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

FOURTH SECTION

DECISION

Application no. 9164/10
Ion Adrian MARTINESCU
against Romania

The European Court of Human Rights (Fourth Section), sitting on 1 December 2016 as a Committee composed of:

Vincent A. De Gaetano, *President,*
Egidijus Kūris,
Gabriele Kucsko-Stadlmayer, *judges*
and Hasan Bakırcı, *Deputy Section Registrar,*

Having regard to the above application lodged on the date indicated in the appended table,

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

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The list of applicant and the relevant details of the application are set out in the appended table.

2. The applicant, Mr Ion Adrian Martinescu, is a Romanian national, who was born in 1969 and lives in Rome, Italy. His application was lodged on 26 November 2009. The Romanian Government ("the Government") are represented by their Agent, Mrs Catrinel Brumar, of 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. By final decision of 13 August 1963 issued by the criminal court, the applicant's grandfather, Mr I. M., was convicted for illegally owning golden objects, and 348 golden coins were confiscated from him.

5. Following an extraordinary appeal introduced by the public prosecutor against the above-mentioned decision, the Romanian Supreme Court held in its final judgment of 19 March 2002, that ninety of the 348 golden coins should not have been confiscated. The court imposed on the Romanian National Bank the obligation to return to the heirs of Mr I.M. the ninety golden coins, or to pay their equivalent value.

6. Subsequently, the applicant initiated civil proceedings against the Romanian National Bank, requesting the return of the remaining 258 golden coins, which had been abusively confiscated from his grandfather. Five other heirs of Mr I.M. were brought into the proceedings at a later stage. By final decision of 9 January 2004, the Râmnicu Vâlcea District Court decided in the applicant's favour, imposing on the Romanian National Bank the obligation to return 258 golden coins, or to pay their equivalent value to the applicant and to the other heirs of Mr I.M.

B. Relevant domestic law

7. The relevant domestic legal provisions and procedures concerning the enforcement of final judgments against State authorities are described in the leading case of *Foundation Hostel for Students of the Reformed Church and Stanomirescu v. Romania* (nos. 2699/03 and 43597/07, §§ 36-40, 7 January 2014).

COMPLAINT

8. The applicant complained under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention, about the non-enforcement of the final judgments of respectively 19 March 2002 and 9 January 2004.

THE LAW

9. The applicant alleged that the judgments of 19 March 2002 issued by the Romanian Supreme Court and of 9 January 2004 issued by Râmnicu Vâlcea District Court, respectively, had not been enforced. He relied on Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention, which, in so far as relevant, read as follows:

Article 6 § 1

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

Article 1 of Protocol No. 1

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

10. The Government argued that the Romanian National Bank has never refused to enforce the court decisions. However, to do so they needed further clarifications from the applicant with regard to the estate of I.M. However, the applicant failed to provide the requested documentation relating to the estate of I.M. Moreover, the Romanian National Bank repeatedly informed the applicant that the golden coins had been melted down and that therefore the only way to enforce the outstanding obligation was by paying the equivalent value, in accordance with the court's ruling.

11. In his written observations, the applicant stated that he wished to receive the golden coins, refusing unequivocally the payment of their equivalent value.

12. In the assessment of the circumstances of the present case, the Court notes that the applicant failed to provide the documentation that would have entitled the debtor to properly identify the creditors, namely the heirs of I.M. The Court further notes that the domestic authorities have shown diligence in enforcing the final court decisions (see paragraph 10 above). However, the applicant refused to accept that the enforcement of the outstanding judgment be made in the form of the payment of the coins' equivalent value.

13. In the light of all material before it, the Court concludes that the non-enforcement of the outstanding judgments of respectively 19 March 2002 and 9 January 2004 was determined by the applicant's refusal to cooperate with the authorities (*Kosmidis and Kosmidou v. Greece*, no. 32141/04, § 27, 8 November).

14. It follows that the applicant's complaints are manifestly il-founded and must be rejected in accordance with 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 20 December 2016.

Hasan Bakırcı
Deputy Registrar

Vincent A. De Gaetano
President

APPENDIX

Application raising complaints under Article 6 § 1 of the Convention and Article 1 of the Protocol No. 1
(non-enforcement or delayed enforcement of domestic decisions)

Application no. Date of introduction	Applicant name Date of birth	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period Length of enforcement proceedings
9164/10 26/11/2009	**Ion Adrian MARTINESCU** 07/10/1969	Supreme Court of Justice, Domestic file no. 2070/2001, 19/03/2002	19/03/2002	pending More than 14 years, 3 months and 25 days
		Vâlcea District Court, Domestic file no. 6920/2003, 09/01/2004	27/10/2010	pending More than 5 years, 8 months and 17 days