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

FOURTH SECTION

DECISION

Application no. 59646/13
Nelu VANCEA
against Romania

The European Court of Human Rights (Fourth Section), sitting on 13 June 2017 as a Committee composed of:

Paulo Pinto de Albuquerque, *President,*
Egidijus Kūris,
Iulia Motoc, *judges,*

and Andrea Tamietti, *Deputy Section Registrar,*

Having regard to the above application lodged on 30 July 2013,

Having regard to the declaration submitted by the respondent Government on 21 December 2016 requesting the Court to strike the application out of the list of cases,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicant, Mr Nelu Vancea, is a Romanian national, who was born in 1966 and lives in Ţuglui.

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

3. The applicant complained under Article 3 of the Convention about the conditions of his detention in Craiova Prison as well as about the lack of appropriate medical assistance therein.

4. The application had been communicated to the Government on 26 August 2014. The Government submitted their observations on the admissibility and merits of the case on 5 January 2015; on 2 February 2015, the applicant presented his observations in reply together with his claims for just satisfaction.

THE LAW

5. After the failure of attempts to reach a friendly settlement, by a letter of 21 December 2016 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by the application.

6. They further requested the Court to strike out the application in accordance with Article 37 § 1 (c) of the Convention, unless the applicant failed to respond to the terms of the unilateral declaration, circumstances in which they requested the Court to strike out the application in accordance with Article 37 § 1 (a) of the Convention.

7. In their unilateral declaration, the Government acknowledged the breach of Article 3 of the Convention determined by the inadequate conditions of detention in Craiova Prison. They offered to pay the applicant the amount of EUR 5,400 (euros). The amount, covering all pecuniary and non-pecuniary damage, as well as costs and expenses, would be converted into the currency of the respondent State at the rate applicable on the date of payment, and would be payable within three months from the date of notification of the Court's decision. In the event of failure to pay this amount within the above-mentioned three-month period, the Government undertook to pay simple interest on it, from the 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.

8. The Court invited the applicant to indicate whether he accepted the terms of the unilateral declaration. The applicant did not reply.

9. The Court reiterates 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 (a) and (c) enables the Court in particular to strike a case out of its list if:

> "(a) the applicant does not intend to pursue his application; or...
>
> (c) for any other reason established by the Court, it is no longer justified to continue the examination of the application."

10. The Court firstly notes that the Government requested it to strike out the application in accordance with Article 37 § 1 (a) of the Convention if the applicant failed to respond to the terms of the unilateral declaration submitted on 21 December 2016 (see paragraphs 5 and 6 above).

11. However, the Court notes that at the time of the submission by the Government of their unilateral declaration, the exchange of observations between the parties had been concluded, the applicant having duly submitted his observations in reply and just satisfaction claims (see paragraphs 4 and 5 above).

12. Under these circumstances, the Court considers that the lack of response on behalf of the applicant in connection with the terms of the unilateral declaration cannot be regarded as a sufficient reason to infer that he does not intend to pursue his application, within the meaning of Article 37 § 1 (a). The Government's request to have the application struck out on that basis cannot therefore be accepted. It remains to be ascertained whether the application can be struck out of the list under Article 37 § 1 (c) of the Convention.

13. In this connection, the Court reiterates that it may do so on the basis of a unilateral declaration by a respondent Government, even if the applicant wishes the examination of the case to be continued or if he does not express his views on this point.

14. To this end, the Court has examined the declaration in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (*Tahsin Acar v. Turkey* (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI).

15. The Court has established in a number of cases, including those brought against Romania, its practice concerning complaints about the violation of Article 3 (see, for example, *Iacov Stanciu v. Romania*, no. 35972/05, 24 July 2012).

16. 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)).

17. 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*).

18. 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).

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

For these reasons, the Court,

Takes note of the terms of the respondent Government's declaration under Article 3 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 pursuant to Article 37 § 1 (c) of the Convention.

Done in English and notified in writing on 6 July 2017.

Andrea Tamietti
Deputy Registrar

Paulo Pinto de Albuquerque
President