

<http://www.luju.ro/reasoning-from-psychiatry-mind-boggling-corneliu-bogdan-ion-tudoran-from-the-bucharest-court-of-appeal-reasoned-the-decision-from-the-baneasa-file-after-he-retired-while-in-the-sanatorium-after-the-bucharest-court-of-appeal-ruled-that-ion-tudoran-was-in-t>



REASONING FROM PSYCHIATRY – Mind boggling! Corneliu-Bogdan Ion-Tudoran from the Bucharest Court of Appeal reasoned the decision from the Baneasa file after he retired, while in the sanatorium. After the Bucharest Court of Appeal ruled that Ion-Tudoran was "in the impossibility of drafting the decision", more than 10 months after the ruling was delivered, the retired judge sent his son to court to file to the clerk's office a stick with a motivated sentence (Documents)

Scris de L.J. | Data: 03.02.2020 13:43



Judge Corneliu-Bogdan Ion-Tudoran (photo) from the Bucharest Court of Appeal, released from the judiciary by a marathon-worthy run, wanted at any price to become famous on the Baneasa file, in which he arranged the businessman Puiu Popoviciu with 7 years in prison. He wanted so much to be the magistrate who solved the Baneasa case so that, after ordering the solution in the criminal case, he kept the file for solving the civil side to decide as well the confiscation from the businessman Puiu Popoviciu of the land of 224 hectares on which Baneasa Mall, Ikea, but also the US Embassy were built.

In a hallucinating way, as you will see, Corneliu-Bogdan Ion-Tudoran motivated the Decision on the civil side of the Baneasa file almost a year after the ruling, when he no longer held the status of judge (being retired), while he was admitted to a sanatorium, from where he stated that he was not allowed by the doctors to make intellectual effort, stressing that he did not feel well. Mind boggling, the reasoning of the decision delivered by Ion-Tudoran and drafted in the sanatorium entered the Bucharest Court of Appeal on

November 4, 2019 (under the conditions that Ion-Tudoran had retired in September 2019) being brought on a stick by his son, who filed it at the clerk's office of the Criminal Section I of the Court.

The Bucharest Court of Appeal recognizes Ion-Tudoran's fault in the Baneasa file

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

Thus, according to the Decision no. 318 of October 30, 2019 of the Governing Board of the Bucharest Court of Appeal, at that date the judge Corneliu-Bogdan Ion-Tudoran was unable to write the reasoning of the Decision no. 267F delivered on December 28, 2018 in file no. 4445/2/2016 by which the civil side of the Baneasa file was solved.

File that, as I mentioned above, the judge Ion-Tudoran separated from the Baneasa criminal file on which he delivered a ruling in 2016.

Thus, in Decision no. 318/2019 of the Governing Board of the BCA it was held that the distribution of the file constituted after the division of the civil side of the Baneasa criminal file was done manually (invoking art. 111 paragraph (4) of the ROIJ which states that "in case of division, the newly-formed file is distributed to the same panel in order to respect the principle of continuity").

Registered in 2016, the file was resolved only on December 28, 2018 when the sentence was delivered in the Baneasa file on 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 made a request for retirement, which he waived in August 2019, in order to resign from the judiciary. The request for resignation was thus approved on September 3, 2019 by the Section for Judges in the SCM, and about two weeks later, on September 19, 2019, President Klaus Iohannis signed the decree of release from the position of judge of Corneliu-Bogdan Ion-Tudoran, decree published a day later in the Official Gazette of Romania no. 764. Basically, as of September 20, 2019 Corneliu-Bogdan Ion-Tudoran no longer held the status of judge and therefore could not write or sign any decision!

Here is the translated text of the presidential decree:

"DECREE no. 704 of September 19, 2019 regarding the release from office of a judge

ISSUER: THE PRESIDENT OF ROMANIA

Published in THE OFFICIAL GAZETTE no. 764 of September 20, 2019

Pursuant to the provisions of art. 94 letter c), art. 100 para. (1), art. 125 para. (2) and of art. 134 para. (1) of the Romanian Constitution, republished, of art. 65 paragraph (1) letter a) and para. (2) of Law no. 303/2004 regarding the status of judges and prosecutors, republished, with the subsequent amendments and completions, as well as of art. 40 para. (1) letter c) of Law no. 317/2004 regarding the Superior Council of Magistracy, republished, as subsequently amended and supplemented,

considering the Decision of the Section for Judges of the Superior Council of Magistracy no. 1271/2019,

The President of Romania decrees:

UNIQUE ARTICLE

Mr. Corneliu-Bogdan Ion-Tudoran, a judge at the Bucharest Court of Appeal, is released from office as a result of his resignation.

PRESIDENT OF ROMANIA

KLAUS-WERNER JOHANNIS

Bucharest, 19 September 2019

No. 704"

However, later, in October 2019 (although he was retired as of September 20, 2019), Judge Ion-Tudoran was

sought at home by the representatives of the Bucharest Court of Appeal to request data regarding the drafting of sentence no. 267F / 2018, but surprise, the procedural agent "found no one 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.

A thing that happened, because after about a week, on October 29, 2019, the chief clerk filed a telephone note stating that "she was contacted by Judge Tudoran on that day, a call when she was notified that he was hospitalized (in a sanatorium), having problems of a psychological nature, that he did not feel well and the doctors forbade him to make an intellectual effort".

However, according to the Decision no. 318/2019 of the Governing Board of the BCA, the judge Ion-Tudoran informed the clerk that "he will try to motivate the due decision but cannot specify on what date, but he hopes that one year from the date of delivery will not pass".

Very important is the fact that, after announcing that he was retiring, Judge Ion-Tudoran was relieved of his participation in the court meetings, thus giving him the time necessary to write the due decisions, including the one from the Baneasa file on the civil side. However, it was not enough because, at the date of the decree of retirement signing by Klaus Iohannis, Ion-Tudoran had not finalized his motivation of the sentence in the Baneasa file on the civil side, although it had been more than 10 months since the ruling.

This determined the College of the Court of Appeal of Bucharest 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 the writing being exceeded, a term that is part of the reasonable duration of the trial and cannot be drafted by another court judge (in relation to the provisions of Article 406 Criminal Procedure Code, but to the case-law of the European Court of Human Rights, in this respect being the case of Cerovsek and Bozicnik against Slovenia, in which the Court ruled that judges who did not participate in the trial cannot reason and sign the court decision), the Governing Board will ascertain the impossibility of drafting the delivered decision".

The reasoning for the decision in the Baneasa file was written in the sanatorium, while Ion-Tudoran was already a retired judge

Surprise though! 5 days from the moment of issuing the BCA Decision, in which it was found impossible to write the delivered decision, based on the details made from the sanatorium by the former judge, at the court registry one of the sons of Corneliu-Bogdan Ion-Tudoran was presented to deliver a stick. A stick containing precisely the reasoned decision from the Baneasa file. It is the motivation of the Decision no. 267F of December 28, 2018 which, according to the Report signed by the Court Clerk Liliana-Aurelia Ghita, was delivered on November 6, 2019 to the Chief Clerk Corina Fana and Mrs. Mariana Adam:

"The undersigned Ghita Liliana-Aurelia, clerk in the Criminal Section I of the Bucharest Court of Appeal, hereby informs you that on November 4, 2019, I received from the son of Mr. Ion-Tudoran Corneliu-Bogdan, on a memory-stick, the drafting the criminal sentence no. 267F dated 28.12.2018, which I gave a final form for Ecris and I printed.

On November 6, 2019, I handed over a copy to the Chief Clerk Corina Fana and Mrs. Mariana Adam".

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

Here is the translated text of the clerk's report:

"The undersigned Ghita Liliana-Aurelia, clerk within the Criminal Section I of the Bucharest Tribunal, I hereby inform you that on the date of November 4th, 2019, I received, on a memory-stick, the drafting of the criminal sentence no. 267/F of the date of 28.12.2018, to which I gave a final form for Ecris and I printed.

On the date of November 6th, 2019, I submitted one copy to each of the chief clerk Mrs. Corina Fana and Mrs. Mariana Adam".

Now we publish passages from the Decision No. 318 of 30 October 2019 of the Bucharest Court of Appeal:

"Following the memo formulated by you, registered at the Bucharest Court of Appeal under no. 1/13619 / C / 2019,

we inform you that by Decision no. 318 / 30.10.2019 of the Governing Board, the impossibility of drafting the decision no. 267F / 28.12.2018 delivered by the judge Ion Tudoran Corneliu Bogdan in the file no. 4445/2/2016 of the Criminal Section I of the Bucharest Court of Appeal was noted and the request regarding a new random distribution of the case was rejected.

In this regard, we send you enclosed, excerpt from the Decision no. 318 / 30.10.2019 of the Governing Board of the Bucharest Court of Appeal.

We also specify that after the ruling of the Governing Board, respectively on November 6, 2019, the decision no. 267F / 28.12.2019, drafted, was handed over to the chief clerk of the Criminal Section I.

Yours sincerely,

PRESIDENT,

Judge LUMINITA CRISTIU NINU

DECISION NO. 318

from the date of 30 October 2019

Considering the provisions of art. 18 and art. 23 of the Regulation of the internal order of the courts (RIOC), approved by the Decision no. 1375/2015 of the Superior Council of Magistracy, the Governing Board of the Bucharest Court of Appeal, met in the working session on October 30, 2019, being convened by the judge Lumini?a Cri?tiu Ninu, the president of the Bucharest Court of Appeal.

At the working meeting convened for October 30, 2019, 5 members participated, this being led by judge Lumini?a Cri?tiu Ninu, the president of the Bucharest Court of Appeal.

The working meeting of the Governing Board was statutory in terms of the number of participating members.

According to art. 23 paragraph (3) of the RIOCI, the secretary of the working session was provided by Mrs. Aurelia Bidirel, chief clerk of the Bucharest Court of Appeal.

Pursuant to the provisions of art. 19 and the following RIOCI,

The Governing Board,

Considering the provisions of art. 19 (1) of the RIOCI,

Having for analysis and decision the memo formulated by (...), by which he asks the Court of Appeal Bucharest:

- to note the impossibility of drafting the criminal sentence no.267F / 28.12.2018 delivered by the judge Ion Tudoran Corneliu Bogdan, in the file no. 4445/2/2016;

- the random distribution of file no. 4445/2/2016, to a panel from within the BAC, the Criminal Section, in order to resume the judicial investigation and solving the case, considering that sentence no. 267F / 28.12.2018 is null, for non-motivation;

- to fulfill all the legal steps necessary for the speedy settlement of the case, given that the reasonable term within which any person has the right to be tried, has been exceeded

[Stamp affixed reading: ROMANIA * BUCHAREST COURT OF APPEAL * PRESIDENT'S CABINET NO.59]

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Examining the claimant's application, the Governing Board considers that it is founded only in part, respectively, regarding the finding of the definitive impossibility of drafting sentence no.267F / 28.12.2018.

1) As stated in the application form, the judge Bogdan Corneliu Ion Tudoran, invested with the solution of the file no. 9577/2/2012, delivered in the criminal sentence no. 115 / F from 23.06.2016, only regarding the criminal side of the case and the civil side was disjoined, a new file was formed, no. 4445/2/2016, distributed manually to the same panel based on art. 111 paragraph (4) of RIOCI. In the disjoined case, the judge Bogdan Corneliu Ion Tudoran delivered the criminal sentence no. 267F / 28.12.2018, not edited so far.

On June 6, 2019, the judge filed a retirement application, registered with the Bucharest Court of Appeal under no. 1/8109 / C / 06.06.2019 and submitted to the Directorate for Human Resources and Organization (DHRO) from the Superior Council of Magistracy, with the letter no. 2/8109 / C / 06.06.2019.

By the Decision no. 1183 / 02.07.2019 the Superior Council of Magistracy - the Section for Judges has decided to submit the proposal to release from office through retirement, to the President of Romania of Mr. Ion-Tudoran Corneliu Bogdan, a judge at the Bucharest Court of Appeal, starting with the date of 15.10.2019.

On August 22, 2019, the judge formulated and registered at the Bucharest Court of Appeal, under no.

1/11479/C/22.08.2019 a request for resignation, submitted to DHRO within the Superior Council of Magistracy with the letter no. 2/11479/C/22.08.2019.

By the Decision no. 1271/03.09.2019, the Section for Judges of the Superior Council of Magistracy has decided to revoke the decision of the Section for Judges no. 1183/02.07.2019 and proposed to the President of Romania the release from the position of judge by resignation, of Mr. Corneliu-Bogdan Ion- Tudoran. The decree of release from office no. 704 / 19.09.2019 was published on 20.09.2019 in the Official Gazette of Romania no. 764.

The Governing Board finds that until the date of publication of the decree of release from office, the criminal sentence no. 267F / 28.12.2018 was not drafted, as anyway it was not drafted subsequently.

Following the claimant's request, the Governing Board ordered the taking of necessary steps by the management of the criminal section I, in order to contact Mr. Corneliu-Bogdan Ion-Tudoran, to clarify the situation. From the report prepared on 29.10.2019 by the Chief Clerk of the Criminal Section I, Mrs. Fana Corina, registered with the Cabinet of the President of the court under no. 1/15233 / C / 29.10.2019, it turned out that on 15.10.2019, the letter no. 2/14246 / S1 / 15.10.2019 was issued and sent to the judge, who was asked to communicate the data in which he could be present at the headquarters of the Bucharest Court of Appeal, Criminal Section I, in order to draft sentence no. 267F / 28.12 .2018 whose editor is, to have provided the necessary support for this purpose. On 16.10.2019 the procedural agent went to the judge's house, but found no one at home. Starting with the following day, the chief clerk of the section tried daily to contact the judge and finally, he got in touch with the son of the judge, Ion Tudoran Tudor, who on 23.10.2019 appeared at Bucharest Court of Appeal's headquarters, where the letter was given to him under signature.

The son of the judge presented a medical document which he left to the lady chief clerk, communicating that he will contact her as soon as possible regarding the presentation of a response from the judge Bogdan Corneliu Ion Tudoran.

The drafted report also produced the fact that she waited for a response until 28.10.2019, when she tried to contact the judge again, the same requests being made on 29.10.2019.

In the attention of the Governing Board, the lady chief clerk of the section Fana Corina also submitted a telephone note from 29.10.2019, at 12.33 am, showing the fact that she was contacted by the judge Tudoran on that day, a call in which she was informed that he is hospitalized (in a sanatorium), having problems of a mental nature, that he does not feel well and the doctors forbade him to make an intellectual effort. On the occasion of the same conversation, he informed her that he will try to motivate the delayed decision but cannot specify when, but he hopes that one year will not pass from the date of its delivery and that he will communicate a possible date of editing in writing, when his son will pay him a visit to the hospital.

From the above, the Governing Board finds that the criminal sentence no. 267F / 28.12.2018 can no longer be drafted by the ruling judge, as there is absolutely no certainty as to whether it will be drafted and when it will be drafted.

Considering the fact that he was going to retire (having applied for retirement at that time), the judge was relieved from attending the court sessions, having the time necessary for writing, until the date when he ceased to be a judge and from the date of the sentence, more than 10 months have passed.

Since there is no certainty regarding the drafting of the judgment by the judge who delivered it, a reasonable editing deadline has already been passed, which is part of the reasonable duration of the trial and it cannot be drafted by another judge of the court (in relation to the provisions of art. 406 Criminal Procedure Code but also to the caselaw of the European Court of Human Rights, in this respect the case of Cerovsek and Bozicnik v. Slovenia, in which the Court ruled that judges who did not participate in the trial cannot motivate and sign the judgment), the Governing Board will find the impossibility of drafting the decision rendered.

2) As regards the second point of the claimant's request, regarding the random distribution of the file no. 4445/2/2016 to another panel within the Bucharest Court of Appeal, the Criminal Section, in order to resume the court investigation and the settlement of the case, because sentence no. 267 / F / 12.28.2018 is hit by absolute nullity for non-motivation, the Board finds that it is unfounded.

According to the provisions of art. 101 paragraph 3 of the Regulation of Internal Order of the Courts, approved by the Decision no. 1375/2015 of the Superior Council of Magistracy, the random distribution in the computer system is performed only once.

At the same time, bringing the case back to the docket can be done in the same procedural cycle only in the situation provided by art. 123 paragraph 3 and 4 of the same regulation, according to which, "if after the adjournment of the ruling, any of the members of the panel is unable to attend deliberations, the other members of the team can take measures for a new postponement of the ruling or, if the impossibility to participate in the deliberations is permanent or long-lasting, to bring the case back to the docket.

In the situations provided by para. (3), if none of the members of the unit can take the necessary measures, they will be taken by the section president or, if there are no sections, by the president of the court or the judge from the permanence list”.

Therefore, the regulatory provisions refer to the resumption of the case in the case in which a court decision has not yet been delivered, not when it has been delivered.

The finding of the nullity of the decision is not the attribute of the board or the president of the court, but only of the hierarchically superior court, within the legal remedies provided by law.

According to art. 16 paragraph (2) of Law 304/2004, regarding the judicial organization, the judicial decisions can be canceled or modified only within the legal remedies provided by the law and exercised according to the legal provisions.

Therefore, neither the Governing Board nor the President of the Court can ascertain the nullity of the judgment with the consequence of restoring the case to the docket and re-assigning it.

3) As regards the request from point 3 regarding the taking of the measures in order to solve the case quickly, these requests have been made, as it has resulted from the above, within the legal competences of the administrative-judicial management of the court, and the decision of the board shall be submitted to the court of judicial review in order to be considered in the resolution of the legal remedies declared in question,

DECIDES

Art. 1 - Notes the impossibility of drafting the decision no. 267F / 12.28.2018 delivered by the judge Ion Tudoran Corneliu Bogdan in the file no.4445/2/2016 of the Criminal Section I of the Bucharest Court of Appeal.

Art. 2 - Rejects the request regarding a new random distribution of the cause, respectively of the file no. 4445/2/2016.

Art. 3 - This decision is communicated to the court of judicial control, its provisions are to be brought to the attention of the claimant.

Bucharest, October 30, 2019”

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