

Romania must ensure that allegations of excessive use of force during police operations are effectively investigated

In today's Chamber judgment¹ in the case of [Pârvu v. Romania](#) (application no. 13326/18) the European Court of Human Rights held, unanimously, that there had been:

two violations of Article 2 (right to life/investigation) of the European Convention on Human Rights.

The case concerned the applicant's allegation of a chaotic police operation in which her husband had been shot in the head after officers had mistaken him for an international fugitive. Her husband died in hospital shortly afterwards.

The Court had serious doubts whether the manner in which the police had responded during the incident had been "absolutely necessary". The Court was not convinced either by the arguments put forward, first self-defence, then a combination of self-defence and accidental shooting.

It was particularly concerned by the planning and control of an operation where it had been possible to make a significant error in identifying a suspect and the officers involved had not been clearly identifiable as being from the police.

The investigation, lasting more than 11 years, had moreover been ineffective, with the domestic courts themselves identifying various deficiencies over four judicial decisions.

Lastly, the Court pointed out that there had already been similar cases against Romania forwarded to the Council of Europe's Committee of Ministers for enforcement and considered that general measures were called for under **Article 46 (binding force and enforcement)** to ensure that allegations of excessive use of force by the police were effectively investigated

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

Principal facts

The applicant, Ana-Bianca Pârvu, is a Romanian national who was born in 1978 and lives in Brăila (Romania).

The shooting of the applicant's husband, Sorin Pârvu, took place in Brăila on 26 September 2009 when a police squad, made up of local officers and officers called in from Bucharest, surrounded the car he was driving at a red traffic light, believing that he was a dangerous fugitive wanted on charges of murder and robbery.

According to the Government, the police squad ordered Mr Pârvu and his passenger to get out of the car. According to eyewitness testimony provided by the applicant, the officers opened fire without warning.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Mr Pârvu tried to escape by reversing into one of the police cars. One of the police officers, D.G., who was coordinating the operation, jumped out of that car, opened the back door of the car Mr Pârvu was driving and shot him in the head from behind.

The police immediately realised that they had “missed the target.”

The investigation into the killing, lasting 11 years, came to the conclusion that the incident had involved a combination of legitimate self-defence and accidental shooting. In particular, D.G. had cocked his gun in self-defence when Mr Pârvu had reversed into the police car, then lost his balance when the back door of Mr Pârvu’s car had swung open and hit his elbow, resulting in the cocked pistol unintentionally going off.

A criminal investigation opened against Mr Pârvu for the attempted murder of a police officer was ultimately ended in 2018 because of his passing.

Complaints, procedure and composition of the Court

Relying on Article 2 (right to life), the applicant essentially complained of excessive use of force by the police. She alleged that guns had been used at very close range on her unarmed husband and his passenger, who panicked because they thought they had been under attack by a criminal gang as the police officers who had surrounded their car had been in plain clothes.

She also complained that the authorities had failed to conduct an effective investigation into her husband’s death, and that the length of the investigation had been excessive.

The application was lodged with the European Court of Human Rights on 7 March 2018.

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

Gabriele **Kucsko-Stadlmayer** (Austria), *President*,

Tim **Eicke** (the United Kingdom),

Faris **Vehabović** (Bosnia and Herzegovina),

Iulia Antoanella **Motoc** (Romania),

Yonko **Grozev** (Bulgaria),

Armen **Harutyunyan** (Armenia),

Ana Maria **Guerra Martins** (Portugal),

and also Ilse **Freiwirth**, *Deputy Section Registrar*.

Decision of the Court

Firstly, the Court found that the domestic investigation into the events resulting in Mr Pârvu’s death had not been effective. It had lasted from September 2009 to April 2021 with the domestic courts identifying various deficiencies over four judicial decisions and ordering that the case be sent back to the prosecutor’s office for further investigation. A number of questions with regard to crucial facts in the case have been left open. Notably, the issue of the police operation’s planning and control was only superficially addressed. The Court therefore concluded that there had been a violation of Article 2 because of the authorities’ failure to carry out a thorough investigation within a reasonable time.

Furthermore, the Court had serious doubts about several aspects of the use of lethal force in the applicant’s case. It reiterated that the use of such force by the police could be justified in certain circumstances under Article 2 of the Convention but that that did not grant police officers *carte blanche*.

In particular, it was not convinced that D.G. could have honestly believed that the police officers had been exposed to a clear and immediate danger. As established by the domestic authorities

themselves, D.G. had fired the fatal shot once Mr Pârvu's car had stopped and the officers had avoided any impact with it.

It was also doubtful about the accidental nature of the shooting. Despite three court orders of 2011, 2014 and 2016, investigators had failed to seek a neurologist's opinion on whether a hit to the elbow could have led to the fatal shot being triggered.

The Court also considered that the investigation had not adequately addressed the fact, as noted by a domestic court in 2016, that D.G., who was not a part of the specially trained police squad called in from Bucharest to immobilise the suspect, had apparently intervened outside his mission – which had been to identify the suspect.

Moreover, the Court found that there had been serious issues in the planning and control of the police operation. The prosecuting authorities had only superficially explained how it had been possible for the police to make such a significant error in identifying their suspect; there were doubts as to whether the officers involved in the events had been clearly identifiable as being from the police; and, there had been no arrangements made for an ambulance to be at the ready, despite the fact that the operation had involved a large number of officers and the arrest of a potentially dangerous suspect.

Lastly, the Government had failed to explain whether an adequate legislative and administrative framework had been in place to safeguard citizens against arbitrariness and abuse of force.

In conclusion, the manner in which the police had responded to the perceived threat of Mr Pârvu attempting to escape could not be considered as having been “no more than absolutely necessary”. In particular, the operation had not been planned so as to minimise the risk to his life. There had therefore been a further violation of Article 2.

Enforcement (Article 46)

The Court considered that general measures were called for in the enforcement of this judgment to ensure that allegations of excessive use of force by the police in Romania were effectively investigated.

It noted in particular that it had already made similar findings in three other cases² against Romania. Those three cases have since been forwarded for enforcement to the Committee of Ministers of the Council of Europe, which continues to evaluate the general measures required in Romania to prevent the unjustified use of potentially lethal use of force during law enforcement interventions and to guarantee effective investigations into such incidents (see [Resolution CM/ResDH\(2021\)106](#)).

It referred in particular to a request made by the CM in another group of Romanian cases³ for better planning of law enforcement operations in order to avoid the use of lethal force, and a recommendation by the Council of Europe's Committee for the Prevention of Torture (CPT) in its 2022 report on Romania to ensure that prosecutors had recourse to their own investigators, not external police officers, to carry out certain tasks.

Just satisfaction (Article 41)

The Court held that Romania was to pay the applicant 65,000 euros (EUR) in respect of non-pecuniary damage and EUR 8,630 in respect of costs and expenses.

The judgment is available only in English.

² [Gheorghe Cobzaru v. Romania and 2 other cases](#), nos. 6978/08, 14974/09 and 40374/11.

³ [Soare and Others group v. Romania](#), [CM/Notes/1406/H46-24](#)

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.