

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

FOURTH SECTION

DECISION

Application no. 37988/16
Ștefan-Cătălin BĂNICĂ against Romania
(see appended table)

The European Court of Human Rights (Fourth Section), sitting on 7 September 2017 as a Committee composed of:

Vincent A. De Gaetano, *President,*
Georges Ravarani,
Marko Bošnjak, *judges,*
and Liv Tigerstedt, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on the date indicated in the appended table,

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

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant's details are set out in the appended table.

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

THE LAW

After unsuccessful friendly-settlement negotiations, the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issues raised by these complaints. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

The Government acknowledged the inadequate conditions of detention. They offered to pay the applicant the amount detailed in the appended table and invited the Court to strike the application out of the list of cases in accordance with Article 37 § 1 (c) of the Convention. The amount 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 this amount within the above-mentioned three-month period, the Government undertook to pay simple interest on it, 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 case.

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

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 declaration 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 application (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 application (Article 37 § 1 *in fine*).

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application 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 case out of the list.

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration and of the arrangements for ensuring compliance with the undertakings referred to therein;

Decides to strike the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Done in English and notified in writing on 28 September 2017.

Liv Tigerstedt	Vincent A. De Gaetano
Acting Deputy Registrar	President

APPENDIX

Application 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.	37988/16 04/08/2016	**Ștefan-Cătălin Bănică** 09/01/1978	14/02/2017	-	4 050

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