

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

THIRD SECTION

DECISION

Application no. 4140/04
Aurelia ROMAN
against Romania

The European Court of Human Rights (Third Section), sitting on 26 March 2013 as a Committee composed of:

Luis López Guerra, *President,*
Nona Tsotsoria,
Valeriu Griţco, *judges,*
and Marialena Tsirli, *Deputy Section Registrar,*

Having regard to the above application lodged on 15 December 2003,

Having regard to the decision of 3 April 2012,

Having regard to the declaration submitted by the respondent Government on 22 January 2013 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

1. The applicant, Mrs Aurelia Roman, is a Romanian national, who was born in 1960 and lives in Alexandria. She was represented before the Court by Mr S. Roman, a lawyer practicing in Alexandria.

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

3. By a decision of 3 April 2012, the Court decided to give notice to the respondent Government of the part of the applicant's complaints under Articles 3 and 6 of the Convention concerning the conditions of her

detention in the Bucharest Police Department's Arrest from 21 April to 4 July 2003, including the fact that she was placed in a room with other smoking detainees; the lack of adequate medical care in the Bucharest Police Department's Arrest from 21 April to 27 June 2003; and the length of the two sets of civil proceedings brought against her by third parties and declared the remainder of the application inadmissible.

THE LAW

4. After the failure of an attempt to reach a friendly settlement, by a letter of 22 January 2013 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issues 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:

> "The Government declare – by way of the unilateral declaration – their acknowledgement of a violation of Articles 3 and 6 of the Convention insofar as they concern the conditions of the applicant's detention, the lack of adequate medical treatment and the excessive length of the domestic proceedings.
>
> The Government declare that they are prepared to pay to the applicant as just satisfaction the sum of EUR 3,510 (three thousand five hundred and ten euros) which they consider to be reasonable in the light of the Court's case law. This sum which will cover all pecuniary and non-pecuniary damage as well as costs and expenses, will not be subject to any tax that may be chargeable to the applicant. It will be converted into Romanian lei at the rate applicable on the date of payment, and will be payable, into a bank account indicated by the applicant, within three months from the date of notification of the decision by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-moth 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.
>
> The Government respectfully ask the Court to decide that the examination of the case is no longer justified and to strike it out of the Court's list of cases, according to Article 37 § 1 (c) of the Convention."

5. By a letter of 21 February 2013, the applicant indicated that she was not satisfied with the terms of the unilateral declaration mainly on the ground that it did not offer her sufficient just satisfaction.

6. 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".

7. 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.

8. 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 (see *Tahsin Acar v. Turkey*, [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI; *WAZA Spółka z o.o. v. Poland* (dec.) no. 11602/02, 26 June 2007; and *Sulwińska v. Poland* (dec.) no. 28953/03, 18 September 2007).

9. The Court has established in a number of cases, including those brought against Romania, its practice concerning complaints about the violation of Articles 3 and 6 of the Convention on account of the conditions of the applicant's detention, lack of adequate medical treatment and excessive length of proceedings (see, for example, *Riccardi v. Romania*, no. 3048/04, 3 April 2012, *Lăutaru v. Romania*, no. 13099/04, 18 October 2011, *Flămînzeanu v. Romania*, no. 56664/08, 12 April 2011, *Iamandi v. Romania*, no. 25867/03, 1 June 2010, and *Brânduşe v. Romania*, no. 6586/03, ECHR-2009 (extracts)).

10. Having regard to the nature of the admissions contained in the Government's declaration, as well as the amount of compensation proposed – which is consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1(c)).

11. 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*).

12. In any event, the Court's decision is without prejudice to any decision it might take to restore, pursuant to Article 37 § 2 of the Convention, the application to its list of cases, should the Government fail to comply with the terms of their unilateral declaration (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008, and *Aleksentseva and 28 Others v. Russia* (dec.), nos. 75025/01 et al., 23 March 2006).

13. In view of the above, it is appropriate to strike the remainder of the case out of the Court's list of cases.

For these reasons, the Court unanimously

Takes note of the terms of the respondent Government's declaration and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike the remainder of the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Marialena Tsirli Deputy Registrar	Luis López Guerra President