

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

THIRD SECTION

DECISION

Application no. 27903/09
Marius Dan GAGIU
against Romania

The European Court of Human Rights (Third Section), sitting on 2 June 2015 as a Committee composed of:

Luis López Guerra, *President,*
Johannes Silvis,
Valeriu Griţco, *judges,*
and Marialena Tsirli, *Deputy Section Registrar,*

Having regard to the above application lodged on 21 May 2009,

Having regard to the declaration submitted by the respondent Government on 22 December 2014 requesting the Court to strike the application out of the list of cases and the applicant's reply to that declaration,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Marius Dan Gagiu, is a Romanian national, who was born in 1967 and lives in Constanța. He was represented before the Court by Mr I. Bușuricu, a lawyer practising in Constanța.

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

The applicant complained under Article 6 § 1 of the Convention about the length of criminal proceedings in which he was involved. The proceedings lasted for six years and three months for two levels of jurisdiction.

On 11 July 2014, the complaint was communicated to the Government.

THE LAW

After the failure of attempts to reach a friendly settlement, by a letter of 22 December 2014 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by the application. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

The declaration provided as follows:

> "Le Gouvernement déclare, au moyen de la présente déclaration unilatérale, qu'il reconnaît qu'en l'espèce il y a eu violation de l'article 6 § 1 de la Convention en raison de la durée de la procédure judiciaire litigieuse.
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> Le Gouvernement déclare être prêt à verser à la partie requérante Gagiu Marius Dan au titre de satisfaction équitable la somme de 1 350 EUR, montant qu'il considère comme raisonnable au vu de la jurisprudence de la Cour. Cette somme qui couvrira tout préjudice matériel et moral ainsi que les frais et dépens, ne sera soumise à aucun impôt. Elle sera versée en lei roumains au taux applicable à la date du paiement, sur le compte bancaire indiqué par la partie requérante, dans les trois mois suivant la date de la notification de la décision de la Cour rendue conformément à l'article 37 § 1 de la Convention européenne des droits de l'Homme. A défaut de règlement dans ledit délai, le Gouvernement s'engage à verser, à compter de l'expiration de celui-ci et jusqu'au règlement effectif de la somme en question, un intérêt simple à un taux égal à celui de la facilité de prêt marginal de la Banque centrale européenne, augmenté de trois points de pourcentage. Ce versement vaudra règlement définitif l'affaire.
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> Le Gouvernement invite respectueusement la Cour à dire que la poursuite de l'examen de la requête n'est plus justifiée et à la rayer du rôle en vertu de l'article 37 § 1 (c) de la Convention."

By a letter of 26 January 2015, the applicant indicated that he was not satisfied with the terms of the unilateral declaration on the ground that he did not intend to settle the case this way.

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 applicant wishes the examination of the case 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, and *WAZA Spółka z o.o. v. Poland* (dec.), no. 11602/02, 26 June 2007).

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 (see, for example, *Frydlender v. France [GC],* no. 30979/96, § 43, ECHR 2000-VII, and *Vlad and Others v. Romania*, nos. 40756/06, 41508/07 and 50806/07, §§ 131-133 and 161, 26 November 2013).

Having regard to the nature of the admissions contained in the Government's declaration, as well as the amount of compensation proposed, the Court considers that it is no longer justified to continue the examination of the application (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 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 could 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 under Article 6 § 1 of the Convention and of the modalities 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 25 June 2015.

Marialena Tsirli
Deputy Registrar

Luis López Guerra
President