

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

THIRD SECTION

DECISION

Application no. 33440/05
Gabriel-Emilian CONSTANTIN
against Romania

The European Court of Human Rights (Third Section), sitting on 2 October 2012 as a Committee composed of:

Egbert Myjer, *President,*
Luis López Guerra,
Kristina Pardalos, *judges,*
and Santiago Quesada, *Section Registrar,*

Having regard to the above application lodged on 22 August 2005,

Having regard to the formal declarations accepting a friendly settlement of the case,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Gabriel Emilian Constantin, is a Romanian national who was born in 1955 and lives in Buzău. His application was lodged on 25 August 2005. The Romanian Government ("the Government") were represented by their Agent, Ms Catrinel Brumar, from the Ministry of Foreign Affairs.

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

In 2004 the applicant brought civil proceedings against a third party seeking compensation for having used, without his consent, a plot of land over a period of five years.

The final decision was rendered on 23 February 2005, by the Buzău County Court, by which the applicant's appeal was annulled for failing to pay the imposed court fees, despite his request for exemption.

COMPLAINT

Invoking Article 6 § 1 of the Convention, the applicant complained about the right to a fair hearing before the national courts.

THE LAW

On 22 November 2011 the Court received the following declaration signed by the applicant:

> "I, Gabriel Emilian Constantin, note that the Government of Romania are prepared to pay me *ex gratia*, with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights, 4,800 euros (four thousand eight hundred euros), plus any tax that may be chargeable to the applicant.
>
> This sum will be converted into Romanian Lei at the rate applicable on the date of payment, and will be payable within three months from the date of notification of the decision by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. From the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.
>
> I accept the proposal and waive any further claims against Romania in respect of the facts giving rise to this application. I declare that this constitutes a final resolution of the case."

On 31 August 2012 the Court received the following declaration from the Government:

> "I, Catrinel Brumar, Agent of the Government, declare that the Government of Romania offer to pay, ex gratia to Mr Gabriel-Emilian Constantin, with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights, 4,800 euros (four thousand eight hundred euros), plus any tax that may be chargeable to the applicant.
>
> This sum will be converted into Romanian Lei (RON) at the rate applicable on the date of payment, and will be payable within three months from the date of notification of the decision by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month 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. The payment will constitute the final resolution of the case."

The Court takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no reasons to justify a continued examination of the application (Article 37 § 1 *in fine* of the Convention).

In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases, in accordance with Article 39 of the Convention.

Santiago Quesada
Registrar

Egbert Myjer
President