

# Popoviciu (Respondent) v Curtea De Apel Bucharest (Romania) (Appellant)

Case ID: 2021/0152

## Case summary

### Issue

In a conviction extradition case, is it sufficient for the requested person to show substantial grounds for believing that there is a real risk that his trial was so flagrantly unfair as to deprive him of the essence of his Article 6 rights, and therefore a real risk that his imprisonment in the requesting state will violate his Article 5 rights?

### Facts

Gabriel Popoviciu ("Popoviciu") was convicted in Romania of two offences - accessory to aggravated abuse of power, and bribery - and was sentenced to 7 years' imprisonment.

On 3 August 2017, a European Arrest Warrant ("EAW") was issued by the Bucharest Court of Appeal (the "Bucharest Court") seeking the return of Popoviciu. He was arrested on 14 August 2017 and on 12 July 2019 the Westminster Magistrates' Court ordered his extradition.

Popoviciu appealed to the Administrative Court on the basis that the judge that convicted him in Romania, Judge Tudoran, had an undisclosed and inappropriate long-standing relationship with the prosecution's primary witness. Popoviciu provided new evidence from a Romanian lawyer who is investigating Judge Tudoran for various corruption-related offences which shed light on his relationship with the prosecution's primary witness. The Administrative Court admitted this new evidence and, having taken it into account, overturned the Westminster Magistrates' Court's order. It held that there was a real risk that Popoviciu's trial in Romania had been flagrantly unfair, and therefore returning Popoviciu to Romania would breach his Article 5 rights as he faced being imprisoned for a substantial period there because of his conviction. The judge's undisclosed relationship with the primary witness meant that Popoviciu suffered a complete denial of his Article 6 rights. The Bucharest Court now appeals to the Supreme Court.

### Judgment appealed

[\[2021\] EWHC 1584 \(Admin\)](#)

### Parties

#### Appellant

Curtea De Apel Bucharest (Romania)

#### Respondent

Gabriel Aurel Popoviciu

### Appeal

### Justices

Lord Hodge, Lord Lloyd-Jones, Lord Kitchin, Lord Hamblen, Lord Stephens

**Hearing start date**

16 May 2023

**Hearing finish date**

17 May 2023

**Watch hearing**

16 May 2023 [Morning session](#) [Afternoon session](#)

17 May 2023 [Morning session](#)

**Judgment details**

**Judgment date**

8 November 2023

**Neutral citation**

[2023] UKSC 39