



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

THIRD SECTION

CASE OF GETA STANCIU AND OTHERS v. ROMANIA

(Application no. 29755/06)

JUDGMENT
(Just satisfaction)

STRASBOURG

1 July 2014

FINAL

01/10/2014

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Geta Stanciu and Others v. Romania,

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

Josep Casadevall, *President*,

Alvina Gyulumyan,

Ján Šikuta,

Luis López Guerra,

Johannes Silvis,

Valeriu Grițco,

Iulia Antoanella Motoc, *judges*,

and Santiago Quesada, *Section Registrar*,

Having deliberated in private on 10 June 2014,

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

PROCEDURE

1. The case originated in an application (no. 29755/06) against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by three Romanian nationals, Ms Geta Stanciu, Mr Tudor Stanciu and Mr Cătălin Stanciu (“the applicants”), on 22 June 2006.

2. In a judgment delivered on 23 March 2010 (“the principal judgment”), the Court held that there has been a violation of Article 6 of the Convention and of Article 1 of Protocol No. 1 to the Convention as a result of the non-enforcement of two final judgments in the applicants’ favour (see *Geta Stanciu and Others v. Romania*, no. 29755/06, 23 March 2010).

3. Under Article 41 of the Convention the applicants sought just satisfaction of pecuniary and non-pecuniary damage sustained as a result of the above violations.

4. Since the question of the application of Article 41 of the Convention was not ready for decision, the Court reserved it and invited the Government and the applicants to submit, within six months, their written observations on that issue and, in particular, to notify the Court of any agreement they might reach (*ibid.*, paragraph 35 and point 3 of the operative provisions).

5. The applicants and the Government each filed observations.

6. On 23 July 2013, the Court invited these parties to submit updated observations.

THE LAW

7. 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.”

A. Damage

8. In their updated claims of 13 November 2013, the applicants informed the Court that they have recovered the possession and acquired the ownership title for 37.13 ha of land out of the total of 50.28 ha of land to which they were entitled according to the judgments of 4 November 2002 and 5 June 2003 delivered by the Iași County Court. Therefore, they sought to take effective possession of the entire land and also delivery of an ownership title. In the alternative, the applicants claimed 2,204,986 euros (EUR) for the value of 13.15 ha of land and submitted an expert report dated April 2008.

Also, in respect of non-pecuniary damage they claimed EUR 500,000.

9. The Government contended that the applicants have failed to exhaust domestic remedies, since the Law no. 165/2013 provided a remedy enabling them to obtain damages in case of non-enforcement.

In any event, they submitted that the applicants have also recovered the possession of 11.96 ha of land and, therefore, the total amount of land that the applicants would be entitled to was of 1.30 ha. Further they indicated that the value of this land was of EUR 3,906, according to the evaluation of September 2013 provided by the National Authority for the Restitution of Properties.

10. Regarding the Government’s preliminary objection of non-exhaustion of domestic remedies, the Court shall disregard its view of the fact that the merits of the case have already been decided (see *Xenides-Arestis v. Turkey* (just satisfaction), no. 46347/99, § 37, 7 December 2006).

11. The Court reiterates that, where it has found a breach of the Convention in a judgment, the respondent State is under a legal obligation to put an end to that breach and make reparation for its consequences in such a way as to restore as far as possible the situation existing before the breach (see *Iatridis v. Greece* (just satisfaction) [GC], no. 31107/96, § 32, ECHR 2000-XI).

12. The Court notes that the Government did not submit any evidence which would indicate that the applicants were issued a title of property for the 11.96 ha of land. It observes, therefore, that the judgments of

4 November 2002 and 5 June 2003 delivered by the Iași County Court have not been entirely enforced.

13. Consequently, the Court considers that the return of the 13.15 ha of land would put the applicants as far as possible in a situation equivalent to the one in which they would have been if there had not been a breach of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1. Therefore, it holds that the respondent State is to enable the applicants to take effective possession of the land in issue and to provide them with a property title in respect of that land. Failing to do so, the Court, having regard to the information at its disposal, holds that the respondent State is to pay the applicants jointly EUR 280,000 for pecuniary damage.

14. The Court further considers that the interference with the applicants' peaceful enjoyment of their possession caused moral prejudice to the applicants. Making an assessment on an equitable basis, as required by Article 41 of the Convention, the Court awards the applicants jointly EUR 4,700 in respect of non-pecuniary damage.

B. Costs and expenses

15. The applicants claimed EUR 7,062, the equivalent of the costs and expenses incurred before the domestic courts and before this Court representing lawyer's fee, postal service, translations, photocopies and for the expert report. In support of their claims the applicants submitted invoices.

16. The Government contested the claim for costs and expenses on the ground that it was partially unsubstantiated and excessive.

17. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the information in its possession, the Court considers it reasonable to award the sum of EUR 2,516 covering costs under all heads.

C. Default interest

18. 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. Holds

(a) that the respondent State shall ensure, by appropriate means, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the enforcement of the judgments of 4 November 2002 and 5 June 2003 delivered by the Iași County Court in their entirety, by enabling the applicants to take effective possession of the 13.15 ha of land and by providing them with a title deed;

(b) that, failing to do so, as set out under (a) above, the respondent State is to pay the applicants jointly, within the same period of three months, EUR 280,000 (two hundred and eighty thousand euros) for pecuniary damage, to be converted into the national currency of the respondent State at the rate applicable at the date of settlement, plus any tax that may be chargeable;

(c) that in any event, the respondent State is to pay the applicants jointly, within the same three months, mentioned under (a) above, the following amounts, to be converted into the national currency of the respondent State at the rate applicable at the date of settlement:

(i) EUR 4,700 (four thousand and seven hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

(ii) EUR 2,516 (two thousand five hundred and sixteen euros), plus any tax that may be chargeable, in respect of costs and expenses;

(d) 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;

2. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 1 July 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Santiago Quesada
Registrar

Josep Casadevall
President