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

FOURTH SECTION

DECISION

Application no. 55882/08
Andreea and Ștefan VOINEA
against Romania

The European Court of Human Rights (Fourth Section), sitting on 31 May 2016 as a Committee composed of:

Krzysztof Wojtyczek, *President,*
Iulia Motoc,
Gabriele Kucsko-Stadlmayer, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 8 November 2008,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

THE FACTS

1. The applicants, Ms Andreea Voinea and Mr Ştefan Voinea, are Romanian nationals, who were born in 1998 and 1999 respectively and live in Constanţa. They were represented before the Court by their mother, Ms Adriana Cioroianu.

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

A. The circumstances of the case

3. The facts of the case, as submitted by the parties, may be summarised as follows.

4. On 7 October 2002 the Constanţa District Court obliged the applicants' father, L.V., to pay them child support in the amount of 33% of his monthly salary. This judgment became final on 28 March 2003 when

L.V.'s appeal on points of law (*recurs*) had been rejected by the Constanţa County Court.

5. On 23 March 2007 L.V. requested the courts to clarify the operative provisions of the judgment of 7 October 2002. On 1 October 2007 the Constanţa District Court allowed the request and decided that any irregular income additional to the monthly basic salary (such as the per diem received by L.V. during his travel as a sailor) was not to be included in the monthly salary for the purposes of the calculation of the child support.

6. The applicants' mother, acting as their legal representative, lodged several criminal complaints against L.V. accusing him of having abandoned his children by not paying them the correct amount of child support. She claimed that all additional income made by L.V. should have been taken into consideration for the calculation of the child support. She also alleged that the amount of 130 euros (EUR) that L.V. had been paying for each child was too low in comparison with his real monthly income.

7. On 25 September 2007 the prosecutor's office attached to the Constanţa County Court decided not to press charges against L.V. The decision was based on expert reports and proof of payment of child support for both children.

8. Subsequent similar criminal complaints lodged by the applicants' mother had been rejected with final effect by the Constanţa District Court on 8 April 2010 and 31 January 2012. The court considered each time that L.V. had fulfilled his obligation to pay child support as it had been set by the judgment of 7 October 2002 and further clarified on 1 October 2007.

B. Relevant domestic law

9. The relevant domestic law concerning the execution of final judgments, namely excerpts of the Civil Procedure Code and of Law no. 188/2000 on the powers and functions of bailiffs, in force at the time of the events in the current case, is summed up in the Court's judgment in the case of *Topciov v. Romania* ((dec.), no. 17369/02, 15 June 2006).

COMPLAINTS

10. The applicants complained under Article 6 of the Convention and in substance under Article 1 of Protocol No. 1 to the Convention that the judgment of 7 October 2002 had not been fully enforced.

THE LAW

11. The applicants alleged that the judgment in their favour had not been fully enforced. They relied on Article 6 of the Convention and in substance on Article 1 of Protocol No. 1 to the Convention which read as follows in their relevant parts:

Article 6 § 1

"In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

Article 1 of Protocol No. 1

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

12. The Government contested these allegations and submitted that the judgment of 7 October 2002 had been fully enforced.

13. In the assessment of the circumstances of the present case the Court notes that the applicants' allegation concerning the non-enforcement of the judgment issued on 7 October 2002 by the Constanţa District Court has already been analysed by the domestic prosecutors and courts. In particular, in its final judgments of 8 April 2010 and 31 January 2012 the Constanţa District Court considered that L.V. had fully executed the judgment in question as it had been clarified on 1 October 2007. In the light of all the material before it, the Court sees no reason to depart from the domestic court's findings in the present case (see *Ghiţă v. Romania*, no. 41304/04, § 15, 31 May 2011).

14. It follows that the applicants' complaints are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 23 June 2016.

Fatoş Aracı
Deputy Registrar

Krzysztof Wojtyczek
President