

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

THIRD SECTION

DECISION

Application no. 40913/05
Maria BĂLĂNUŢĂ and Others against Romania
and 3 other applications
(see list appended)

The European Court of Human Rights (Third Section), sitting on 26 March 2013 as a Committee composed of :

Luis López Guerra, *President,*
Nona Tsotsoria,
Valeriu Griţco, *judges,*

and Marialena Tsirli, *Deputy Section Registrar,*

Having regard to the appended applications,

Having regard to the judgment *Albu and Others v. Romania*, no. 34796/09 and 63 other applications, 10 May 2012,

Having deliberated, decides as follows:

THE FACTS

A list of the applicants, who are former employees of a glass company, S., and of an oil production company, P. ("the companies"), is set out in the appendix.

The Romanian Government ("the Government") were represented successively by their Agents, Mr Răzvan-Horaţiu Radu and Ms Irina Cambrea, from the Ministry of Foreign Affairs.

A. The circumstances of the case

The facts of the cases, as submitted by the parties, may be summarised as follows.

The applicants submitted civil actions before the courts requesting from their employer various allowances as provided for in the applicable collective labour agreements, such as compensatory salaries for dismissal and social allowances.

By final court decisions delivered between 2005 and 2006 in the litigations with company S., and in 2009 in the litigation with company P., the applicants' actions were dismissed. The courts held that the applicants were either not entitled to the requested benefits or that the requested benefits had already been included and paid as part of their basic salary.

B. Relevant domestic regulations

The relevant extracts of the domestic regulations are described in the case of *Tunaru v. Romania* (no. 66381/09 (dec.), § 8, 13 November 2012) and in the case of *Radu v. Romania* (no. 35526/09 (dec.), § 7, 11 September 2012).

COMPLAINTS

The applicants complain under Articles 6 § 1 and 14 of the Convention, and under Article 1 of Protocol No. 1 to the Convention that cases similar to theirs had reached a different outcome based on a divergent interpretation of the same legal provisions, in breach of the principle of legal certainty. They also complain that they had been deprived of their possessions and that they had been discriminated against in comparison with other employees who were in a position similar to theirs and who received the requested allowances.

Some of the applicants also complained about the non-enforcement of decisions delivered by the county courts, prior to their quashing by the courts of appeal.

THE LAW

Having regard to the similarity of the main issues under the Convention in the above cases, the Court decides to join the applications and examine them in a single decision.

The Government contended that the domestic decisions reaching a different conclusion than that in the applicants' cases were isolated and could not be considered as having created a divergence of interpretation. Also, the Government argued that applications should be declared inadmissible on the ground that the applicants had not suffered a significant disadvantage within the meaning of Article 35 § 3 (b) of the Convention as amended by Protocol No. 14.

The applicants reiterated their submissions made upon lodging their applications with the Court and submitted decisions of domestic courts granting some of the requested allowances.

The third-party intervener, the oil company P., argued that the majority of domestic courts had dismissed the claims brought by former employees of the companies, by which they had sought to obtain various allowances. Therefore, the principle of legal certainty had not been breached.

The Court considers that it is not necessary to examine the admissibility criterion provided under Article 35 § 3 (b) of the Convention, as the present applications are manifestly-ill founded for the reasons developed hereunder.

In *Tunaru* (§§ 18-22) and *Radu* (§§ 16-17), decisions cited above, the Court found, in the light of the principles laid down in *Albu and Others,* cited above (§§ 34 and 38), that the alleged divergent interpretations of collective labour agreements regarding the same allowances as in the present cases did not give rise to a violation of the provisions of the Convention and its Protocols relied upon by the applicants.

The Court observes that the applicants' complaints in the present cases are identical to those that were rejected in the above cited cases of *Tunaru* and *Radu*. With reference to the detailed reasoning set out in *Tunaru* and *Radu*, the Court finds that the above complaints are similarly manifestly ill-founded within the meaning of Article 35 § 3 (a) and must be rejected under Article 35 § 4 of the Convention.

Concerning the complaint, made by some of the applicants, about the alleged non-enforcement of decisions delivered by the county courts, the Court notes that the decisions were not final and that they had been quashed by the courts of appeal. Therefore, it can not be considered that the guarantees under Article 6 § 1 of the Convention enjoyed by the applicants during the judicial phase of the proceedings were rendered devoid of purpose.

It follows that this complaint should be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court unanimously

Decides to join the applications;

Declares the applications inadmissible.

Marialena Tsirli	Luis López Guerra
Deputy Registrar	President

APPENDIX

No	Application No	Lodged on	Applicant Date of birth Place of residence	Represented by
1.	40913/05	07/11/2005	**Maria BĂLĂNUŢĂ** N/A Dorohoi **Radu-Daniel AIOANE** N/A Dorohoi **Petru-Paulica GRADINARIU** N/A Sendriceni **Adrian CRACIUN** N/A Dorohoi **Vasile HUTANU** N/A Broscauti	Doina CIOBANU
2.	40915/05	07/11/2005	**Lidia BURLA** N/A N/A **Adrian OLARIU** N/A Dorohoi **Eugenia CHILARIU** N/A Dorohoi **Mihaela BOTEANU**	Doina CIOBANU

No	Application No	Lodged on	Applicant Date of birth Place of residence	Represented by
			N/A Dorohoi **Rodica OTROCOL** N/A Dorohoi **Maria ISTRATE** N/A Dorohoi	
3.	5969/06	30/01/2006	**Delia Liliana MATLINSCHI** N/A Dorohoi **Lucia MARINIUC** N/A Dorohoi **Ovidiu STREDIE** N/A Dorohoi **Neculai MARCU** N/A Dorohoi **Vasile HAIVACA** N/A Dorohoi **Costica DRANCA** N/A Dorohoi **Verginica ISACOVICI** N/A Dorohoi	Doina CIOBANU

No	Application No	Lodged on	Applicant Date of birth Place of residence	Represented by
			Natalita DERSCARIU N/A Dorohoi **Petru SPINOSU** N/A Dorohoi **Elena BUTNARIU** N/A Dorohoi **Maricel TOFAN** N/A Dorohoi **Carmen BUHAIANU** N/A Dorohoi **Viorica BULIGA** N/A Dorohoi	
4.	65799/09	04/12/2009	**Maria Camelia MECHE** 27/11/1968 Targu-Jiu	Amalia Elena CHEPEA