



## Application ruled inadmissible on account of applicant's breach of confidentiality of friendly-settlement negotiations

In its decision in the case of **Camelia Bogdan v. Romania** (application no. 32916/20) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerned disciplinary proceedings against a judge which had resulted in her being barred from office.

The Court noted that the applicant had disclosed the particulars of the friendly-settlement negotiations in respect of her case before the Court in the course of proceedings which she had instituted in a national court, whereas the use of such information in other contentious proceedings was prohibited. The applicant had been aware of the confidentiality requirement. The Court also noted that the particulars of the friendly-settlement negotiations, including copies of the letters and accompanying friendly-settlement declarations sent by it, had subsequently appeared in several media reports. Unpersuaded by the applicant's arguments, the Court concluded that her disclosure of the particulars of the friendly-settlement negotiations in her case to a national court and to other third parties had violated the principle of confidentiality laid down by Article 39 § 2 (friendly settlements) of the [European Convention on Human Rights](#) and Rule 62 § 2 (friendly settlement) of the [Rules of Court](#) and that, in the circumstances, her conduct had amounted to an abuse of the right of individual application within the meaning of Article 35 § 3 (a) of the Convention.

### Principal facts

The applicant, Camelia Bogdan, is a Romanian national who was born in 1981 and lives in Bucharest.

Ms Bogdan was formerly a judge of the Bucharest Court of Appeal. In April 2018 she was the subject of disciplinary proceedings which resulted in a decision to bar her from holding office as a judge or public prosecutor. In May 2018 she appealed against the decision of the National Council of Judges and Prosecutors. She was suspended from office pending consideration of her appeal. In June 2019 the High Court of Cassation and Justice determined that her challenge to the suspension decision could not be entertained.

In December 2021 Ms Bogdan applied to the Cluj Court of Appeal for reinstatement of a civil claim in damages which she had brought against certain publications. With her application she enclosed, among other documents, copies of the letters and accompanying friendly-settlement declarations which the European Court of Human Rights had sent to the parties on 1 September 2021 by way of giving notice of the present case to the respondent Government. Among the addressees of the applicant's email were the registry of the Court of Appeal and four other people. Copies of the letters of notice and friendly-settlement declarations sent by the Court were subsequently published by three media outlets, which criticised Ms Bogdan for failing to observe the rules of confidentiality relating to friendly-settlement proceedings before the European Court of Human Rights.

### Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 13 July 2020.

In her application to the Court Ms Bogdan relied on Articles 6 (right to a fair hearing) and 8 (right to respect for private life) of the European Convention on Human Rights.

The decision was given by a Committee of three judges, composed as follows:

Tim Eicke (the United Kingdom), *President*,  
Faris Vehabović (Bosnia and Herzegovina),  
Pere Pastor Vilanova (Andorra),

and also Crina Kaufman, *Acting Deputy Section Registrar*.

## Decision of the Court

The applicant complained that the disciplinary proceedings had been incompatible with her right of access to a court and with her right to respect for her private life. The Government maintained that the applicant's disclosure of the friendly-settlement proposal had amounted to a violation of the rule that friendly-settlement negotiations were to be confidential. The Government relied on Article 39 (friendly settlements) of the Convention and Rule 62 § 2 (friendly settlement) of the Rules of Court. Accordingly it was the Government's submission that the applicant had breached the rule that negotiations were to be confidential and had therefore abused her right of individual application within the meaning of Article 35 § 3 (a) of the Convention.

The Court reiterated that Article 39 § 2 of the Convention and Rule 62 § 2 of the Rules of Court provided that friendly-settlement negotiations were to be confidential. That rule, such as it figured in the Convention and the Rules of Court, had to be interpreted in the light of the general aim of facilitating a friendly settlement by protecting the parties and the Court from potential interference. In cases where an applicant or an applicant's lawyer knowingly disclosed the particulars of friendly-settlement negotiations, it was open to the Court, under certain circumstances, to dismiss the application on grounds of abuse of the right of individual application.

The Court noted that the applicant in the present case had been advised on 1 September 2021, through her representative, of the strictly confidential nature of the friendly-settlement negotiations under Rule 62 § 2 of the Rules of Court. She had therefore been aware of that requirement. Nonetheless, shortly after notification of her case to the respondent Government, she had disclosed the particulars of the related friendly-settlement negotiations, including the quantum of the proposed award of just satisfaction, to the Cluj Court of Appeal and other third parties. Following the applicant's email to the Cluj Court of Appeal, the particulars of the friendly-settlement negotiations, including copies of the letters and accompanying friendly-settlement declarations from the European Court of Human Rights, had appeared in several media reports. The applicant had thus disclosed the particulars of the friendly-settlement negotiations in her Strasbourg case to the registry of a national court in the course of domestic proceedings which she had instituted to protect her reputation, whereas the use of such information in other contentious proceedings was prohibited.

The Court was not persuaded by the applicant's arguments. It concluded that her disclosure of the particulars of the friendly-settlement negotiations in her case to a national court and third parties had violated the principle of confidentiality laid down by Article 39 § 2 of the Convention and Rule 62 § 2 of the Rules and that, in the circumstances of the case, her conduct had amounted to an abuse of the right of individual application within the meaning of Article 35 § 3 (a) of the Convention. Accordingly, the Court declared the application inadmissible.

*The decision is available only in French.*

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