

FOURTH SECTION

CASE OF ROMANIAN MUSICAL PERFORMING AND MECHANICAL RIGHTS SOCIETY AND OTHERS v. ROMANIA

(Application no. 70937/14 and 2 others - see appended list)

JUDGMENT

STRASBOURG

28 March 2019

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



In the case of Romanian Musical Performing and Mechanical Rights Society and Others v. Romania,

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

Georges Ravarani, President,

Marko Bošnjak,

Péter Paczolay, judges,

and Liv Tigerstedt, Acting Deputy Section Registrar,

Having deliberated in private on 7 March 2019,

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. Notice of the applications was given to the Romanian Government ("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 delayed enforcement of domestic decisions.

THE LAW

I. JOINDER OF THE APPLICATIONS

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

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

6. The applicants complained of 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, which 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."

- 7. The Court reiterates that the execution of a judgment given by any court must be regarded as an integral part of a "trial" for the purposes of Article 6. It also refers to its case-law concerning the non-enforcement or delayed enforcement of final domestic judgments (see *Hornsby v. Greece*, no. 18357/91, § 40, *Reports of Judgments and Decisions* 1997-II).
- 8. 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, where the State is the debtor.
- 9. The Court further notes that the decisions in the present applications ordered the payment of various amounts of money to the applicants by various public authorities (see the appended table). The Court therefore considers that the decisions in question constitute "possessions" within the meaning of Article 1 of Protocol No. 1.
- 10. 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 in due time the decisions in the applicants' favour.
- 11. These complaints are therefore admissible and disclose a breach of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

12. 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."

- 13. Regard being had to the documents in its possession and to its case-law (see, in particular, *Foundation Hostel for Students of the Reformed Church and Stanomirescu v. Romania*, nos. 2699/03 and 43597/07, 7 January 2014), the Court considers it reasonable to award the sums indicated in the appended table.
- 14. The Court considers it appropriate that the default interest rate 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 applications admissible;
- 3. *Holds* that these applications disclose a breach of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 concerning the delayed enforcement of domestic decisions;

4. Holds

- (a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table, to be converted into the currency of the respondent State 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 above amounts 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 28 March 2019, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt Acting Deputy Registrar Georges Ravarani President

APPENDIX

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

No.	Application no. Date of introduction	Applicant's name Date of registration	Relevant domestic decision	Start date of non- enforcement period	End date of non- enforcement period Length of enforcement proceedings	Domestic order	Amount awarded for non- pecuniary damage and costs and expenses per applicant (in euros) ¹
1.	70937/14 23/10/2014	Romanian Musical Performing and Mechanical Rights Society 02/10/1996, represented by Ana Achim	Bucharest Court of Appeal, 25/10/2011	08/02/2013	18/08/2015 2 years and 6 months and 11 days	Financial order and the communication of a report	2,500
2.	46892/17 28/06/2017	S.C. Cartrans Preda S.R.L. 29/07/1994, represented by Rodica-Roxana Ioniță	Ploieşti Court of Appeal, 17/07/2013	17/07/2013	02/10/2018 5 years and 2 months and 16 days	Financial order	6,000
3.	50981/17 10/07/2017	Blaj Reformed Parish 02/11/1998, represented by Ileana Cezariana Bogos, a lawyer practising in Alba-Iulia	Alba Iulia Court of Appeal, 14/05/2012	14/05/2012	06/03/2018 5 years and 9 months and 21 days	Financial order	6,000

^{1.} Plus any tax that may be chargeable to the applicants.