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

THIRD SECTION

DECISION

Application no. 44291/21
Mohammed SATUF against Greece
and 4 other applications
(see list appended)

The European Court of Human Rights (Third Section), sitting on 28 January 2025 as a Committee composed of:

Peeter Roosma*, President*,
Ioannis Ktistakis,
Lətif Hüseynov*, judges*,
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the applications against the Hellenic Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by the applicants listed in the appended table no. 1 ("the applicants"), on the various dates indicated therein;

the decision to give notice of the complaints concerning Article 3 of the Convention and Article 13 of the Convention to the Greek Government ("the Government") represented by their Agent, Mrs N. Marioli, President at the State Legal Council, and their Agent's delegates (Mr K. Georgiadis, Legal Counsellor, Ms Z. Hatzipavlou, Senior Advisor, and Ms E. Zisi and A. Karagianni, Legal Representatives A at the State Legal Council), and to declare the remainder of applications nos. 18166/22 and 22816/22 inadmissible;

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

A. The applicants' present applications

1. The list of applicants and their representatives is set out in the first appended table (Appendix 1).

2. The applicants' complaints under Article 3 of the Convention concerning the inadequate conditions of detention in Diavata Prison and under Article 13 of the Convention concerning the lack of any effective remedy in domestic law thereof were communicated to the Government on the respective dates noted on the appended table. The starting dates of the detention complained of are also noted on the appended table.

B. The applicants' previous applications before the Court

3. Prior to the introduction of their present applications, the applicants had lodged before the Court other applications in which they had complained about the conditions of their detention in the same prison and for the same, or substantially the same, period. A list of those cases is set out in the second appended table (Appendix 2).

4. Those applications had been communicated to the Government under Articles 3 and 13 of the Convention. The Government had submitted declarations with a view to resolving the issues raised by these complaints. They had offered to pay the applicants the amounts listed in the appended table and had requested that the Court strike the applications out. The declarations at issue had been signed by the applicants' representatives on the dates indicated in the appended table. In view of the above, the Court's respective decisions to strike the cases out of the list were taken on the dates indicated in the appended table.

THE COURT'S ASSESSMENT

A. Joinder of the applications

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

B. Complaints concerning conditions of detention

6. In cases nos. 44291/21, 44360/21, 18166/22 and 22816/22 the Government raised the issue of the applicants being parties to other cases in the context of which they had either already signed friendly settlements, or they had already received the amounts agreed following a strike out decision. On that basis, the Government requested that the Court dismiss the applications either as an abuse of the right of application or as substantially the same as a matter that has already been examined by the Court or for lack of victim status.

7. In cases nos. 44291/21 and 44360/21 the applicants did not comment on the Government's objection. In case no. 22816/22 the applicant replied that his present application was lodged by a different representative who was

not aware of the existence of a previous application. He further proposed that his present application should in any case be examined with respect to the period of detention following the submission of the Government's declaration in his previous case. In case no. 18166/22, where the two applications had been lodged by the same representative, the applicant similarly proposed that his present application be examined with respect to the period of detention following the submission of the Government's declaration in his previous case.

8. The Court reiterates that an application may be rejected as an abuse of the right of application under Article 35 § 3 (a) of the Convention, which provides, as far as relevant:

> "The Court shall declare inadmissible any individual application submitted under Article 34 which it considers ... an abuse of the right of application."

9. The Court has identified four types of situations in the context of which this provision should be applied, one of those being the case where applications were knowingly based on untrue facts (see, for a latest outline, *Mamić and Others v. Croatia* (dec.), nos. 21714/22 and 2 others, § 116, 9 July 2024). It has noted, however, that the notion of abuse of the right of application under Article 35 § 3 (a) of the Convention is not limited to those four situations, and that other situations can also be considered an abuse of that right in so far as they entail conduct on the part of an applicant which is manifestly contrary to the purpose of the right of individual application as provided for in the Convention and which impedes the proper functioning of the Court or the proper conduct of the proceedings before it (ibid., § 117).

10. In the event where an application is knowingly based on untrue facts, the Court has noted that this type of abuse may also be committed by omission, where the applicant fails to inform the Court of a factor essential for the examination of the case or of new, important developments which occurred during the proceedings before the Court (see *Bencheref v. Sweden* (dec.), no. 9602/15, § 37, 5 December 2017).

11. Such omission constitutes at the same time failure of the applicant to comply with his or her obligation to participate effectively in the proceedings under Rule 44C § 1 of the Rules of Court. In this regard, the Court has noted that whenever an applicant omits, contrary to Rule 44C § 1 of the Rules of Court, to divulge relevant information of his or her own motion, depending on the particular circumstances of the case, the Court may draw such inferences as it deems appropriate, including striking the application out under either of the three sub-paragraphs of Article 37 § 1 of the Convention (see *Beloševi*ć *v. Croatia* (dec.), no. 57242/13, § 48, 3 December 2019).

12. What is of importance is whether the information at issue concerns the very core of the case and no sufficient explanation is given for the failure to disclose that information (see *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014, and *Bencheref*, § 37, cited above).

13. With regard to the subjective element, the Court has emphasised that for a behaviour to qualify as abuse of the right of application, it must be intentional, and this intention must be established with sufficient certainty (see *Gross*, cited above, § 28).

14. Turning to the present case, the Court notes that the objection relating to abuse of the right of application has not been raised by the Government in all five applications (see paragraph 6 above). It reiterates, however, that it can raise the question of possible abuse *proprio motu* in lack of the Government's relevant objection (see *Gevorgyan and Others v. Armenia* (dec.), no. 66535/10, § 32, 14 January 2020).

15. The Court notes that all applicants omitted to inform the Court on their own motion, at any stage of the proceedings, about their previous applications, pertaining to the same facts, and the relevant developments. In particular, upon lodging their applications, the applicants omitted to indicate their previous applications before the Court in the relevant field of the application forms submitted (boxes nos. 68-69 of the application form). Moreover, when the applicants were given notice of the communication of their cases to the Government, they were informed of their obligation to keep the Court informed of any important developments concerning their cases (Rule 47 § 7 of the Rules of Court) but no relevant information was provided. Lastly, when the applicants in cases nos. 44291/21, 44360/21 and 15228/22 submitted their observations on the dates indicated in the first appended table, they still omitted to inform the Court about the developments relating to their previous cases. The applicants in cases nos. 22816/22 and 18166/22 only referred to their previous applications in their submissions in response to the Government's relevant objections (see paragraph 7 above).

16. However, as it results from the information indicated in the second appended table, by that time all applicants had either accepted the Government's declaration (case no. 44360/21) or, more notably, been notified of the Court's decision to strike out their previous applications in view of the declarations accepted (cases nos. 44291/21, 15228/22, 18166/22, 22816/22).

17. In the Court's view, such conduct, namely the fact that the applicants had already received an amount following a friendly settlement or unilateral declaration – or had accepted to do so – and still pursued a second application complaining in substance about the same violations without informing the Court in this regard constitutes abusive behaviour.

18. Moreover, in view of the very advanced stage of the applicants' previous applications, the Court considers that they were in full knowledge of the 'duplication' of the proceedings and still deliberately omitted to provide the Court with important information related to a core element of their cases with the view of pursuing two cases referring to the same facts at the same time. Under such circumstances, the Court cannot but consider such conduct intentional.

19. The same considerations apply for cases nos. 22816/22 and 18166/22, where the applicants only acknowledged having lodged previous applications after the issue was raised by the Government. The Court considers that the applicants failed to provide an adequate explanation for their omission to disclose that information on their own motion at an earlier stage of the proceedings (see paragraph 7 above). Therefore, the Court considers their behaviour intentional for the same reasons as above.

20. Lastly, the Court cannot accept the argument put forward by the applicant in case no. 22816/22 that the application was not abusive as the two applications were lodged by two different representatives (see paragraph 7 above). The Court has repeatedly stated that the applicant is entirely responsible for the conduct of his or her lawyer. Any and all omissions on the representative's part are therefore, in principle, attributable to the applicant and may lead to the application being rejected as an abuse of the right of application (see, for example, *Bekauri v. Georgia* (preliminary objection), no. 14102/02, §§ 22-25, 10 April 2012). The Court does not discern any reason to depart from that conclusion in the present case.

21. In this connection, the Court notes that in cases nos. 44291/21 and 44360/21 the applicants were represented by the same representative. The same applies for cases nos. 15228/22, 18166/22 and 22816/22. Under such circumstances, the Court finds it appropriate to emphasise that lawyers must demonstrate a high level of professional prudence and genuine cooperation with the Court by avoiding the lodging of unmeritorious complaints. Otherwise, their credibility in the eyes of the Court will be undermined and – in the event of systematic abuses – they may be excluded from the proceedings under Rule 36 § 4 (b) and Rule 44D of the Rules of Court (see *Martins Alves v. Portugal* (dec.), no. 56297/11, § 16, 21 January 2014).

22. In view of the above, the Court considers that all applicants' abusive conduct should have implications for the admissibility of their entire applications (see, *mutatis mutandis*, *Mamić and Others*, cited above, §§ 144-45).

23. Accordingly, the applications must be rejected as an abuse of the right of individual application, pursuant to Article 35 §§ 3 (a) and 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 27 February 2025.

Olga Chernishova Deputy Registrar	Peeter Roosma President

Appendix

List of present cases and corresponding information

No.	Application no. Date of introduction	Date of communication to the Government	Applicant's name Year of Birth Nationality	Representative's name and location	Starting date of detention (Diavata Prison)	Date of receipt of applicant's observations
1	44291/21 30/08/2021	11/02/2022	**Mohammed SATUF** 1987 Syrian	Chatziioannou Konstantinos Thessaloniki	13/05/2017	25/07/2022
2	44360/21 31/08/2021	11/02/2022	**Iurii MUSTEATA** 1989 Moldovan	Chatziioannou Konstantinos Thessaloniki	01/08/2018	25/07/2022
3	15228/22 14/03/2022	13/10/2022	**Meritan CALAJ** 1995 Albanian	Moysidou Xanthippi Thessaloniki	27/12/2018	25/05/2023
4	18166/22 06/04/2022	27/10/2022	**Zahir SOLTANI** 1986 Afghan	Moysidou Xanthippi Thessaloniki	22/08/2020	02/06/2023
5	22816/22 18/04/2022	18/11/2022	**Alexander ALAVIDZE** 1978 Georgian	Moysidou Xanthippi Thessaloniki	31/01/2021	26/06/2023

APPENDIX 2

List of previous relevant cases and corresponding information

No.	Application no. Date of introduction	Applicant's name	Representative's name and location	Starting date of detention (Diavata Prison)	Date of receipt of the Government's declaration	Date of receipt of the applicant's acceptance	Date of the strike out decision	Amount awarded in euros
1	26492/20 25/05/2020	**Mohammed SATUF**	Moysidou Xanthippi Thessaloniki	Not indicated	19/03/2021	02/04/2021	03/06/2021	10,200
2	23071/21 19/04/2021	**Iurii MUSTEATA**	Moysidou Xanthippi Thessaloniki	01/08/2018	09/03/2022	23/03/2022	09/03/2023	9,750
3	19095/21 30/03/2021	**Meritan CALAJ**	Lampakis Christos Thessaloniki	16/01/2020	09/03/2022	15/04/2022	23/03/2023	6,500
4	33626/21 16/06/2021	**Zahir SOLTANI**	Moysidou Xanthippi Thessaloniki	22/08/2020	04/03/2022	15/03/2022	09/03/2023	5,000
5	43951/21 27/08/2021	**Alexander ALAVIDZE**	Chatziioannou Konstantinos Thessaloniki	31/01/2021	03/06/2022	04/07/2022	23/03/2023	3,450