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

FOURTH SECTION

DECISION

Application no. 46167/09
Florin JULA
against Romania

The European Court of Human Rights (Fourth Section), sitting on 5 September 2017 as a Committee composed of:

Paulo Pinto de Albuquerque, *President,*
Egidijus Kūris,
Iulia Motoc, *judges,*
and Andrea Tamietti, *Deputy Section Registrar,*

Having regard to the above application lodged on 9 June 2009,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Florin Jula, is a Romanian national who lives in Oradea. He was represented before the Court by Mr M. Lupu, a lawyer practising in Iaşi.

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

A. The circumstances of the case

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

4. The applicant has two minor children who attend a State school in their home town. The family belongs to the Eastern Catholic Church ("the Greek Catholic Church") and for that reason the applicant's children do not wish to participate in the Orthodox religion classes offered by the school.

1. Proceedings concerning the right to religious education

5. On 8 August 2007 the applicant lodged a complaint against the Ministry of Education and the Ministry of Culture and Cults with the National Council against Discrimination ("the Council"), arguing that Greek Catholic children were discriminated against because their constitutional right to religious education was not assured in the same manner as that of the Orthodox children.

6. On 20 December 2007 the Council dismissed the complaint. It found that the situation described by the applicant did not constitute discrimination because any religion, including the Orthodox, should be represented by a sufficient number of children in order to trigger an entitlement to religion classes.

7. On 25 February 2008 the applicant lodged an objection to the Council's decision. In a final decision of 10 December 2008, the High Court of Cassation and Justice found that there had been no discrimination in the case as the legal provisions concerning the minimum number of pupils applied equally to all religions. It also noted that, even if religious education was not provided by a particular school, pupils could still benefit from it within their respective churches and that teaching would be recognised by the school.

2. The applicant's correspondence with the Registry of the Court

8. In his letters of 1 December 2011, 6 February, 5 July and 31 August 2012, sent before notice of the application was given to the Government, the applicant complained that the judge elected in respect of the respondent State and members of the Registry were deliberately protracting the examination of his case. Excerpts of his letters read as follows:

9. Letter of 1 December 2011:

[Translation]

> "As any protraction will negatively affect a significant number of Romanian nationals, please inform me when my case will be examined.
>
> I ask you to verify whether this protraction is not being caused by the Romanian judge, Corneliu Bîrsan. Without accusing anyone, I am thinking about numerous press scandals in which certain Romanian magistrates are involved. Knowing the lengthy delays with which other Romanian cases involving the Greek-Catholic Church were examined ..., I expect that my case will take about ten years. If my reasoning is correct, we are faced with actions that need to be investigated. For this reason, in order to eliminate any suspicion, please conduct the necessary internal investigations."

[Original]

> "Având în vedere tergiversarea care are efecte negative asupra unui număr mare de cetăţeni români, vă rog să-mi aduceţi la cunostinţă când va fi soluţionată cererea mea.

Doresc să verificaţi dacă această tergiversare nu se datorează eventual judecătorului român, Corneliu Bîrsan. Fără să acuz pe nimeni, am în vedere numeroasele scandaluri din presă în care sunt implicaţi anumiţi magistraţi români. Cunoscând intervalul de timp mare în care au fost soluţionate şi alte dosare referitoare la Biserica Greco-Catolică ..., mă aştept ca şi dosarul meu să fie soluţionat cam în 10 ani. Dacă raţionamentul meu este întemeiat, suntem în faţa unor acte care trebuie verificate. De aceea, pentru a elimina această suspiciune, vă rog să faceti cercetări interne în acest sens."

10. Letter of 6 February 2012
[Translation]

"I have received your answer of 20 December 2011 [informing the applicant that his case would be examined in 2012]. Unfortunately, it is unacceptable. ... it does not make any reference to my request that an investigation be conducted which would establish **WHETHER JUDGE BÎRSAN INTENTIONALLY PROTRACTED MY CASE**.

Bearing in mind the foregoing, I ask the Court **TO WITHDRAW THE ROMANIAN JUDGE BÎRSAN**. I do not wish this judge to sit on my case. My reasons are well-founded and easy to establish."

[Original]

"Am primit răspunsul dvs din data de 20 decembrie 2011. Din păcate acesta este nesatisfăcător. ... nu cuprinde nicio referire la solicitarea mea de a se face o investigare prin care să se stabilească **DACĂ JUDECĂTORUL BÎRSAN A AMÂNAT INTENŢIONAT DOSARUL MEU**.

Având în vedere cele menționate, doresc să solicit Curții **RECUZAREA JUDECĂTORULUI ROMÂN BÎRSAN.** Nu doresc ca acest judecător să se ocupe de cazul meu. Motivele mele sunt întemeiate și sunt ușor de stabilit."

11. Letter of 5 July 2012:
[Translation]

"I strongly believe that the Romanian judge is protracting [the examination of] my case. In this situation, I will file a complaint against the judge, who does not wish to examine my case.

... Why are you postponing my case? Who wishes to cover up my case?"

[Original]

"Cred şi afirm cu tărie că judecătorul român tergiversează dosarul. În acest caz voi face plângere împotriva judecătorului care nu doreşte rezolvarea dosarului.

... De ce amânaţi dosarul? Cine doreşte muşamalizarea dosarului?"

12. The letter of 31 August 2012 had a similar content to that of 5 July 2012.

13. On 14 September 2012 the Section Registrar sent a letter to the applicant assuring him that his doubts concerning the lack of impartiality of the Romanian agents were unfounded. He further reassured the applicant that only the Court itself had competence to decide applications.

14. In his observations, after communication of the case to the respondent Government, the applicant made further allegations concerning the national judge in relation to the composition of the bench which adopted the final decision of 10 December 2008 (see paragraph 7 above).

The relevant parts of the applicant's observations read as follows [Original in English]

> "The Tribunal was led by judge P.I., who was later involved in an investigation of the National Anticorruption Department in the same file with G.B., wife of Romanian judge at [the Court] Corneliu Bîrsan.
>
> That's why I asked the rejection of the Romanian judge at [the Court] Corneliu Bîrsan, indirectly involved in a relation with the judge who is accused of corruption."

The applicant appended to his observations a press article concerning the fact that judge P.I. had retired during the criminal investigation into acts of corruption which had been instituted against her. The names of judge G.B. and of judge Corneliu Bîrsan were mentioned in that article in connection with the investigation.

15. On 5 December 2014 the applicant sent another letter to the Court alleging that the Romanian judge, whose term at the Court had expired in December 2013, had been protracting the examination of his case.

COMPLAINT

16. The applicant complained under Articles 9 and 14 of the Convention and Article 2 of Protocol No. 1 to the Convention that religious education was denied to children belonging to the Greek Catholic church, including his own children.

THE LAW

17. The Court notes that the applicant has sent a number of letters making serious defamatory and groundless accusations about the integrity of the Romanian judge who was serving his mandate at that time.

18. In reiterating his allegations − despite receiving reassurances from the Registrar that only the Court could decide on applications (see paragraph 13 above) − the applicant has demonstrated his determination to harm and tarnish the reputation of the very institution of European Court of Human Rights and of its members (see, *mutatis mutandis*, *Řehák v. the Czech Republic* (dec.), no. 67208/01, 18 May 2004).

19. The Court reiterates that the use of particularly vexatious, insulting, threatening or provocative language by the applicant – whether directed against the respondent State or the Court itself – may be considered an abuse of the right of petition within the meaning of Article 35 § 3 (a) of the Convention (see *Apinis v. Latvia* (dec.), no. 46549/06, § 15, 20 September 2011)

20. In the present case, the Court is of the opinion that the applicant's allegations are intolerable, exceed the bounds of normal − albeit misplaced – criticism, and amount to contempt of court (see, *mutatis mutandis*, *Haţegan v. Romania* (dec.), no. 24159/03, §§ 15, 17 and 29, 17 April 2012; *Apinis*, cited above, §§ 6, 9 and 16; and *Řehák*, cited above). Such conduct by the applicant, even supposing that his original application were not to be deemed manifestly ill-founded, is contrary to the purpose of the right of individual petition, as provided for in Articles 34 and 35 of the Convention. There is no doubt that it constitutes an abuse of the right of application within the meaning of Article 35 § 3 of the Convention.

21. It follows that the present case must be rejected as an abuse of the right of application, pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

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

Andrea Tamietti
Deputy Registrar

Paulo Pinto de Albuquerque
President