



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

THIRD SECTION

CASE OF VIDU AND OTHERS v. ROMANIA

(Application no. 9835/02)

JUDGMENT
(Just satisfaction)

STRASBOURG

10 June 2014

FINAL

10/09/2014

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

In the case of Vidu 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,

Dragoljub Popović,

Kristina Pardalos,

Johannes Silvis,

Iulia Antoanella Motoc, *judges*,

and Santiago Quesada, *Section Registrar*,

Having deliberated in private on 20 May 2014,

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

PROCEDURE

1. The case originated in an application (no. 9835/02) 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 Hareta-Paraschiva Vidu, Ms Matilda Zoescu and Ms Adriana Popescu (“the applicants”), on 14 January 2002.

2. In a judgment delivered on 21 February 2008 (“the principal judgment”), the Court held that there has been a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 as a result of a non-enforcement of a final judgment in the applicants’ favour (see *Vidu and Others v. Romania*, no. 9835/02, 21 February 2008).

3. As all three applicants died in 2002, 2004 and 2005 respectively, the Court held in the principal judgment that Ms Ruxandra Vidu and Mr Cristian Dragoş Vidu are the only heirs who expressed the wish and as well have standing to continue the proceedings before the Court (see paragraphs 2, 3 and 34).

4. 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 and reimbursement of costs and expenses.

5. 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 49 and point 5 of the operative provisions).

6. The applicants and the Government each filed observations.

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

THE LAW

8. 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

9. In their claims for just satisfaction the applicants sought to obtain the enforcement of the judgment of 22 May 1992 delivered by the Vălenii de Munte District Court, which would involve taking effective possession of the land and also acquiring an ownership title. In the alternative, the applicants claimed, without submitting any expert report, 4,299,000 euros (EUR) for the updated value of 10,06 ha of land.

10. They also claimed the equivalent of the coercive fine fixed by the judgment of the Vălenii de Munte of 19 April 2000 (see paragraph 26 in the principal judgment), asking the Court to determine the exact amount.

Further, in their updated claims for just satisfaction, they claimed individually EUR 30,000 in respect of non-pecuniary damage for the distress and suffering due to the violation of their property rights.

11. In line with the information provided by the Chamber of Public Notaries of January 2009, the Government indicated that the price of one square meter varied between EUR 2 and EUR 3. In any event, they pointed out in their updated submission that, except 0,20 ha of land, the applicants took effective possession of the land and were also provided with a document of title to that land. The Government considered that the price of the 0,20 ha of land was of EUR 4,940.

Further, they submitted that the coercive fine had the nature of a civil penalty, with the purpose of guaranteeing the execution of an obligation and not of granting compensation; the applicants had the opportunity to request the court to convert it into damages for delayed enforcement, which they had not done.

Lastly, as regards the applicants' claims in respect of non-pecuniary damage, the Government submitted that the amounts claimed were excessive and that the finding of a violation in the present case constituted in itself adequate just satisfaction.

12. 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).

13. In reply to the Government's submissions, the Court notes that they did not submit any evidence to indicate that the applicants took effective possession of the land or that they were issued a document of title to the land as provided by the judgment of 22 May 1992, which thus remained unenforced to the present day. In this connection, the Court observes that the Government had not taken any steps in order to provide redress for the violations of the applicants' Convention rights.

14. The Court considers, therefore, that the enforcement of the judgment of 22 May 1992 of the Vălenii de Munte District Court would place 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 entire land and to provide them with 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 230,000 for pecuniary damage.

15. As regards the enforcement of the judgment of 19 April 2000 allowing the applicants a coercive fine (see paragraph 10 above), the Court notes that it does not fall within the scope of the present judgment (see paragraphs 44 and 48 in the principal judgment).

Therefore, it will not make any award under this head.

16. The Court further considers that the serious interference with the applicants' right of access to a court and with the 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

17. Without submitting invoices, the applicants claimed EUR 32,500 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 transport.

18. The Government noted that the costs and expenses claimed were not supported by any documents.

19. In the lack of any supporting evidence, the Court rejects the applicants' claim for costs and expenses in accordance with Rule 60 of the Rules of Court.

C. Default interest

20. 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 judgment of 22 May 1992 of the Vălenii de Munte District Court in its entirety, by enabling the applicants to take effective possession of the land and also by providing them with a document of title to their land;

(b) that, failing to enforce the judgment of 22 May 1992 of the Vălenii de Munte District Court in its entirety, as set out under (a) above, the respondent State is to pay the applicants jointly, within the same period of three months, EUR 230,000 (two hundred and thirty 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 the respondent State is to pay the applicants jointly, within the same three months, EUR 4,700 (four thousand seven hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into the national currency of the respondent State at the rate applicable at the date of settlement;

(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 10 June 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Santiago Quesada
Registrar

Josep Casadevall
President