2019 (see paragraphs 7 and 8 above).

2. *The Court's assessment*

25. The Court has already defined its jurisdiction *ratione temporis* in similar cases (see *Association "21 December 1989" and Others v. Romania*, nos. 33810/07 and 18817/08, §§ 114-18, 24 May 2011, and *Mocanu and Others v. Romania* [GC], nos. 10865/09 and 2 others, §§ 207-11, ECHR 2014 (extracts)), concluding that it is competent to examine complaints relating to the ineffectiveness of criminal investigations into the events of December 1989 when the majority of the proceedings in respect of a case and the most important procedural measures were carried out after the Convention's entry into force in respect of Romania.

26. It finds no reasons to hold otherwise in the present case, which concerns the same main criminal investigation (see paragraphs 8-12, 21 and 24 above). Therefore, the Court dismisses the Government's preliminary objection and considers that it has jurisdiction *ratione temporis* to examine the part of the investigation which occurred after 20 June 1994 (see *Mocanu and Others*, cited above, §§ 205-11).

27. As regards the Government's objection concerning the applicant's victim status, the Court reiterates that the present case concerns the main criminal investigation and not the one which was closed in 1991, as argued by the Government (see paragraph 22 above). It also notes that there is no evidence indicating an acknowledgment of the violation claimed by the applicant (namely the ineffectiveness of the main criminal investigation) or any redress afforded to him by the domestic authorities in that regard.

28. The Court further notes that the investigation was opened by the authorities of their own motion (see paragraph 6 above) and the applicant

actively participated in that investigation up to 10 August 2018 when he was last heard (see paragraphs 9-16 above). On that occasion, in accordance with the possibility provided for by the domestic law (see paragraphs 20 and 21 above), the applicant stated that he no longer wanted to participate in the criminal proceedings as an injured party or as civil party. In result, his status in the proceedings as from that moment onwards changed to a witness (see paragraph 15 above). The Court considers that the applicant's waiver of 10 August 2018 did not affect his victim status under the procedural limb of Article 3 of the Convention, at least not for the period prior to that date complained of by the applicant (see paragraph 22 above). The case should accordingly be distinguished from *Matei and Badea v. Romania* ((dec.) [Committee], nos. 30357/15 and 30411/15, §§ 16-17, 9 October 2018), *Cristian v. Romania* ((dec.) [Committee], no. 39663/15, 4 September 2018) and *Adam v. Romania* ((dec.) [Committee], no. 30474/15, §§ 9-13, 25 September 2018), in which the applicants never personally and formally joined the proceedings as injured parties, as well as from *Cristian* (cited above, § 7) in which they expressly waived, more than ten years before they brought the application to the Court, their right to be treated as an injured party or a civil party, but were only heard as a witness instead.

29. The Court further reiterates that, in the context of the main investigation for the violent events of 21 to 30 December 1989 in Romania, it considered that an application by the applicants to join the main investigation should have no effect on the applicants' standing (see *Alecu and Others v. Romania*, nos. 56838/08 and 80 others, § 31, 27 January 2015, and *Ecaterina Mirea and Others v. Romania*, nos. 43626/13 and 69 others, §§ 24-30, 12 April 2016).

30. Having examined all the material submitted to it, the Court dismisses the Government's preliminary objections. It concludes therefore that the application is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

31. The general principles concerning the effectiveness of an investigation into allegations of ill-treatment or injury have been summarised in *Labita v. Italy* ([GC], no. 26772/95, § 131, ECHR 2000-IV) and *Mocanu and Others* (cited above, §§ 320-26).

32. The applicant submitted, and the Government did not contest, that he had been ill-treated during the events of December 1989 (see paragraph 4 above). In the Court's view, his allegations were, at least, credible to trigger the State's procedural obligation under Article 3.

33. The main investigation was opened in 1990 and continued after 20 June 1994 (see paragraphs 6-17 above), the date which marks the Court's

jurisdiction *ratione temporis* (see paragraph 26 above). The Court has already found that it was procedurally defective, not only by reason of its excessive length and long periods of inactivity, but also because of numerous procedural shortcomings and of the lack of information afforded to the public about the progress of the inquiry (see *Association “21 December 1989” and Others*, cited above, §§ 133-45; *Mocanu and Others*, cited above, §§ 335-48; and *Alecu and Others*, cited above, § 39). It sees no reasons to hold otherwise in the present case, notwithstanding the applicant’s decision not to pursue his participation in the criminal proceedings twenty-eight and a half years after the beginning of the investigation. Accordingly, the Court holds that the criminal investigation in the present case did not meet the required procedural standards, in particular since it was not conducted with the reasonable expedition required by the Convention.

34. The foregoing considerations are sufficient to enable the Court to conclude that the applicant was deprived of an effective investigation into his case.

35. There has, accordingly, been a violation of Article 3 of the Convention under its procedural limb.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

36. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

37. The applicant claimed 20,000 euros (EUR) in respect of non-pecuniary damage.

38. The Government contested that amount as unsubstantiated.

39. Having regard to the documents in its possession, the Court considers that the violation of Article 3 of the Convention under its procedural limb has caused the applicant substantial non-pecuniary damage, such as distress and frustration. Ruling on an equitable basis, it awards the applicant EUR 12,500, plus any tax that may be chargeable.

B. Costs and expenses

40. The applicant made no claim under this head. Accordingly, the Court makes no award.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 3 of the Convention under its procedural limb;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 12,500 (twelve thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 16 September 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Simeon Petrovski
Deputy Registrar

Lado Chanturia
President