

<http://www.luju.ro/blockbuster-of-the-year-the-psychiatry-judgment-was-canceled-the-high-court-abolished-the-decision-on-the-civil-side-of-the-baneasa-case-motivated-from-the-psychiatric-sanatorium-by-judge-corneliu-bogdan-ion-tudoran-who-no-longer-held-the-capacity-of-a-ma>



BLOCKBUSTER OF THE YEAR: THE PSYCHIATRY JUDGMENT WAS CANCELED - The High Court abolished the decision on the civil side of the “Baneasa” case, motivated from the psychiatric sanatorium by Judge Corneliu-Bogdan Ion-Tudoran, who no longer held the capacity of a magistrate. The case was sent to the Bucharest Court of Appeal for retrial. The enforcement of precautionary measures has been abolished (The minute)

Scris de L.J. | Data: 12.06.2020 20:11



The blockbuster of the year comes from Romania's High Court of Cassation and Justice (HCCJ): the sentence on the civil side of the "Baneasa" case was annulled. We refer to the sentence that Judge Corneliu-Bogdan Ion-Tudoran (pictured left), from the Bucharest Court of Appeal, motivated while, mind you, he was hospitalized in psychiatry and no longer had the capacity of magistrate. A sentence through which Ion-Tudoran solved the civil side in the "Baneasa" case, after he had previously „executed" the businessman Puiu Popoviciu on the criminal side.

Thus, the ICCJ decided on Friday, June 12, 2020, to abolish the civil sentence in the "Baneasa" case, the case to be sent to the Bucharest Court of Appeal for retrial. The HCCJ also abolished the forms of enforcement of the precautionary measures taken.

Here is the HCCJ minute:

*"46/1/2020 - [The High Court] Admits the appeals declared by the Prosecutor's Office attached to the High Court of Cassation and Justice – the National Anti-Corruption Directorate, by the defendants Diaconescu Stefan, Petrulian Gheorghe, Popoviciu Gabriel-Aurel, Luican Ion Mihai Florin, Alecu Ioan-Niculae, Toader Gabriel Rasvan, Bejenaru Andrei-Mihai, Minea Lizeta, by the civil parties the University of Agronomic Sciences and Veterinary Medicine Bucharest, the Romanian State by the Ministry of Public Finances, by the civilly responsible parties SC Baneasa Rezidential SRL, SC Baneasa Business & Technology Park SA, SC Baneasa Investments SA, as well as the interested parties Ikea Romania SA, BRD Groupe Societe Generale SA, Carrefour Romania SA, Unicredit Bank SA, Alpha Bank Romania SA, NBG Bank Malta Limited, Societe Generale, Unicredit SPA Italia and Domus-Mex SRL against the criminal sentence no. 267/F of the date of 28 December 2018, delivered by the Bucharest Court of Appeal – Criminal Section I, in the file no. 4445/2/2016. **It abolishes the appealed criminal sentence and sends the cause for retrial at the same court of law, respectively the Bucharest Court of Appeal. It abolishes the forms of enforcement of the precautionary measures taken through the challenged criminal sentence.** It rejects, as left without object, the requests to lift the precautionary measures taken through the same sentence. It rejects, as unfounded, the requests to lift the precautionary measures instituted during the criminal prosecution in the file no. 206/P/2006, that it maintains. It rejects, as tardive, the appeal declared by the defendant Todiras Ioan against the same criminal sentence. It obliges the defendant Todiras Ioan to pay the amount of 100 lei, judicial expenses to the state. The rest of the judicial expenses advanced by the state remain in its charge. It rejects, as unfounded, the requests of the appellant interested parties BRD Groupe Societe Generale SA and Societe Generale to oblige the adverse parties to the payment of judicial expenses. The fee owed to the ex officio*

designated defenders for the appellant defendants Minea Lizeta and Todiras Ioan, amounting to 868 lei each, are paid from the fund of the Ministry of Justice. Definitive. Delivered in public meeting, today, 12 June 2020”.

As Lumea Justitiei already revealed, Judge Corneliu-Bogdan Ion-Tudoran motivated the Decision on the civil side of the Baneasa case almost a year after the ruling on the criminal side, when he no longer held the capacity of a judge (being retired), while he was hospitalized in a sanatorium, from where he specified that he is not allowed by doctors to make an intellectual effort, emphasizing that he does not feel well. Incredibly, the motivation of the decision pronounced by Ion-Tudoran and drafted in the sanatorium entered the Bucharest Court of Appeal in November 2019 (given that Ion-Tudoran had retired in September 2019) being brought on a memory stick by his son, who filed it at the registry of the Criminal Section I of the Court.

The Bucharest Court of Appeal admits Ion-Tudoran's guilt in the Baneasa case

The incredible way in which the sentence in the case regarding the civil side of the Baneasa case was motivated by Ion-Tudoran, as well as the date when it was filed in court by the son of the former judge are retained in the documents of the Bucharest Court of Appeal that Lumea Justitiei presents exclusively.

Thus, according to Decision no. 318 of October 30, 2019 of the Management Board of the Bucharest Court of Appeal, at that date Judge Corneliu-Bogdan Ion-Tudoran was unable to draft the motivation of Decision no. 267F delivered on December 28, 2018 in the file no. 4445/2/2016 by which the civil side of the Baneasa case was resolved. File that, as mentioned above, Judge Ion-Tudoran separated from the Baneasa criminal case in which he ruled in 2016.

Thus, in Decision no. 318/2019 of the BCA Management Board, it was noted that the distribution of the file constituted after the disjunction of the civil side of the Baneasa criminal case was done manually, invoking art. 111 paragraph (4) of ROIIJ which provides that "in case of disjunction, the newly formed case is assigned to the same panel in order to respect the principle of continuity "). Registered in 2016, the case was solved only on December 28, 2018, when the sentence was pronounced in the Baneasa case regarding the civil side. The sentence which, as specified in the BCA Decision no. 318/2019, until October 30, 2019 had not been motivated.

Ion-Tudoran retired before motivating the decision

Meanwhile, in June 2019, Judge Tudoran filed a retirement application, which he gave up in August 2019, in order to resign from the judiciary. The resignation request was thus approved on September 3, 2019 by the Section for Judges in the SCM, and about two weeks later, on December 19, 2019, President Klaus Iohannis signed the decree to release Corneliu-Bogdan Ion-Tudoran as judge, decree published a day later in the Official Gazette of Romania no. 764. Practically, as of September 20, 2019, Corneliu-Bogdan Ion-Tudoran no longer held the capacity of judge and therefore could no longer draft or sign any decision!

However, subsequently, in October 2019, Judge Ion-Tudoran was looked for at home by representatives of the Bucharest Court of Appeal in order to request data regarding the drafting of sentence no. 267F / 2018 but, what to see, the procedural agent "did not find anyone at home". A few days later, the chief clerk of the First Criminal Section managed to contact one of Ion-Tudoran's sons, who informed her that she would be contacted shortly by his father.

This happened, because about a week later, on October 29, 2019, the chief clerk submitted a phone note stating that "she was contacted by Judge Tudoran that day, a conversation in which she was informed that he is hospitalized (sanatorium), having mental problems, that he is not feeling well and the doctors forbade him to make an intellectual effort ". However, according to Decision no. 318/2019 of the BCA Management Board, Judge Ion-Tudoran informed the clerk that "he will try to motivate the overdue decision but cannot specify on what date, but he hopes it will not be a year from the date of ruling".

Extremely important is the fact that after announcing his retirement, Judge Ion-Tudoran was relieved of his participation in the court hearings, thus being given the necessary time to draft the outstanding decisions, including

the one in the Baneasa case regarding the civil side. However, it was not enough because, at the date of signing the retirement decree by Klaus Iohannis, Ion-Tudoran had not complete motivating the sentence in the Baneasa case regarding the civil side, although more than 10 months had passed since the ruling.

This determined the Board of the Bucharest Court of Appeal to establish by Decision no. 318/2019 that "there is no certainty regarding the drafting of the decision by the judge who delivered it, a reasonable term of drafting being exceeded, a term that is part of the reasonable duration of the trial and cannot be drafted by another judge of the court (in relation to the provisions of Article 406 of the Criminal Code, but also with the caselaw of the European Court of Human Rights, in this sense being the case of Cerovsek and Bozicnik against Slovenia, in which the Court ruled that judges who did not participate in the trial cannot motivate and sign the court decision), the Management Board will find the impossibility of drafting the delivered decision ".

The motivation of the decision in the Baneasa case was written in the sanatorium when Ion-Tudoran was already a retired judge

Amazing! 5 days after the delivery of the BCA Decision, in which it was found impossible to draft the delivered decision, based on the clarifications made from the sanatorium by the former judge, one of Corneliu-Bogdan Ion-Tudoran's sons appeared at the court registry to deliver a stick. Stick that contained exactly the motivated decision from the Baneasa case. This is the motivation of Decision no. 267F of December 28, 2018, which, according to the Report signed by the clerk Liliana-Aurelia Ghita, was handed over on November 6, 2019 to the chief clerk Corina Fana and Mrs. Mariana Adam.

Thus, according to the existing documents in court, after more than 10 months from the delivery of the solution in the Baneasa civil case, the former judge Corneliu-Bogdan Ion-Tudoran managed to motivate on 81 pages, while in the sanatorium, the solution by which it ordered the restitution of the 224 hectares of land by the businessman Puiu Popoviciu and others to USAMV Bucharest, the demolition of all the existing constructions on these lands, but also the establishment of precautionary attachments on the accounts held by them. How Ion-Tudoran actually motivated this solution, we will present in another edition.

[* Read here the Romanian version of the article](#)