

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

FOURTH SECTION

DECISION

Application no. 33196/03
Ion POSTOLACHI against Romania
and 8 other applications
(see appended table)

The European Court of Human Rights (Fourth Section), sitting on 21 September 2017 as a Committee composed of:

Vincent A. De Gaetano, *President,*
Georges Ravarani,
Marko Bošnjak, *judges,*

and Liv Tigerstedt, *Acting Deputy Section Registrar,*

Having regard to the above applications lodged on the various dates indicated in the appended table,

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

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The list of applicants and the relevant details of the applications are set out in the appended table.

2. The applicants' complaints under Article 6 § 1 of the Convention and Article 1 of the Protocol No. 1 to the Convention, concerning the non-enforcement or delayed enforcement of domestic decisions, were communicated to the Romanian Government ("the Government"). In applications nos. 33196/03, 31566/04, 27200/05, 3651/09 and 52486/10 the applicants also raised other complaints under the provisions of the Convention.

THE LAW

A. Joinder of the applications

3. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

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

1. Locus standi

4. Assuming that the applicants Terezia Varga (application no. 27200/05) and Elena Stolerenco (application no. 23498/08), the grandmothers of Rita-Larisa Varga and Ionel Adrian Ciobanu, respectively, are entitled to bring proceedings before the Court not only in their own name, but also on behalf of their grandchildren, these complaints are inadmissible, for the reasons stated below.

2. The applicants' complaints relating to Article 6 of the Convention and Article 1 of Protocol No. 1

5. In the present applications, the Court finds that it does not need to rule on the preliminary objections raised by the Government, because the complaints are inadmissible in any event, as presented below.

6. Having examined all the material before it, the Court considers that the respondent Government cannot be held liable for the non-enforcement or the delayed enforcement of the outstanding judgments given in the applicants' favour.

7. In particular, the Court notes that the applicants failed to make appropriate use of the available domestic legal avenues and to comply with all the procedural and substantial requirements of the domestic law, as follows: instituting enforcement proceedings (applications nos. 33196/03, 23498/08 and 3651/09); acting diligently so as to prevent the enforcement proceedings from becoming obsolete (application no. 49475/09; see also *Topciov v. Romania,* (dec.), no. 17369/02, 16 June 2006); instituting enforcement proceedings against all debtors and filing a revocation action ("*acțiune pauliană*", application no. 76957/14; see also *Ciprova v. the Czech Republic* (dec.), no. 33273/03, 22 March 2005, and *Costică Moldovan and others v. Romania* (dec.), no. 8229/04, §§ 153-154, 15 February 2011).

8. As regards applications nos. 31566/04, 27200/05, 44771/07 and 52486/10, the Court considers that the authorities acted diligently and assisted the applicants in the process of enforcing the outstanding

judgments. The Court notes however that the outstanding judgments remained unenforced on account of the existence of an objective impossibility thereto, in particular in view of the fact that the debtors, private parties, either did not have any assets or had gone abroad (see *Tanasenko v. Moldova* (dec.), no. 77608/01, 28 February 2006).

9. In view of the above, the Court finds that these complaints are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

C. Other alleged violations under well-established case-law

10. In application no. 31566/04, the applicants also complained of a breach of Article 6 § 1 of the Convention, arguing that the length of the civil proceedings, finalised by decision of 27 April 2004, was excessive and failed to meet the "reasonable time" requirement.

11. The Court observes that the period under consideration, namely from 11 July 2001 until 27 April 2004, amounted to a total of 2 years, 9 months and 17 days for 3 levels of jurisdiction which cannot be considered excessive.

12. It follows that this part of the application no. 31566/04 is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

13. In application no. 52486/10, the applicants complained of the lack of any effective remedy in domestic law in respect of their complaint of non-enforcement.

14. The Court notes that Article 13 applies only where an individual has an "arguable claim" to be the victim of a violation of a Convention right (see *Boyle and Rice v. the United Kingdom*, judgment of 27 April 1988, Series A no. 131, § 52).

15. The Court has found that the applicants' complaint under Article 6 and Article 1 of Protocol No. 1 to the Convention is manifestly ill-founded. It follows that the applicants do not have an arguable claim under Article 13.

16. Consequently, this complaint is also manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

D. Remaining complaints

17. In applications nos. 33196/03, 31566/04, 27200/05, 3651/09 and 52486/10 the applicants also raised other complaints under various articles of the Convention.

18. The Court has examined the applications listed in the appended table and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints

either do not meet the admissibility criteria set out in Articles 34 and 35 of the Convention or do not disclose any appearance of a violation of the rights and freedoms enshrined in the Convention or the Protocols thereto.

19. It follows that this part of the applications must be rejected in accordance with Article 35 § 4 of the Convention.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 12 October 2017.

Liv Tigerstedt	Vincent A. De Gaetano
Acting Deputy Registrar	President

APPENDIX

List of applications 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)

No.	Application no. Date of introduction	Applicant name Date of birth	Representative name and location	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period Length of enforcement proceedings	Other complaints under well-established case-law
1.	33196/03 16/09/2003	**Ion Postolachi** 01/08/1948		Cluj-Napoca District Court, 19/04/2000	16/11/2000	pending More than 16 years and 7 months and 1 day	
2.	31566/04 12/08/2004	**Gabriel Emil Popa** 05/10/1967, application lodged on 12/08/2004 **Florica Popa** 01/11/1970, application lodged on 01/08/2005	Organizația Pentru Apărarea Drepturilor Omului Bucharest	Bucharest Court of Appeal, 27/04/2004	27/04/2004	pending More than 13 years and 1 month and 21 days	Art. 6(1) - excessive length of civil proceedings
3.	27200/05 22/07/2005	**Terezia Varga** 18/10/1953 **Rita-Larisa Varga** 21/04/2002		Maramureș County Court, 22/02/2007	19/10/2007	pending More than 9 years and 7 months and 29 days	
4.	44771/07 10/08/2007	**Zvjezdana Halapir Ramsay** 03/06/1967		Zagreb District Court, 21/07/2004	11/12/2006	pending More than 10 years and 6 months and 6 days	

No.	Application no. Date of introduction	Applicant name Date of birth	Representative name and location	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period Length of enforcement proceedings	Other complaints under well-established case-law
5.	23498/08 15/12/2007	**Elena Stolerenco** 20/03/1950 **Ionel Adrian Ciobanu** 08/01/1992		Caraș-Severin County Court, 01/04/2004 Caraș-Severin County Court, 22/07/2004	11/11/2004 11/11/2004	pending More than 12 years and 7 months and 6 days pending More than 12 years and 7 months and 6 days	
6.	3651/09 05/01/2009	**Sanda Doina Pitei** 25/07/1960		Ploiești District Court, 15/11/1999	15/11/1999	pending More than 17 years and 7 months and 2 days	
7.	49475/09 07/09/2009	**Octavian Stancescu** 05/08/1951		Dâmbovița County Court, 13/04/2007	13/04/2007	pending More than 10 years and 2 months and 4 days	
8.	52486/10 18/08/2010 (3 applicants)	**Mihaela Chis** 15/06/1965 **Alexandru Tudor Chiș** 05/09/1990 **Iulian Antoniu Chiș** 29/06/1996		Cluj-Napoca District Court, 13/11/2008	09/06/2009	pending More than 8 years and 8 days	Art. 13 - lack of any effective remedy in domestic law in respect of non-enforcement or delayed enforcement of domestic decisions.
9.	76957/14 24/11/2014	**Constanța Dumitru** 07/08/1955 **Roxana Elena Dumitru** 20/05/1986		Prahova County Court, domestic case file no. 2490/94/2007, 15/04/2011	27/10/2011	pending More than 4 years and 5 months and 27 days	