

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

THIRD SECTION

DECISION

Applications nos. 19462/06, 48003/06 and 1457/07
Ioan POPA and Others
against Romania

The European Court of Human Rights (Third Section), sitting on 12 April 2011 as a Committee composed of:

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

and Marialena Tsirli, *Deputy Section Registrar,*

Having regard to the above applications lodged on 4 May, 24 November and 21 December 2006 respectively,

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

Having deliberated, decides as follows:

THE FACTS

The applicants are Romanian, Italian and German nationals respectively. The Romanian Government ("the Government") were represented by their Agent, Mr. Razvan-Horatiu Radu, from the Ministry of Foreign Affairs. The Italian and the German Governments did not exercise their right to intervene (Article 36 § 1 of the Convention).

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

In case no. 19462/06, the applicant brought, in 2002, criminal proceedings with civil claims against a third party for theft, which were rejected by a final decision of 15 June 2007 of the Bucharest County Court.

In case no. 48003/06, third parties brought proceedings against the applicant in 1996, seeking the annulment of a contract for the construction of a building, which was allowed by a final decision of 26 May 2006 of the Targu-Mures Court of Appeal.

In case no. 1457/07, the applicant brought, in 1994, proceedings against the Constanta Local Council and third parties seeking the return of property rights over immovable property, which was allowed by a final decision of 26 June 2006 of the Court of Cassation.

All applications concern the length of the domestic proceedings, which varies from five years and one month to twelve years.

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 different other complaints in respect of the same sets of proceedings, namely under Article 6 § 1 regarding the outcome and the unfairness of the proceedings, the lack of independence and impartiality of the courts (all applications), under Article 1 of Protocol No. 1 regarding alleged violations of property rights over immovable property or alleged pecuniary rights (all applications) and under Articles 14 of the Convention and 2 § 2 of Protocol No. 4 regarding discrimination based on political opinion and status and limitation on the applicant's freedom to leave the country before 1989 (application no. 1457/07).

THE LAW

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

The applicants complained about the length of the 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 and the applicants' positions

By letters dated on 12 July, 19 October and 9 December 2010 respectively, 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.

1. POPA v. Romania (no. 19462/06)

Application lodged by Ioan Popa.

By letter of 12 July 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 proceedings. The Government is prepared to pay to the applicant as just satisfaction the sum of EUR 1,850, 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. RUGGIERO v. Romania (no. 48003/06)

Application lodged on 24 November 2006 by Franco Ruggiero.

By letter of 9 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 proceedings. The Government is prepared to pay to the applicant as just satisfaction the sum of EUR 3,300, 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."

3. RUTTER v. Romania (no. 1457/07)

Application lodged by Maria Rodica Eugenia Rutter.

By letter of 19 October 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 proceedings. The Government is prepared to pay to the applicant 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."

The applicants expressed the view that the sums mentioned in the Government's declarations were unacceptably low and therefore refused the amounts proposed by the Government.

2. 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 § 1 and 14 of the Convention, Article 1 of Protocol No. 1 and Article 2 § 2 of Protocol No. 4, 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, 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