

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

FOURTH SECTION

DECISION

Application no. 57151/14
Răzvan-Sergiu ATOMEI against Romania
and 4 other applications
(see appended table)

The European Court of Human Rights (Fourth Section), sitting on 18 May 2017 as a Committee composed of:

Vincent A. De Gaetano, *President,*
Iulia Motoc,
Marko Bošnjak, *judges,*

and Karen Reid, *Section Registrar,*

Having regard to the above applications lodged on the various dates indicated in the appended table,

Having regard to the declarations submitted by the respondent Government requesting the Court to strike the applications out of the list of cases,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The list of applicants is set out in the appended table.

The applicants' complaints under Article 3 of the Convention concerning the inadequate conditions of detention were communicated to the Romanian Government ("the Government").

THE LAW

Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

After unsuccessful friendly-settlement negotiations, the Government informed the Court that they proposed to make unilateral declarations with

a view to resolving the issues raised by these complaints. They further requested the Court to strike out the applications in accordance with Article 37 of the Convention.

The Government acknowledged the inadequate conditions of detention. They offered to pay the applicants the amounts detailed in the appended table and invited the Court to strike the applications out of the list of cases in accordance with Article 37 § 1 (c) of the Convention. The amounts would be converted into the currency of the respondent State at the rate applicable on the date of payment, and would be payable within three months from the date of notification of the Court's decision. In the event of failure to pay these amounts within the above-mentioned three-month period, the Government undertook to pay simple interest on them, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

The payment will constitute the final resolution of the cases.

The applicants were sent the terms of the Government's unilateral declarations several weeks before the date of this decision. The Court has not received a response from the applicants accepting the terms of the declarations.

The Court observes that Article 37 § 1 (c) enables it to strike a case out of its list if:

> "...for any other reason established by the Court, it is no longer justified to continue the examination of the application".

Thus, it may strike out applications under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicants wish the examination of the cases to be continued (see the principles emerging from the Court's case-law, and in particular the *Tahsin Acar v. Turkey* judgment (preliminary objections) ([GC], no. 26307/95, §§ 75-77, ECHR 2003-VI)).

The Court has established clear and extensive case-law concerning complaints relating to the inadequate conditions of detention (see, for example, *Iacov Stanciu v. Romania,* no. 35972/05, 24 July 2012).

Noting the admissions contained in the Government's declarations as well as the amount of compensation proposed – which is consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the applications (Article 37 § 1 (c)).

In the light of the above considerations, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the applications (Article 37 § 1 *in fine*).

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declarations, the applications may be

restored to the list in accordance with Article 37 § 2 of the Convention (*Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

In view of the above, it is appropriate to strike the cases out of the list as regards the complaints concerning the inadequate conditions of detention.

The applicant in case no. 15544/15 also raised other complaints under Article 3 of the Convention in respect of the period of detention between 24 October 2011 and 22 November 2011.

The Court has examined these complaints and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, they either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

It follows that this part of the application no. 15544/15 must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Decides to join the applications;

Takes note of the terms of the respondent Government's declarations in so far as they concern the inadequate conditions of detention, and of the arrangements for ensuring compliance with the undertakings referred to therein;

Decides to strike this part of the applications out of its list of cases in accordance with Article 37 § 1 (c) of the Convention;

Declares the remainder of the application no. 15544/15 inadmissible.

Done in English and notified in writing on 8 June 2017.

Karen Reid
Registrar

Vincent A. De Gaetano
President

APPENDIX

List of applications raising complaints under Article 3 of the Convention (inadequate conditions of detention)

No.	Application no. Date of introduction	Applicant name Date of birth	Date of receipt of Government's declaration	Date of receipt of applicant's comments, if any	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros)[i]
1.	57151/14 18/09/2014	**Răzvan-Sergiu Atomei** 02/11/1989	31/10/2016		2,700
2.	9153/15 07/03/2015	**Mihai Petraru** 18/09/1967	19/01/2017	15/02/2017	4,050
3.	15544/15 25/05/2015	**Alin Gogoloș** 23/01/1986	19/01/2017		6,750
4.	48552/15 30/10/2015	**Marian Bivolaru** 23/06/1981	26/10/2016		3,960
5.	55632/15 09/12/2015	**Ioan Farkas** 30/03/1994	15/11/2016		5,400

[i]. Plus any tax that may be chargeable to the applicants.