



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

FILTERING SECTION

CASE OF ILIE GUȚĂ AND OTHERS v. ROMANIA

*(Applications nos. 36255/05, 20167/08, 21294/08, 25300/09, 46087/09 and
72306/13)*

JUDGMENT

STRASBOURG

21 May 2015

This judgment is final but it may be subject to editorial revision.

In the cases of Ilie Guță and Others v. Romania,

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

Luis López Guerra, *President*,

Johannes Silvis,

Valeriu Grițco, *judges*,

and Karen Reid, *Section Registrar*,

Having deliberated in private on 23 April 2015,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in applications against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on the various dates indicated in the appended table.

2. The applications were communicated to the Government.

THE FACTS

3. The list of applicants and the relevant details of the applications are set out in the appended table.

4. The applicants complained of the non-enforcement or delayed enforcement of domestic decisions according to which the applicants were entitled to various pecuniary amounts and/or to have certain actions taken by State authorities in their favour.

5. In some of the applications, the applicants also raised complaints under other provisions of the Convention.

THE LAW**I. JOINDER OF THE APPLICATIONS**

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

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION AND OF ARTICLE 1 OF PROTOCOL No. 1

7. The applicants complained of the non-enforcement or the delayed enforcement of domestic decisions given in their favour. They relied, expressly or in substance, on Article 6 § 1 of the Convention and on Article 1 of Protocol No. 1 to the Convention. Insofar as relevant, these Articles read as follows:

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.”

8. The Court reiterates that the execution of a judgment given by any court must be regarded as an integral part of a “hearing” for the purposes of Article 6. It also refers to its case-law concerning the non-enforcement or the delayed enforcement of final domestic judgments (see among many other authorities *Hornsby v. Greece*, no.18357/91, § 40, 19 March 1997).

9. In the leading case of *Foundation Hostel for Students of the Reformed Church and Stanomirescu v. Romania* (nos. 2699/03 and 43597/07, 7 January 2014), the Court already found a violation in respect of issues similar to those in the present case.

10. The Court further notes that the decisions in the present applications ordered the relevant authorities to execute various obligations in kind or to pay the applicants certain amounts of money. The Court therefore considers that the decisions in question constitute “possessions” within the meaning of Article 1 of Protocol No. 1 to the Convention (see for instance the *Foundation Hostel for Students of the Reformed Church and Stanomirescu*, cited above, § 69).

11. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that in the instant case the authorities did not deploy all necessary efforts to enforce fully and in due time the decisions in the applicants’ favour.

12. These complaints are therefore admissible and disclose a breach of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1.

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

13. Some applicants also raised other complaints under various Articles of the Convention.

14. The Court has carefully examined the applications and considers that, in the light of all the material in its possession and in so far as the matters complained of are within its competence, these complaints do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

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

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

15. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

16. Regard being had to the documents in its possession and its case law (see the *Foundation Hostel for Students of the Reformed Church and Stanomirescu*, cited above, §§ 90-91), the Court considers it reasonable to award the sums indicated in the appended table.

17. The Court further notes that the respondent State has an outstanding obligation to enforce the judgments which remain enforceable.

18. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the complaints concerning the non-enforcement or delayed enforcement of domestic decisions, set out in the appended table, admissible and the remainder of the applications inadmissible;
3. *Holds* that these applications disclose a breach of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention concerning the non-enforcement or delayed enforcement of domestic decisions;

4. *Holds* that the respondent State shall ensure, by appropriate means, within three months, the enforcement of the domestic decisions referred to in the appended table;
5. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months, the amounts as indicated in the appended table, to be converted into national currency at the rate applicable at the date of settlement;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the amount indicated in the appended table at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 21 May 2015, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Karen Reid
Registrar

Luis López Guerra
President

APPENDIX

List of applications raising complaints under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1
(non-enforcement or delayed enforcement of domestic decisions)

No.	Application no. Date of introduction	Applicant name Date of birth	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period Length of enforcement proceedings	Amount awarded for non-pecuniary damage per applicant (in euros) ¹	Amount awarded for costs and expenses per application (in euros) ²
1.	36255/05 04/09/2004	Ilie GUȚĂ 21/02/1937	Pitești Court of First Instance, 27/09/2002 Cluj County Court, 22/12/2008	23/03/2004 22/12/2008	pending; 11 years pending; 6 years and 2 months	4,700	10,000
2.	20167/08 24/03/2008	Bogdan Constantin MARINESCU 01/05/1952	Pitești Court of First Instance, 11/02/1999	03/12/2002	pending; 12 years and 4 months	3,600	110
3.	21294/08 21/04/2008	Daniela Ștefania DREȘCĂ 16/01/1959	Craiova Court of Appeal, 09/05/2005	09/05/2005	24/04/2009 ; 3 years and 11 months	2,700	320
4.	25300/09 23/04/2009	Maria BĂDULESCU 24/10/1954	Bucharest District 5 Court of First Instance, 19/11/2007	08/05/2008	25/09/2009; 1 year and 5 months	600	-

¹ Plus any tax that may be chargeable.

² Plus any tax that may be chargeable to the applicant.

No.	Application no. Date of introduction	Applicant name Date of birth	Relevant domestic decision	Start date of non-enforcement period	End date of non-enforcement period Length of enforcement proceedings	Amount awarded for non-pecuniary damage per applicant (in euros) ¹	Amount awarded for costs and expenses per application (in euros) ²
5.	46087/09 04/06/2009	Eugeniu VASILE deceased on 24 December 2013 pursued by heir: Elena VASILE	Neamț County Court, 13/07/2007	17/09/2007	pending; 7 years and 6 months	-	-
6.	72306/13 12/11/2013	Ivan POPOV 28/11/1954	Galați County Court, 30/10/2012	21/05/2013	11/09/2014; 1 year and 4 months	600	-