



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

FORMER THIRD SECTION

CASE OF BOLOVAN v. ROMANIA

(Application no. 64541/01)

JUDGMENT
(revision¹)

STRASBOURG

20 September 2011

FINAL

20/12/2011

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

¹ Revision of the judgment of 24 November 2009

In the case of Bolovan v. Romania (request for revision of the judgment of 24 November 2009),

The European Court of Human Rights (Third Section), sitting as a Chamber composed of:

Josep Casadevall, *President*,

Elisabet Fura,

Corneliu Bîrsan,

Boštjan M. Zupančič,

Alvina Gyulumyan,

Egbert Myjer,

Luis López Guerra, *judges*,

and Santiago Quesada, *Section Registrar*,

Having deliberated in private on 30 August 2011,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 64541/01) against Romania lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Romanian national, Mr Constantin Bolovan (“the applicant”), on 26 August 1998.

2. The applicant was represented by Law Office Oancea-Rădulețu, based in Craiova. The Romanian Government (“the Government”) were represented by their Agent, Mr Răzvan-Horațiu Radu, of the Ministry of Foreign Affairs.

3. In a judgment delivered on 24 November 2009, the Court held that there had been a violation of Article 3 of the Convention on account of deficiencies in the criminal investigations into the applicant’s allegations of ill-treatment at the hands of the police. The Court also decided to award the applicant 4,000 euros for non-pecuniary damage.

4. On 8 June 2010 the Government informed the Court that they had learned that the applicant had died on 1 August 2008. They accordingly requested revision of the judgment within the meaning of Rule 80 of the Rules of Court.

5. On 5 April 2011 the Court considered the request for revision and decided to give the applicant’s representative and his potential heirs three weeks in which to submit any observations. The letter sent to the applicant’s former address returned to the Court, and the letter sent to his representative reached its destination but remained unanswered.

THE LAW

THE REQUEST FOR REVISION

6. The Government requested revision of the judgment of 24 November 2009, which they had been unable to execute because the applicant had died before the judgment had been adopted.

7. No heir made observations on the matter.

8. The relevant parts of Rule 80 of the Rules of Court provide:

“A party may, in the event of the discovery of a fact which might by its nature have a decisive influence and which, when a judgment was delivered, was unknown to the Court and could not reasonably have been known to that party, request the Court ... to revise that judgment.

...”

9. The Court notes that the applicant died on 1 August 2008, that is, before the initial judgment was delivered. His death constitutes a fact that “might by its nature have a decisive influence on the judgment delivered by the Court”.

10. It also notes that neither the applicant’s representative nor his relatives informed the Court of the death. No potential heir made a request to pursue the proceedings before the Court. It was thus not aware of the applicant’s death, nor can this fact be reasonably assumed to have been known to the Government before they started the execution of the initial judgment.

11. In these circumstances, the Court considers that the judgment of 24 November 2009 should be revised pursuant to Rule 80 of the Rules of Court.

12. Having regard to the fact that the applicant died during the proceedings and that no relatives expressed the wish to pursue the proceedings, the Court considers that it is no longer justified to continue the examination of the application (see *Gabay v. Turkey* (revision), no. 70829/01, § 8, 27 June 2006).

13. It accordingly decides that the case should be struck out of its list in accordance with Article 37 § 1 of the Convention.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the Government's request for the revision of the judgment of 24 November 2009 admissible;

accordingly,

2. *Decides* to revise the judgment as a whole and to strike the case out of the list.

Done in English, and notified in writing on 20 September 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Santiago Quesada
Registrar

Josep Casadevall
President