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

FOURTH SECTION

DECISION

Application no. 54950/10
Mihai Marcel TRIF
against Romania

The European Court of Human Rights (Fourth Section), sitting on 23 February 2016 as a Committee composed of:

Vincent A. De Gaetano, *President,*
Krzysztof Wojtyczek,
Iulia Antoanella Motoc, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 16 September 2010,

Having regard to the declaration submitted by the respondent Government on 24 June 2015 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 Mihai Marcel Trif, is a German national, who was born in 1951 and lives in Sunrise.

2. The Romanian Government ("the Government") were represented by their Agent, Ms C. Brumar, from the Romanian Ministry of Foreign Affairs. The German Government, which have been informed of the case in view of the applicant's nationality, did not make use of their right to intervene under Article 36 § 1 of the Convention.

3. The applicant complained under Article 6 § 1 of the Convention about the unreasonable length of the criminal proceedings opened against him.

4. The application had been communicated to the Government.

THE LAW

5. After the failure of an attempt to reach a friendly settlement, by a letter of 24 June 2015 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by the application. They further requested the Court to strike out the application in accordance with Article 37 of the Convention.

6. The declaration provided as follows:

> "The Government declare, by way of this unilateral declaration, its acknowledgement of the violation of Article 6 § 1 of the Convention, on account of the length of the proceedings in dispute.
>
> The Government are prepared to pay the applicant Mihai Marcel Trif as just satisfaction, the sum of EUR 810, amount which they consider 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 to the account indicated by 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. This payment will be the final settlement of the case.
>
> The Government respectfully invite the Court to 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."

7. By a letter of 14 July 2015, the applicant indicated that he was not satisfied with the terms of the unilateral declaration. He argued that the amount proposed did not offer him sufficient just satisfaction.

8. 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."

9. The Court also recalls that in certain circumstances, it may strike out an application or part thereof 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.

10. To this end, the Court examined 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).

11. 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).

12. Having regard to the nature of the admissions contained in the Government's declaration, as well as the amount of compensation proposed the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1(c)).

13. 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*).

14. 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).

15. In view of the above, it is appropriate to strike the case out of the list.

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

Done in English and notified in writing on 17 March 2016.

Fatoş Aracı
Deputy Registrar

Vincent A. De Gaetano
President