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

THIRD SECTION

DECISION

Application no. 38688/05
Adrian Marcel STUPARU
against Romania

The European Court of Human Rights (Third Section), sitting on 27 May 2014 as a Committee composed of:

Dragoljub Popović, *President,*
Luis López Guerra,
Valeriu Griţco, *judges,*

and Marialena Tsirli, *Deputy Section Registrar,*

Having regard to the above application lodged on 24 October 2005,

Having regard to the declaration submitted by the respondent Government on 13 February 2012 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, Mr Adrian Marcel Stuparu, is a Romanian national, who was born in 1965 and lives in Resita.

2. The Romanian Government ("the Government") were represented by their co-Agent, Ms I. Cambrea, from the Ministry of Foreign Affairs.

3. The application mainly concerns the length of the domestic criminal proceedings in which the applicant was involved, with a lapse of time of five years and eight months over two levels of jurisdiction.

4. The part of the application concerning the length of the criminal proceedings had been communicated to the Government.

THE LAW

5. The applicant complained of the length of the domestic criminal proceedings brought against him. He relied on Article 6 § 1 of the Convention.

6. After the failure of attempts to reach a friendly settlement, by a letter of 13 February 2012 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by this part of the application. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

7. The declaration provided as follows:

> "The Government declare, by way of this unilateral declaration, their acknowledgement of the existence of a violation of Article 6 § 1 of the Convention regarding the excessive delay in the domestic proceedings.
>
> The Government is prepared to pay to the applicant, Mr. Adrian Stuparu, as just satisfaction the sum of EUR 1,500, 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 the personal account 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 applications out of its list of cases, pursuant to Article 37 § 1 (c) of the Convention. "

8. By a letter of 9 April 2012, the applicant indicated that he was not satisfied with the terms of the unilateral declaration and that the Court should continue the examination of the application.

9. 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".

10. 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.

11. 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 (*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).

12. 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 (see, for example, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII; *Cocchiarella v. Italy* [GC], no. 64886/01, §§ 69-98, ECHR 2006-V; *Abramiuc v. Romania,* no. 37411/02, §§ 103-109, 24 February 2009 and *Vlad and others v. Romania,* nos. 40756/06, 41508/07 and 50806/07, §§ 133 and 154-156, 26 November 2013).

13. 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)).

14. 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*).

15. Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application could be restored to the list in accordance with Article 37 § 2 of the Convention (*Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

16. Relying on Articles 6 and 13 of the Convention and Article 2 of Protocol no. 7 the applicant party also complained of different aspects related to the fairness of the criminal proceedings brought against him and that he could not have reviewed or appeal the interim judgment dismissing the unconstitutionality objection he raised.

17. Having regard to all the evidence in its possession, and in so far as it has jurisdiction to examine the allegations, the Court has not found any appearance of a breach of the rights and freedoms guaranteed by the Convention or its Protocols.

18. It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration under Article 6 § 1 of the Convention and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike out of its list of cases the part of the application concerning the length of the domestic proceedings in accordance with Article 37 § 1 (c) of the Convention.

Declares the remainder of the application inadmissible.

Marialena Tsirli
Deputy Registrar

Dragoljub Popović
President