

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

THIRD SECTION

DECISION

Applications nos. 13043/05 and 23408/08
Ana CAPETTI and Grigore MAIMUT against Romania

The European Court of Human Rights (Third Section), sitting on 15 January 2013 as a Committee composed of:

Alvina Gyulumyan, *President,*
Kristina Pardalos,
Johannes Silvis, *judges,*

and Marialena Tsirli, *Deputy Section Registrar,*

Having regard to the above applications lodged on 6 April 2005 and 12 May 2008 respectively,

Having regard to the partial decision of 15 May 2012,

Having regard to the declaration submitted by the respondent Government on 10 September 2012 requesting the Court to strike the applications out of the list of cases and the applicants' reply to that declaration,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicants in both cases, Ms Ana Capetti and Mr Grigore Maimut, are Romanian nationals, who were born in 1949 and live in Bucharest.

The Romanian Government ("the Government") were represented by their Agent, Ms C. Brumar, from the Ministry of Foreign Affairs.

The applicants complained under Article 6 § 1 of the Convention about the length of the proceedings before the domestic courts. The applicants also raised various other complaints in respect of the same sets of proceedings.

By a decision of 15 May 2012, the cases were joined, the complaints concerning the length of the proceedings were communicated to the Government and the remainder of the applications was declared inadmissible.

THE LAW

The applicants complained about the length of the criminal proceedings under Article 6 § 1 of the Convention. This provision provides as follows:

> "In the determination of (...) any criminal charge against him everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal..."

After the failure of attempts to reach a friendly settlement, by a letter of 10 September 2012 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by the applications. They further requested the Court to strike out the applications in accordance with Article 37 of the Convention.

The declaration provided as follows:

> "The Government declares, by way of this unilateral declaration, its acknowledgement of the violation of Article 6 paragraph 1 [of the Convention] as regards the length of the domestic proceedings.
>
> The Government is prepared to pay to each of the applicants Ms Ana Capetti and Mr Grigore Maimut, as just satisfaction the sum of 3 800 EUR, amount which it considers reasonable in the light of the Court's case-law.
>
> This sum is to cover all damage as well as the costs and expenses and will be free of any taxes that may be applicable. This sum will be payable in Romanian lei at the rate applicable at the date of the payment to the personal account of each applicant within three months from the date of the notification of the decision pursuant to Article 37 § 1 of the Convention. In the event of failure to pay this sum within the said period, the Government undertake to pay simple interest on it, from 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. Therefore, the Government respectfully invite the Court rule that the examination of the present applications is no longer justified and to strike the applications out of its list of cases, pursuant to Article 37 § 1 (c) of the Convention."

By a letter of 4 October 2012, the applicants expressed the view that the sum mentioned in the Government's declaration was unacceptably low and therefore refused the amounts proposed by the Government.

The Court recalls that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified, under (a), (b) or (c) of paragraph 1 of that Article. Article 37 § 1 (c) enables the Court in particular 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 applications".

It also recalls that in certain circumstances, it may strike out an 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.

To this end, the Court will examine carefully the declaration in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (*Tahsin Acar v. Turkey*, [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI).

The Court has established in a number of cases, including those brought against Romania, its practice concerning complaints about the violation of one's right to a hearing within a reasonable time (*Abramiuc v. Romania*, no. 37411/02, §§ 103-109, 24 February 2009).

Having regard to the nature of 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 applications (Article 37 § 1(c)).

Moreover, in light of the above considerations, and in particular given the clear and extensive case-law on the topic, 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*).

For these reasons, the Court unanimously

Takes note of the terms of the respondent Government's declaration under Article 6 § 1 of the Convention and of the modalities for ensuring compliance with the undertakings referred to therein;

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

Marialena Tsirli	Alvina Gyulumyan
Deputy Registrar	President