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PhD THESIS

**THE REMEDY PROCEDURE
IN CASE OF
JUDICIAL ERROR**

SUMMARY

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Plan of PhD thesis

ABBREVIATIONS

INTRODUCTION

CHAPTER I. SHORT OVERVIEW ON THE EVOLUTION OF THE LEGAL FRAMEWORK OF JUDICIAL ERRORS

SECTION 1. PRELIMINARY CONSIDERATIONS

SECTION 2. THE EVOLUTION OF THE LEGAL FRAMEWORK OF JUDICIAL ERRORS IN ROMANIA

SECTION 3. THE CURRENT LEGAL FRAMEWORK IN ROMANIA

SECTION 4. THE INTERNATIONAL REGULATIONS IN MATTER OF JUDICIAL ERRORS

SECTION 5. CONCLUSIONS

CHAPTER II. THE CONCEPT OF JUDICIAL ERROR .. Eroare! Marcaj în document nedefinit.

SECTION 1. THE MEANING OF THE CONCEPT

SECTION 2. THE ADMISSABILITY CONDITIONS FOR ACKNOWLEDGING A JUDICIAL ERROR.....

SECTION 3. ANALYSIS OF THE NECESSARY REQUIREMENTS TO BE COMPLIED WITH IN ORDER TO ACKNOWLEDGE A JUDICIAL ERROR PERTAINING TO THE PROVISIONS OF ART. 96 . 3 "A)" OF LAW 303/2004

§3.1 The existence of a pending criminal or civil trial

§3.2. The existence of some procedural documents made by the prosecutor or by the judge

§3.3. Failure to comply with or violation of the legal provisions of substantive and procedural law by performing procedural documents

§3.4. The violation should have an obvious character

§3.5. The violation should affect or seriously breach the person's legitimate rights, liberties and interests

§3.6. Production of damages

§3.7. The damage caused could not be remedied by any way of appeal (ordinary or extraordinary)

SECTION 4. JUDICIAL ERROR AND VIOLATION OF THE RIGHT IN A FAIR TRIAL

§4.1. The right to settle the case within a reasonable term

§4.2. Modality of calculation of the duration of procedures

SECTION 5. ANALYSIS OF THE NECESSARY REQUIREMENTS TO BE COMPLIED WITH TO ACKNOWLEDGE THE JUDICIAL ERROR PERTAINING TO THE PROVISIONS OF ART. 96 PARA. 3) "B)" OF LAW 303/2004

§5.1. The existence of a final judicial judgement

§5.2. The judicial judgement should be contrary to the law or to the de facto situation arising from the evidence administered in the case

SECTION 6. CONCLUSIONS

CHAPTER III. THE CASES GIVING THE RIGHT TO REMEDIES PROVIDED BY THE CRIMINAL PROCEDURE CODE

SECTION 1. PRELIMINARY CONSIDERATIONS

SECTION 2. THE LAW APPLICABLE TO THE DISPUTE REGARDING THE REMEDY OF THE DAMAGE

SECTION 3. THE RIGHT TO REMEDY THE DAMAGE IN CASE OF JUDICIAL ERROR

§3.1. Final conviction

§3.2. Annulment or cancellation of the final judgement

§3.3. Issuance of a final judgement of acquittal

§3.4. The convicted person should not have had the conviction by false testimony, or in any other way.

§3.5. The convicted person should not be totally or partially responsible for not finding out the unknown or recently discovered fact

SECTION 4. THE RIGHT TO REMEDY OF DAMAGE IN CASE OF DEPRIVATION OF FREEDOM

§4.1. PRELIMINARY CONSIDERATIONS

§4.2. Unlawful deprivation of freedom. Notion. National standard

§4.3. Preventive measures

§4.4. Deprivation of freedom. Conventional standard

§4.5. Cases of unlawful deprivation of freedom

§4.6. Competent court

§4.7. The documents by which the unlawful deprivation can be appealed

§4.8. Deprivation of freedom followed by acquittal or closure.

CHAPTER IV. THE PATRIMONIAL LIABILITY OF THE STATE FOR THE DAMAGES CAUSED BY JUDICIAL ERRORS

SECTION 1. REGULATION

SECTION 2. CIVIL ACTION-PROCEDURAL INSTRUMENT TO OBTAIN COMPENSATION

SECTION 3. HOLDERS OF CIVIL ACTIONS

SECTION 4. PASSIVE CAPACITY TO STAND TRIAL

SECTION 6. JUDICIAL NATURE OF STATE LIABILITY

SECTION 7. TERM FOR FILING AN ACTION

§7.1. The moment when the term starts

SECTION 8. COMPETENCE FOR SETTLEMENT OF ACTION

SECTION 9. PROCEDURAL ASPECTS REGARDING TRIAL

SECTION 10. NATURE OF REMEDY

SECTION 11. DAMAGES

§11.1. Existence of damages

§11.2. Forms of damages caused by judicial error

CHAPTER V. PATRIMONIAL LIABILITY OF MAGISTRATES FOR THE DAMAGES CAUSED BY JUDICIAL ERRORS

SECTION 1. GENERAL CONSIDERATIONS

SECTION 2. CHARACTERISTICS OF MAGISTRATES' LIABILITY FOR JUDICIAL ERRORS

SECTION 3. ACTION FOR RECOVERY

§3.1. Active capacity to stand trial

§3.2. Passive capacity to stand trial

§3.3. Competent court

§3.4. Term to file the action

3.5. Procedural aspects regarding trial

§3.6. Requirements for liability

CHAPTER VI

ASPECTS OF COMPARATIVE LAW

SECTION 1. LIABILITY FOR JUDICIAL ERROR IN FRANCE

SECTION 2. LIABILITY FOR JUDICIAL ERROR IN SPAIN

SECTION 3. LIABILITY FOR JUDICIAL ERROR IN ITALY

SECTION 4. CONCLUSIONS

CONCLUSIONS AND PROPOSALS OF FERENDA LAW

BIBLIOGRAPHY

1. Topic of research and its scientific importance

This paper aims at dealing with the issue of damage remedy, as well as with the liability in case of judicial error.

The interest in dealing with this topic was generated by the amendments occurred both in defining the concept of "judicial error" and in the case of the liability of the magistrate, when a judicial error is committed, amendments which generated vivid debates in the legal field and more, the concept of "judicial error" being more and more used.

We consider that a group study regarding the liability in case of judicial error, that should represent more than an article or a section in a treaty of criminal procedure law, is a doctrine novelty, becoming more up-to-date within the context of the new regulations.

With this paper, we tried to show that, since ancient times, the (national or international) lawmaker has understood the importance of performing a fair act of justice and has established different mechanisms to prevent committing judicial errors. Thus, they adopted a series of provisions, at national and international level, to compensate the victim of a judicial error, and also provisions regarding the liability of those committing such injustice, in order to restore the rightful order.

As a result of the increase of the role of justice in the contemporary society, the debates about it are more and more tensed. The issue of magistrates' liability should be approached at least at theoretical level "with no passions and obsession, no preconceptions, and without thinking that the act of justice is faultless and that the judge cannot make a mistake, and if he/she does, his/her fault can be rectified through another judicial procedure or minimalized through a caste "cover-up""¹. When we talk about the magistrates' liability, we should have a balanced vision "that would give satisfaction to the injured citizen, but would not affect the idea of justice."²

2. Purpose and objectives of research

The purpose of this paper is the analysis of the institution of the notion of judicial error in our contemporary legislation, presenting the new vision adopted by the Romanian lawmaker on this concept, vision that extended its range of application by Law 242/2018 of modification of Law 303/2004, legislative act

¹Cristian Ionescu, „*We need a law regarding magistrates' liability*”, Law, no. 11/2017, p. 13.

² *Ibidem*.

establishing a series of amendments and conceptual novelties in this matter. Also, it was analyzed the concept of judicial error from the perspective of the Criminal procedure code, as amended by the intervention of the Constitutional Court, by Decision no. 236/2021, introducing a new case of responsibility in this matter.

With this paper, we tried to emphasize, where necessary, which are the differences between the former regulations in the matter and the new lawmaker's approach, and also the differences and the lack of correlation between the provisions of art. 96 of Law 303/2004 on one hand, and the provisions on judicial error in criminal matter, provided by the Criminal procedure code, on the other hand.

In order to give a full image on the regulation of the judicial error and on the meaning of such concept, we also made a short presentation of the international regulations in this matter.

At the same time, we made an analysis of the practices of the national instances and of the European Court, too, regarding the granting of damages caused by judicial errors, in order to present the usefulness of establishing some criteria on the assessment of the existence and extent of the damage, so that the arbitrary be limited in this matter.

The paper also emphasizes which are the types of damage that can be generated by judicial errors and the requirements that should be complied with to grant them, pointing out the particularities of state liability and of magistrates' liability, compared to common law liability. We emphasized that the magistrates' liability is an indirect and subsidiary one, being engaged only under certain circumstances, these characteristics coming from the need to protect the magistrate's independence, so that he/she is not at the discretion of the parties that consider themselves as dissatisfied with the solutions adopted by them and not to jeopardize the idea of justice itself.

Finally, we made a short analysis of the procedure of damage remedy in case of judicial error, in the French, Spanish and Italian law systems, in order to point out the similarities between these systems of law and the Romanian law, as well as the particularities of each system separately.

3. Methodology of the research

Regarding the purpose and the objectives proposed, the use of several methods of research was necessary, among which the most remarkable are the logical method, the comparative method and the method of historical-theological analysis. Thus, the logical method was used to interpret the legal provisions and to achieve the corroboration with the theoretical and the practical aspects, in order to point out the importance and the practical impact of the interpretations proposed.

The comparative method was used to point out the differences between the former and the new regulations in the matter, the differences and the lack of correlation between the provisions of art. 96 of Law 303/2004 on one hand, and the provisions regarding the judicial error in criminal matter provided by the Criminal procedure code on the other hand, similarities and differences our internal legislation in the matter and the international one, as well as the legislation of other European States.

The method of historical-theological analysis was used most times to try to understand the purpose of the amendments brought in this matter by relating to the former regulations.

4. Structure of the paper

The paper is structured in six chapters and at the end it has the conclusions and proposals of law *ferenda*, and the bibliography.

Chapter I contains a short evolution of the legal framework of judicial error.

In this part of the paper, we tried to show that, although recently in the Romanian society it has been given a lot of attention to defining the notion of judicial error and to magistrates' liability, the debates on this topic being more and more tensed; such concerns of the lawmaker are not recent. We emphasized that there are regulations about the magistrates' liability for judicial errors, even from the first documents regarding justice and judges.

After a short retrospective of the documents by which the judicial error and the liability in case of judicial error were regulated over the years, we made a short presentation of the current legal framework in this matter, at the same time showing all the lawmaker's attempts to amend Law 303/2004, on the judges and prosecutors' liability, as well as the issues of constitutionality raised by the contents of the legal texts proposed to be amended.

In order to offer a full image with regard to the regulation of judicial error, we also made a short presentation of the international regulations in this matter.

Further on, in **Chapter II**, we tried to make more detailed analysis of the concept of judicial error in the current national legislation. We showed that the Romanian lawmaker adopted a new vision on this concept, extending its range of application, thus drifting away from the definition that the concept of judicial error received in the Romanian explanatory dictionary, as well as from the legal provisions existing at international level in the matter, regulating the judicial error only in criminal matter and it supposes first the existence of a final judgement of conviction, following which a punishment should have been executed, and subsequently the conviction was to be annulled, if a new fact proves that a judicial error was produced. In analysing the concept of judicial error, we took into

account both the definition given by the lawmaker, by Law 242/2018 of modification of Law 303/2004, and the case law of the Constitutional Court regarding this aspect, trying to point out which are the problems raised by these new regulations and to propose legislative amendments where we considered them necessary.

Am analizat care sunt condițiile de admisibilitate ce se impun a fi îndeplinite pentru a se constata existența unei erori judiciare întemeiată pe dispozițiile art. 96 alin. 3) lit. a) și b) din Legea 303/2004.

We analysed which are the requirements for admissibility imposed to be complied with to establish the existence of a judicial error grounded on the provisions of art. 96 para. 3) "a)" and "b)" of Law 303/2004.

We emphasized in this chapter that the lawmaker's new vision on the concept judicial error has a wider range of coverage compared to the existing provisions in this matter before amending Law 303/2004, including also the errors of procedure. Thus, the judicial error should not be regarded only by the perspective of issuing a wrong judicial judgement, but also by the perspective of the way in which the procedure was carried out (unjustified adjournments, lack of celerity, delayed drawing up of a judgement).

We showed that the unreasonable duration of the procedures is one of the elements of law for a fair trial, thus generating a rich casuistry with regard to making the state pay some compensatory amounts for the patrimonial damage caused, considering that the excessive length of a judicial procedure can no longer be remedied, even if a fair judicial decision will be issued in the end.

Chapter III contains an analysis of the criminal procedural provisions in matter of judicial error, as they are provided in Chapter VI of Title IV from the Special Part, also making a comparison to the former procedural provisions existing in this matter.

Considering that there was a sequence of the incident regulation in the matter of remedy of damages caused as a result of judicial errors, we made an analysis regarding the applicable law for such dispute, taking into consideration that there were different solutions in this regard in the practice of the courts of law.

We showed which are the cases granting a right to remedy for judicial errors, provided by the Criminal procedure code, and which are the differences and non-correlations between the criminal procedural provisions in this matter and the provisions of Law 303/2004.

This chapter also contains an analysis of the requirements imposed to be complied with in order to establish the existence of a judicial error grounded on the criminal procedural provisions, and the requirements that should be complied

with to engage the state liability in case of unlawful/illegal deprivation of freedom.

We made an analysis of the concept of unlawful deprivation of freedom, showing what is the national standard in this matter, and also the standards provided by the European Convention, considering that for any detention to be considered legal, it has to be compliant with the internal regulations and with the provisions of art. 5 para.1) of the Convention.

Without being exhaustive, we tried to illustrate which are the situations that can represent an illegal deprivation of freedom, also making a summary of the case law of the European Court in this matter.

We also showed what is the competent court to decide upon the unlawfulness of a deprivation of freedom, existing a non-unitary practice in this matter over time, evoking in this regard Decision no. 15/2017 issued by the High Court of Cassation and Justice in a second appeal in the interest of the law, decision that ended a non-unitary practice in this matter.

We also made a presentation of the documents establishing the unlawful detention.

At the end of this chapter, we made an analysis of the case of engaging the state liability, introduced as a result of the intervention of the Constitutional Court, by Decision no. 136/2021, decision showing that the state owed compensations in the case where a deprivation of freedom took place, too, and the criminal trial proves at the end the groundlessness of the charge brought to the person to whom they had decided an imprisonment measure against during the criminal trial.

Chapter IV deals with the issue of patrimonial liability of the state for the damages caused by judicial errors. We pointed out that the patrimonial liability of the state for the damages caused by judicial errors, is regulated at the level of constitutional regulations, being a direct and objective liability, independent from an eventual fault of the judge or of the prosecutor who settled the case.

We showed that the civil action grounded on the provisions of art. 538, art. 539 of Criminal procedure code ,or on art. 96 of Law 303/2004, is the procedural instrument to obtain the compensations, at the same time making an analysis of the holders of such actions, of the competent court to judge it, of the term when it should be filed, according to the legal provisions it is based on, underlying the non-correlations in this regard between the criminal procedural provisions and the provisions of law 303/2004.

With regard to the nature of the remedy, we pointed out that the right to compensation mainly refers to a monetary compensation, at the same time presenting the types of damages that can be generated through judicial errors, and the conditions that should be complied with to grant them.

We analysed the practice of the national courts and of the European Court, too, regarding the awarding of damages caused by judicial errors, in order to present the usefulness of establishing some criteria about the assessment of the existence and extent of the damage, so that the arbitrariness be limited in this matter.

Further on, in **Chapter V**, we analysed the patrimonial liability of the magistrates for the damages caused by judicial errors, underlying the particularities of this type of liability compared to the common law liability. We emphasized the fact that the magistrates' liability is an indirect and subsidiary one, being engaged only under some conditions, these characteristics arising from the need to protect the independence of the magistrate, so that he/she should not at the discretion of the parties that consider themselves as dissatisfied with the solutions adopted by them and not to jeopardize the idea of justice itself.

We made an analysis of the action for recovery, the procedural instrument by which one can obtain the engagement of the magistrate's liability, underlying that the State, by the Ministry of Public Finance, is the only one that can have active procedural capacity in a case requesting the remedy of the damage caused by a judicial error from a magistrate, and the only one that can decide if it will file such an action or not.

We showed what the competent court to judge such an action for recovery is, what the term to file such action is, according to the legal provisions it is based on, underlying again the non-correlations in this regard between the criminal procedural provisions and the provisions of law 303/2004.

We analysed the requirements that should be complied with in order to engage the magistrates' liability, taking into account the special character of this liability.

In **Chapter VI**, we made a short analysis of the procedure of damage remedy in case of judicial error, in the French, Spanish and Italian law systems, in order to point out the similarities between these systems of law and the Romanian law, as well as the particularities of each system separately

We pointed out that beyond the particularities of each system, in all the systems of law analysed, we find the same principle of direct non-liability of the magistrates, principle also laid down by the Romanian lawmaker.

The last part of the paper is dedicated to the conclusions we reached as a result of carrying out the process of thorough scientific research, materialized in writing the study presented above. Thus, the main amendments of the concept of judicial error are pointed out, as well as of the liability in case of judicial error. At the same time, this part contains the proposals to improve the existing regulations, where we considered that the lawmaker's intervention is imposed.

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<https://www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=36629>, accesată la data de 26.08.2021.

Decizia nr. 1534/21.02.2011 Disponibilă la adresa:
<https://www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=66409#highlight=##>, accesată la data de 22.12.2021.

Decizia nr. 737/08.02.2012, disponibilă la adresa:
<https://www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=81718>, accesată la data de 12.12.2021.

Decizia nr. 4050/2012, disponibilă la adresa:
<https://www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=81766>, accesată la data de 26.08.2021.

Decizia nr. 3371/2013, disponibilă la adresa:
<https://www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=81668>, accesată la data de 24.08.2020.

Decizia nr. 4428/10.10.2013, disponibilă la adresa:
<https://www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=81678>, accesată la data de 04.11.2021.

Decizia nr. 292/2014 Disponibilă la adresa:
<https://www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=119336>, accesată la data de 24.08.2020.

Decizia nr. 3477/2014, disponibilă la adresa:
<https://www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=12583>, accesată la data de 24.08.2020.

Decizia nr. 633/2015, disponibilă la adresa:
<https://www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=11933>, accesată la data de 24.08.2020.

Decizia nr. 1677/26.10.2017, disponibilă la adresa <https://www.scj.ro/1093/Detaliijurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=143886>, accesată la data de 20.01.2021.

Decizia nr. 2329/12.06.2018, Disponibilă la adresa: <https://www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=14760>, accesată la data de 20.01.2021.

Decizia nr. 464/2018, disponibilă la adresa <https://www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=14642>, accesată la data de 24.08.2020.

Decizia nr. 1811/17.10.2019, disponibilă la adresa <https://www.scj.ro/1093/ Detaliijurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=162472>, accesată la data de 26.01.2021.

Decizia nr. 4428/10.10.2013, disponibilă la adresa: <https://www.scj.ro/1093/Detalii-jurisprudenta?customQuery%5B0%5D.Key=id&customQuery%5B0%5D.Value=81678>, accesată la data de 04.11.2021.

Judgments of other national courts:

Decizia civilă nr. 62/2014 a Curții de Apel Alba Iulia(nepublicată)

Decizia civilă nr. 86/2014 a Curții de Apel Alba Iulia(nepublicată)

Decizia civilă nr. 86/2014 a Curții de Apel Alba Iulia(nepublicată)

Decizia civilă nr. 299/05.06.2015 a Curții de Apel București(nepublicată)

Sentința civilă nr. 78/2014 a Tribunalului Argeș (nepublicată)

Sentința civilă nr. 873/D/2016 a Tribunalului Bacău (nepublicată)

Sentința civilă nr. 1082/2012 a Tribunalului București(nepublicată)

Sentința civilă nr. 812/2013 a Tribunalului București(nepublicată)

Sentința civilă nr. 678/2014 a Tribunalului București(nepublicată)

Sentința civilă nr. 1671/11.12.2014 a Tribunalului București(nepublicată)

Sentința civilă nr. 115/31.01.2017 a Tribunalului București(nepublicată)

Sentința civilă nr. 1671/2014 a Tribunalului București(nepublicată)

Sentința civilă nr. 1714/19.12.2014 a Tribunalului București(nepublicată)

Sentința civilă nr. 1405/24.11.2015 a Tribunalului București(nepublicată)

Sentința civilă nr. 1644/03.11.2017 a Tribunalului București(nepublicată)

Sentința civilă nr. 587/02.05.2018 a Tribunalului București(nepublicată)

Sentința civilă nr. 2711/21.12.2018 a Tribunalului București(nepublicată)

Sentința civilă nr. 1252/2019 a Tribunalului București(nepublicată)

Sentința civilă nr. 438/2014 a Tribunalului Dolj (nepublicată)

Sentința civilă nr. 1281/21.04.2008 a Tribunalului Prahova (nepublicată)

Sentința civilă nr. 272/30.01.2009 a Tribunalului Prahova (nepublicată)

Sentința civilă nr. 339/14.02.2019 a Tribunalului Prahova (nepublicată)

Sentința civilă nr. 172/D/23.06.2016 a Tribunalului Satu Mare(nepublicată)
Sentința civilă nr. 5952/2014 a Judecătoriei Bacău(nepublicată).

Judgments of the European Court of Human Rights:

Cauza *Avram împotriva României*, Hotărârea din 18.10.2011, disponibilă la adresa:[https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22\%22AFFAIRE%20AVRAM %20c.%20ROUMANIE\%22%22\],%22documentcollectionid%22:\[%22GRANDCHAMBER%22,%22CHAMBER%22\],%22itemid%22:\[%22001-107003%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22\%22AFFAIRE%20AVRAM%20c.%20ROUMANIE\%22%22],%22documentcollectionid%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-107003%22]}), accesată la data de 13.08.2021;

Cauza *Bachowski contra Poloniei*, Hotărârea din 02.11.2010, disponibilă la adresa: <https://hudoc.echr.coe.int/eng?i=001-119295>, accesată la data de 27.01.2021;

Cauza *Baranowski împotriva Poloniei*, Hotărârea din 28.03.2000, disponibilă la adresa:[https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22\%22CASE%20OF%20BARANOWSKI%20v.%20POLAND\%22%22\],%22documentcollectionid%22:\[%22GRANDCHAMBER%22,%22CHAMBER%22\],%22itemid%22:\[%22001-58525%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22\%22CASE%20OF%20BARANOWSKI%20v.%20POLAND\%22%22],%22documentcollectionid%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-58525%22]}), accesată la data de 10.08.2021;

Cauza *Benham contra Regatului Unit*, Hotărârea din 10.06.1996, disponibilă la adresa:[https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22\%22CASE%20OF%20BENHAM%20v.%20THE%20UNITED%20KINGDOM\%22%22\],%22documentcollectionid%22:\[%22GRANDCHAMBER%22,%22CHAMBER%22\],%22itemid%22:\[%220015799%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22\%22CASE%20OF%20BENHAM%20v.%20THE%20UNITED%20KINGDOM\%22%22],%22documentcollectionid%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%220015799%22]}), accesată la data de 12.08.2021;

Cauza *Bozano împotriva Franței*, Hotărârea din 02.12.1987, disponibilă la adresa: [https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22bozano%22\],%22documentcollectionid%22:\[%22GRANDCHAMBER%22,%22CHAMBER%22\],%22itemid%22:\[%22001-57447%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22bozano%22],%22documentcollectionid%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-57447%22]});

Cauza *Brogan și alții contra Regatului Unit*, Hotărârea din 30.05.1989, disponibilă la adresa: [https://hudoc.echr.coe.int/fre#{%22fulltext%22:\[%22\%22CASE%20OF%20BROGAN%20AND%20OTHERS%20v.%20THE%20UNITED%20KINGDOM%22%22\],%22documentcollectionid%22:\[%22GRANDCHAMBER%22,%22CHAMBER%22\],%22itemid%22:\[%22001-57449%22\]}](https://hudoc.echr.coe.int/fre#{%22fulltext%22:[%22\%22CASE%20OF%20BROGAN%20AND%20OTHERS%20v.%20THE%20UNITED%20KINGDOM%22%22],%22documentcollectionid%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-57449%22]}), accesată la data de 10.08.2021;

Cauza *Calmanovici împotriva României*, Hotărârea din data de 01.07.2008, disponibilă la adresa: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-122630%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-122630%22]}), accesată la data de 13.08.2021;

Cauza *Ciulla contra Italiei*, Hotărârea din 22.02.1989, disponibilă la adresa: [https://hudoc.echr.coe.int/fre#{%22fulltext%22:\[%22ciulla%22\],%22documentcollectionid%22:\[%22GRANDCHAMBER%22,%22CHAMBER%22\],%22itemid%22:\[%22001-62018%22\]}](https://hudoc.echr.coe.int/fre#{%22fulltext%22:[%22ciulla%22],%22documentcollectionid%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-62018%22]}), accesată la data de 31.10.2021;

Cauza *Creangă contra României*, Hotărârea din 23.02.2012, disponibilă la adresa: [https://hudoc.echr.coe.int/eng#{%22display%22:\[%220%22\],%22languageisocode%22:\[%22RUM%22\],%22appno%22:\[%229226/03%22\],%22documentcollectionid%22:\[%22GRANDCHAMBER%22\],%22itemid%22:\[%22001122815%22\]}](https://hudoc.echr.coe.int/eng#{%22display%22:[%220%22],%22languageisocode%22:[%22RUM%22],%22appno%22:[%229226/03%22],%22documentcollectionid%22:[%22GRANDCHAMBER%22],%22itemid%22:[%22001122815%22]}), accesată la data de 13.10.2021;

Cauza *Cristina Boicenco împotriva Moldovei*, Hotărârea din 27.09.2011, disponibilă la adresa: [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-106344%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-106344%22]}), accesată la data de 27.12.2021;

Cauza *Crăciun contra României*, Hotărârea din 30 septembrie 2008, disponibilă la adresa: [https://hudoc.exec.coe.int/eng#{"EXECDocumentTypeCollection":\["CEC"\]}](https://hudoc.exec.coe.int/eng#{); accesată la data de 20.08.2020;

Cauza *Chitayev împotriva Rusiei*, Hotărârea din 18.04.2007, disponibilă la adresa: [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-79109%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-79109%22]}), accesată la data de 02.11.2021;

Cauza *Corigliano contra Italiei*, Hotărârea din 10 decembrie 1982, disponibilă la adresa: <https://hudoc.echr.coe.int/eng?i=001-57463>, accesată la data de 20.08.2020;

Cauza *Damian-Burueană și Damian împotriva României*, Hotărârea din data de 26.05.2009, disponibilă la adresa: [https://hudoc.echr.coe.int/fre#{%22languageisocode%22:\[%22RUM%22\],%22appno%22:\[%226773/02%22\],%22documentcollectionid%22:\[%22CHAMBER%22\],%22itemid%22:\[%22001-123246%22\]}](https://hudoc.echr.coe.int/fre#{%22languageisocode%22:[%22RUM%22],%22appno%22:[%226773/02%22],%22documentcollectionid%22:[%22CHAMBER%22],%22itemid%22:[%22001-123246%22]});

Cauza *Dragotoniș și Militaru Pidhorni împotriva României*, Hotărârea din 24.05.2007, disponibilă la adresa: [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-122714%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-122714%22]}), accesată la data de 28.12.2021;

Cauza *Dubovik împotriva Ucrainei*, Hotărârea din 15.01.2010, disponibilă la adresa: [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-95081%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-95081%22]}), accesată la data de 31.10.2021;

Cauza *Erdagoz împotriva Turciei*, Hotărârea din data de 22.10.1997, disponibilă la adresa: [https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22erdagoz%22\],%22documentcollectionid%22:\[%22GRANDCHAMBER%22,%22CHAMBER%22\],%22itemid%22:\[%22001-58108%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22erdagoz%22],%22documentcollectionid%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-58108%22]}), accesată la data de 13.08.2021;

Cauza *Fernandes Pedrosa împotriva Portugaliei*, Hotărârea din 12.09.2018, disponibilă la adresa: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-183541%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-183541%22]}), accesată la data de 02.11.2021;

Cauza *Ganea împotriva Moldovei*, Hotărârea din 17.05.2011, disponibilă la adresa: [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-104792%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-104792%22]}), accesată la data de 27.12.2021;

Cauza *Garabaiev contra Rusiei*, disponibilă la adresa: [https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22garabaiev%22\],%22documentcollectionid%22:\[%22GRANDCHAMBER%22,%22CHAMBER%22\],%22itemid%22:\[%22001-80961%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22garabaiev%22],%22documentcollectionid%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-80961%22]}), accesată la data de 12.08.2021;

Cauza *Harkmann împotriva Estoniei*, Hotărârea din 11.07.2006, disponibilă la adresa: [https://hudoc.echr.coe.int/eng#{%22languageisocode%22:\[%22ENG%22\],%22appno%22:\[%22192/03%22\],%22documentcollectionid%22:\[%22CHAMBER%22\],%22itemid%22:\[%22001-76300%22\]}](https://hudoc.echr.coe.int/eng#{%22languageisocode%22:[%22ENG%22],%22appno%22:[%22192/03%22],%22documentcollectionid%22:[%22CHAMBER%22],%22itemid%22:[%22001-76300%22]}), accesată la data de 12.10.2021;

Cauza *Holomiov contra Moldovei*, Hotărârea din 7 noiembrie 2006, disponibilă la adresa: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-112629%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-112629%22]}), accesată la data de 20.08.2020;

Cauza *Hornsby contra Greciei*, Hotărârea din 27 octombrie 2009, paragraful 27, disponibilă la adresa: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-95281%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-95281%22]}), accesată la data de 25.08.2020;

Cauza *Ilgar Mammadov împotriva Azerbaidjan*, Hotărârea din 29.05.2019, disponibilă la adresa: [https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22\%22CASE%20OF%20ILGAR%20MAMMADOV%20v.%20AZERBAIJAN\%22%22\],%22documentcollectionid%22:\[%22GRANDCHAMBER%22,%22CHAMBER%22\],%22itemid%22:\[%22001193543%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22\%22CASE%20OF%20ILGAR%20MAMMADOV%20v.%20AZERBAIJAN\%22%22],%22documentcollectionid%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001193543%22]}), accesată la data de 13.08.2021;

Cauza *Iovchev împotriva Bulgariei*, Hotărârea din 02.02.2006, disponibilă la adresa: [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%2200172246%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%2200172246%22]}), accesată la data de 20.12.2021;

Cauza *Iustin Robertino Micu contra României*, Hotărârea din 13.01.2015, disponibilă la adresa: [https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22\%22CASE%20OF%20IUSTIN%20ROBERTINO%20MICU%20v.%20ROMANIA\%22%22\],%22documentcollectionid%22:\[%22GRANDCHAMBER%22,%22CHAMBER%22\],%22itemid%22:\[%22001-150217%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22\%22CASE%20OF%20IUSTIN%20ROBERTINO%20MICU%20v.%20ROMANIA\%22%22],%22documentcollectionid%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-150217%22]}), accesată la data de 18.08.2021;

Cauza *Konolos împotriva României*, Hotărârea din 07.02.2008, disponibilă la adresa: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-123944%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-123944%22]}), accesată la data de 13.08.2021;

Cauza *Kudla contra Poloniei*, Hotărârea din 26 octombrie 2000, disponibilă la adresa: hudoc.echr.coe.int; accesată la data de 27.01.2021;

Cauza *Lobanov contra Rusiei*, Hotărârea din 09.07.2012, disponibilă la adresa: [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-109056%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-109056%22]}), accesată la data de 24.10.2021;

Cauza *Marinică Țițian Popovici contra României* Hotărârea din 27 octombrie 2009, disponibilă la adresa: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-95281%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-95281%22]}), accesată la data de 25.08. 2020;

Cauza *Matveyev v. Rusia*, Hotărârea din 03 iulie 2008, disponibilă la adresa: <https://hudoc.echr.coe.int/fre?i=001-87352>, accesată la data de 21.01.2021;

Cauza Mehmet Hasan Altan împotriva Turciei, Hotărârea din 20.03.2018, disponibilă la adresa: <https://hudoc.echr.coe.int/fre#%7B%22itemid%22%3A%22001-181862%22%7D>}, accesată la data de 27.12.2021;

Cauza Merabishvili împotriva Georgiei, disponibilă la adresa: <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22%3A%22Merabishvili%22%2C%22documentcollectionid%22%3A%22GRANDCHAMBER%22%2C%22CHAMBER%22%2C%22itemid%22%3A%22001-178753%22%7D>}, accesată la data de 18.08.2021;

Cauza Minjat contra Elveției, Hotărârea din 28.10.2003, disponibilă la adresa: <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22%3A%22minjat%22%2C%22documentcollectionid%22%3A%22GRANDCHAMBER%22%2C%22CHAMBER%22%2C%22itemid%22%3A%22001-65961%22%7D>}, accesată la data de 12.08.2021;

Cauza Murray împotriva Regatului Unit, Hotărârea din 28 octombrie 1994, disponibilă la adresa: <https://hudoc.echr.coe.int/fre#%7B%22fulltext%22%3A%22%22CASE%20OF%20ROBERT%20MURRAY%20v.%20THE%20UNITED%20KINGDOM%22%22%2C%22documentcollectionid%22%3A%22GRANDCHAMBER%22%2C%22CHAMBER%22%2C%22itemid%22%3A%22001-91094%22%7D>}, accesată la data de 10.08.2021;

Cauza Nolkenbockhoff împotriva Germaniei, Hotărârea din 25 august 1987, disponibilă la adresa: <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22%3A%22%22CASE%20OF%20NOLKENBOCKHOFF%20v.%20GERMANY%22%22%2C%22documentcollectionid%22%3A%22GRANDCHAMBER%22%2C%22CHAMBER%22%2C%22itemid%22%3A%2200157546%22%7D>}, accesată la data de 10.08.2021;

Cauza Pantea împotriva României, Hotărârea din 03.06.2003, disponibilă la adresa: <https://hudoc.echr.coe.int/eng#%7B%22languageisocode%22%3A%22RUM%22%2C%22appno%22%3A%2233343/96%22%2C%22documentcollectionid%22%3A%22CHAMBER%22%2C%22itemid%22%3A%22001-122720%22%7D>}, accesată la data de 13.08.2021;

Cauza Norik Poghosyan împotriva Armeniei, Hotărârea din 22.10.2020, disponibilă la adresa: <https://hudoc.echr.coe.int/eng#%7B%22languageisocode%22%3A%22ENG%22%2C%22appno%22%3A%22263106/12%22%2C%22documentcollectionid%22%3A%22CHAMBER%22%2C%22itemid%22%3A%22001-205145%22%7D>}, accesată la data de 10.08.2021;

Cauza Porchet împotriva Elveției, Hotărârea din 10.05.2011, disponibilă la adresa: <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22%3A%22%22CASE%20OF%20WLOCH%20v.%20POLAND%22%22%2C%22documentcollectionid%22%3A%22GRANDCHAMBER%22%2C%22CHAMBER%22%2C%22itemid%22%3A%22001124790%22%7D>}, accesată la data de 20.12.2021;

Cauza Popoviciu contra României, disponibilă la adresa <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22%3A%22gabriel%20aurel%20popoviciu%22%2C%22documentcollectionid%22%3A%22GRANDCHAMBER%22%2C%22>

CHAMBER%22],%22itemid%22:[%22001-160997%22]}, accesată la data de 18.10.2021;

Cauza *Rosengren împotriva României*, Hotărârea din 24.04.2008, disponibilă la adresa: [https://hudoc.echr.coe.int/fre#{%22languageisocode%22:\[%22RUM%22\],%22appno%22:\[%2270786/01%22\],%22documentcollectionid%22:\[%22CHAMBER%22\],%22itemid%22:\[%22001-122571%22\]}](https://hudoc.echr.coe.int/fre#{%22languageisocode%22:[%22RUM%22],%22appno%22:[%2270786/01%22],%22documentcollectionid%22:[%22CHAMBER%22],%22itemid%22:[%22001-122571%22]}), accesată la data de 28.12.2021;

Cauza *Sahakyan împotriva Armeniei*, Hotărârea din data de 10.11.2015, disponibilă la adresa: [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-158481%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-158481%22]}), accesată la data de 21.12.2021;

Cauza *Sakik și alții împotriva Turciei*, Hotărârea din 06.11.1997, disponibilă la adresa: [https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22sakik%22\],%22documentcollectionid%22:\[%22GRANDCHAMBER%22,%22CHAMBER%22\],%22itemid%22:\[%22001-58117%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22sakik%22],%22documentcollectionid%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-58117%22]}), accesată la data de 31.10.2021;

Cauza *Stogmuller împotriva Austriei*, hotărârea din 10.11.1969, disponibilă la adresa: [https://hudoc.echr.coe.int/fre#{%22languageisocode%22:\[%22ENG%22\],%22appno%22:\[%221602/62%22\],%22documentcollectionid%22:\[%22CHAMBER%22\],%22itemid%22:\[%22001-57582%22\]}](https://hudoc.echr.coe.int/fre#{%22languageisocode%22:[%22ENG%22],%22appno%22:[%221602/62%22],%22documentcollectionid%22:[%22CHAMBER%22],%22itemid%22:[%22001-57582%22]}), accesată la data de 17.08.2021;

Cauza *Stoianova și Nedelcu împotriva României*, Hotărârea din 06.10.2008, disponibilă la adresa: [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-88926%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-88926%22]}), accesată la data de 27.12.2021;

Cauza *Stork împotriva Germaniei*, Hotărârea din 16.06.2005, disponibilă la adresa: [https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%2216.06.2005%22\],%22documentcollectionid%22:\[%22GRANDCHAMBER%22,%22CHAMBER%22\],%22itemid%22:\[%22001-69374%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%2216.06.2005%22],%22documentcollectionid%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-69374%22]}), accesată la data de 24.10.2021;

Cauza *Şahin Çağdaş împotriva Turciei*, Hotărârea din 11.04.2006, disponibilă la adresa: [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-73158%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-73158%22]}), accesată la data de 22.12.2021;

Cauza *Teymurazyan împotriva Armeniei*, Hotărârea din data de 15.03.2018, disponibilă la adresa: [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-181598%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-181598%22]}), accesată la data de 21.12.2021;

Cauza *Tiba contra României*, Hotărârea din 13.12.2016, disponibilă la adresa: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-169479%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-169479%22]}), accesată la data de 18.08.2021;

Cauza *Tsvetkova și alții împotriva Rusiei*, Hotărârea din 10.04.2018, disponibilă la adresa: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-161951%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-161951%22]}), accesată la data de 27.12.2021;

Cauza *Tudorache contra României*, hotărârea din 29 septembrie 2005, disponibilă la adresa: [https://hudoc.exec.coe.int/eng#{"EXECDocumentTypeCollection":\["CEC"\]}](https://hudoc.exec.coe.int/eng#{); accesată la data de 20.08.2020;

Cauza *Vasilevskiy și Bogdanov împotriva Rusiei*, Hotărârea din 10.07.2018, disponibilă la adresa: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-184521%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-184521%22]}), accesată la data de 22.12.2021;

Cauza *Vedat Dođru împotriva Turciei*, Hotărârea din 10.04.2018, disponibilă la adresa: [https://hudoc.echr.coe.int/eng# {%22itemid%22:\[%22001-161951%22\]}](https://hudoc.echr.coe.int/eng# {%22itemid%22:[%22001-161951%22]}), accesată la data de 27.12.2021;

Cauza *Wassink împotriva Țărilor de Jos*, Hotărârea din 27.09.1990, disponibilă la adresa: [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-62192%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-62192%22]}), accesată la data de 20.12.2021;

Cauza *Yankov împotriva Bulgariei*, Hotărârea din 11.03.2004, disponibilă la adresa: [https://hudoc.echr.coe.int/eng#{%22fulltext%22:\[%22yankov%22\]%22documentcollectionid%22:\[%22GRANDCHAMBER%22,%22CHAMBER%22\],%22itemid%22:\[%22001-61539%22\]}](https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22yankov%22]%22documentcollectionid%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-61539%22]}), accesată la data de 31.10.2021.