

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

THIRD SECTION

DECISION

This version was rectified under Rule 81 of the Rules of Court on 9 September 2011

Application no. 37772/05 and other applications
Octavian COSMAN and Others
against Romania
(see appendix for other applications)

The European Court of Human Rights (Third Section), sitting on 31 May 2011 as a Committee composed of:

Ján Šikuta, *President,*
Ineta Ziemele,
Kristina Pardalos, *judges,*

and Marialena Tsirli, *Deputy Section Registrar.*

Having regard to the applications listed in appendix lodged on 6 October 2005, 30 May 2006, 4 September 2007, 16 March and 17 April 2009 respectively,

Having regard to the declarations submitted by the respondent Government requesting the Court to strike the applications out of the list of cases and the applicants' replies, if any, to the declarations,

Having deliberated, decides as follows:

THE FACTS

The applicants are Romanian nationals, with the exception of the applicant in application no. 22318/06, who is a citizen of the USA. The Romanian Government ("the Government") were represented by their Agent, Mr. Răzvan-Horaţiu Radu, from the Ministry of Foreign Affairs.

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

All applications concern the length of civil proceedings in which the applicants were either defendants or respondents. The length of the proceedings was of:

- 9 years, 6 months and 26 days for three levels of jurisdiction for an action seeking to establish ownership over immovable property in case no. 37772/05;
- 7 years, 10 months and 24 days for three levels of jurisdiction for an action seeking pecuniary damage and compensation in case no. 22318/06;
- 10 years and 23 days for three levels of jurisdiction for an action for sharing of property in case no. 39194/07;
- 7 years, 2 months and 15 days for three levels of jurisdiction for a criminal complaint against a third party with joint civil claims in case no. 16789/09 and
- 10 years and 12 days for three levels of jurisdiction for an action seeking ownership over immovable property in case no. 22340/09.

COMPLAINTS

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, namely regarding the outcome and the fairness of the proceedings (all applications), discrimination made by domestic courts (application no. 22340/09) and alleged violations of property rights (all applications). They relied on Articles 6 § 1 and 14 of the Convention and 1 of Protocol No. 1 to the Convention.

THE LAW

A. Complaints under Article 6 § 1 concerning the length of proceedings

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

> "In the determination of his civil rights and obligations ... everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ..."

1. The Government's unilateral declarations

The Government informed the Court that they proposed to make unilateral declarations 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.

a) COSMAN and OTHERS v. Romania (no. 37772/05)

The application was lodged by Rodica Doina Cosman, Gheorghe Cosman, Octavian Cozman and Doina Constanţa Maria Cozman, born in 1947, 1952, 1940 and 1948[1] respectively, and residing in Cluj Napoca. They were represented before the Court by Ms M. Tălpeanu, a lawyer practising in Cluj Napoca.

By letter of 5 January 2008, the Government sent a unilateral declaration, providing as follows:

> "The Government declares, by a way of this unilateral declaration, its acknowledgement of a violation of Article 6 of the Convention. The Government is prepared to pay to the applicants as just satisfaction the sum of EUR 3,000, 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 payment to personal accounts of the applicants 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 invites the Court rule that the examination of the present application is no longer justified and to strike the application out of its list of cases, pursuant to Article 37 § 1 (c) of the Convention."

b) CABUTA v. Romania (no. 22318/06)

The application was lodged by Pavel Căbuţă, born in 1949 and residing in Fullerton, USA.

By letter of 3 December 2008, the Government sent a unilateral declaration, providing as follows:

> "The Government declares, by a way of this unilateral declaration, its acknowledgement of a violation of Article 6 of the Convention. The Government is prepared to pay to the applicant as just satisfaction the sum of EUR 1,800, 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 payment to personal accounts of the 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

1. Rectified on 9 September 2011: the text was "... born in 1947, 1949, 1926 and 1948..."

the marginal lending rate of the European Central Bank during the default period plus three percentage points. Therefore, the Government respectfully invites the Court rule that the examination of the present application is no longer justified and to strike the application out of its list of cases, pursuant to Article 37 § 1 (c) of the Convention."

c) IVAN v. Romania (no. 39194/07)

The application was lodged by Eugenia and Neculai Ivan, born in 1939 and 1932 respectively and residing in Bucharest.

By letter of 26 January 2011, the Government sent a unilateral declaration, providing as follows:

"The Government declares, by a way of this unilateral declaration, its acknowledgement of the excessive length of the domestic proceedings lodged by the applicants. The Government is prepared to pay to the applicants as just satisfaction the sum of EUR 3,200, 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 payment to personal accounts of the 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 invites the Court rule that the examination of the present application is no longer justified and to strike the application out of its list of cases, pursuant to Article 37 § 1 (c) of the Convention"

d) IANCU v. Romania (no. 16789/09)

The application was lodged by Sanda Iancu, born in 1927 and residing in Lieşti.

By letter of 6 December 2010, the Government sent a unilateral declaration, providing as follows:

"The Government declares, by a way of this unilateral declaration, its acknowledgement of a violation of Article 6 § 1 of the Convention regarding the excessive length of the domestic proceedings. The Government is prepared to pay to the applicant as just satisfaction the sum of EUR 1,500, 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 payment to personal accounts of the 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 invites the Court rule that the examination of the present application is no longer justified and to strike the application out of its list of cases, pursuant to Article 37 § 1 (c) of the Convention."

e) DARZIU and RADU v. Romania (no. 22340/09)

The application was lodged by Elena Darziu and Andreia Mirela Radu, born in 1958 and 1968 respectively and residing in Galati. They were represented before the Court by Ms V. Coroiu, a lawyer practising in Bucharest.

By letter of 20 December 2010, the Government sent a unilateral declaration, providing as follows:

> "The Government declares, by a way of this unilateral declaration, its acknowledgement of the excessive length of the domestic proceedings to which the applicants were a party. The Government is prepared to pay to the applicants as just satisfaction the sum of EUR 3,800 jointly, 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 payment to personal accounts of the 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 invites the Court rule that the examination of the present application is no longer justified and to strike the application out of its list of cases, pursuant to Article 37 § 1 (c) of the Convention."

2. The applicants' positions

The applicants expressed either the view that the sum mentioned in the Government's declarations was unacceptably low and therefore refused the amounts proposed by the Government, or did not send any comments on the matter.

3. The Court's assessment

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 application".

It also recalls that in certain circumstances, it may strike out an application 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 case to be continued.

To this end, the Court will examine carefully the declarations 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 declarations, as well as the amounts of compensation proposed – which are 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 complaints on length of proceedings (Article 37 § 1 *in fine*).

Accordingly, this part of the applications should be struck out of the list.

B. Other complaints

Referring to Articles 6 and 14 of the Convention and 1 of Protocol No. 1 to the Convention, the applicants complained of further aspects related to the above proceedings.

Having regard to all the materials in its possession, and in so far as these complaints fall within its competence, the Court finds that there is no appearance of a violation of the rights and freedoms set out in these provisions in that respect. It follows that this part of the applications must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 1, 3 and 4 of the Convention.

For these reasons, the Court unanimously

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

Decides to strike the applications out of its list of cases in so far as they relate to the above complaint in accordance with Article 37 § 1 (c) of the Convention.

Declares the remainder of the applications inadmissible.

Marialena Tsirli	Ján Šikuta
Deputy Registrar	President

APPENDIX

Application no.	Applicants
37772/05	Rodica Doina COSMAN Gheorghe COSMAN Octavian COZMAN Doina Constanța Maria COZMAN
22318/06	Pavel CĂBUȚĂ
39194/07	Eugenia IVAN Neculai IVAN
16789/09	Sanda IANCU
22340/09	Elena DÂRZIU Andreia Mirela RADU