



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

Communicated on 15 December 2017

## FOURTH SECTION

Application no. 27189/17  
Gheorghe BRĂDĂȚEANU and Others  
against Romania  
lodged on 31 March 2017

### SUBJECT MATTER OF THE CASE

The application concerns the conflicting case-law of the High Court of Cassation and Justice delivering the final decisions in litigations regarding the alleged unfair terms of credit agreements denominated in a foreign currency (namely, Swiss Francs), concluded by the applicants with the Romanian Commercial Bank. In particular, in the impugned decision of 23 March 2016, the High Court of Cassation and Justice dismissed the applicants' claims in their entirety and held that the impugned terms of the loan contracts were "legal and negotiated". However, the same court delivered judgments in similar cases, finding that the contractual terms in question were unfair, thus entitling the respective claimants to obtain from the bank the money they had paid on account on the said unlawful contractual terms.

### QUESTIONS TO THE PARTIES

1. Have the applicants had a fair hearing in the determination of their civil rights and obligations, in accordance with Article 6 § 1 of the Convention taken alone or in conjunction with Article 14 of the Convention, in so far as similar actions before the High Court of Cassation and Justice, as well as before various courts of appeal, concerning the interpretation of the terms of the credit agreements concluded by various claimants with the Romanian Commercial Bank, had different outcomes?

2. Was the principle of legal certainty, as developed in the Court’s case-law in the interpretation of Article 6 of the Convention (see for instance *Albu and Others v. Romania*, nos. 34796/09 and 63 others, 10 May 2012), complied with by the domestic courts?

3. Have the applicants been subject to discriminatory treatment contrary to Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1, having regard to the fact that in respect of other claimants’ similar actions before the domestic courts, the latter found that the contractual terms in question were neither “legal” nor “negotiated” and therefore unfair (abusive)?

**List of applicants**

- 1) Gheorghe BRĂDĂȚEANU is a Romanian national who was born in 1969 and lives in Vatra-Dornei.
- 2) Ion ARDELEANU is a Romanian national who was born in 1954 and lives in Braşov.
- 3) Aurelia EISSENGARTHEN is a German national who was born in 1977 and lives in Morfelden-Walldorf, Germany.
- 4) Ştefan IONESCU is a Romanian national who was born in 1976 and lives in Piteşti.
- 5) Marcel TĂNASE is a Romanian national who was born in 1972 and lives in Constanţa.

All applicants are represented before the Court by Ms D.-E. Dragomir.