



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

1

THIRD SECTION

**CASE OF BUTI AND OTHERS v. ROMANIA**

*(Applications nos. 11472/07, 68568/10, 70670/10, 71506/10 and 2804/12)*

JUDGMENT

STRASBOURG

16 December 2014

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



**In the case of Buti and Others v. Romania,**

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

Ján Šikuta, *President*,

Dragoljub Popović,

Iulia Antoanella Motoc, *judges*,

and Marialena Tsirli, *Deputy Section Registrar*,

Having deliberated in private on 25 November 2014,

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

**PROCEDURE**

1. The case originated in five applications (nos. 11472/07, 68568/10, 70670/10, 71506/10 and 2804/12) against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by five Romanian nationals. Their names and other details, as well as the date of lodging and the date of communication to the Government of each application are specified in the appended table.

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

3. In accordance with Protocol No. 14, after informing the respondent Government, the applications were assigned to a Committee of three Judges.

**THE FACTS****I. THE CIRCUMSTANCES OF THE CASE**

4. On the dates set out in the appended table domestic courts delivered 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. However, the applicants were unable to obtain the enforcement of the decisions in due time.

**II. RELEVANT DOMESTIC LAW**

5. The relevant domestic legal provisions and procedures concerning the enforcement of final judgments against State authorities are described in the leading case of *Foundation Hostel for Students of the Reformed Church and*

*Stanomirescu v. Romania*, nos. 2699/03 and 43597/07, §§ 36-40, 7 January 2014).

## 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 that the non-enforcement or the delayed enforcement of the final judgments in their favour had infringed their right to access to court guaranteed by Article 6 § 1 of the Convention and also their right to property as provided by 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 notes that the judgments in the present case ordered the relevant authorities to execute various obligations in kind or to pay the applicants certain amounts of money.

9. The Court has frequently found violations of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 in cases raising issues similar to the ones in the present applications (see for instance the *Foundation Hostel for Students of the Reformed Church and Stanomirescu*, cited above, § 78, and all the references therein).

10. Its respective case-law is based on the principle that the right to a court protected by Article 6 would be illusory if a Contracting State’s

domestic legal system allowed a final, binding judicial decision – creating an established right to payment or to have certain actions taken in the applicant’s favour, which should be considered as a “possession” within the meaning of Article 1 of Protocol No. 1 – to remain inoperative to the detriment of one party (see among many other authorities, *Burdov v. Russia* (no. 2), no. 33509/04, §§ 65 and 87, ECHR 2009).

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 the present cases.

Therefore, taking into account the complexity of the enforcement, the parties’ behaviour and the nature of the awards, the Court finds that the authorities have not deployed all necessary efforts to enforce fully and in due time the judgments in the applicants’ favour.

12. The foregoing considerations are sufficient to enable the Court to conclude that there has been a violation of Article 6 § 1 of the Convention and of Article 1 of Protocol No. 1 in all applications.

### III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

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

14. However, in the light of all material in its possession and in so far as the matters complained of are within its competence, the Court finds that they 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 Government must secure, by appropriate means, the enforcement of the judgments which are still outstanding.

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. *Dismisses* the Government's preliminary objections,
3. *Declares* admissible the complaints under Article 6 § 1 and Article 1 of Protocol No. 1 to the Convention concerning non-enforcement or delayed enforcement of judgments in respect of all applications and the remainder of the applications inadmissible;
4. *Holds* that there has been a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention;
5. *Holds*
  - (a) that the respondent State shall ensure, by appropriate means, within three months, the enforcement of the judgments which are still outstanding;
  - (b) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table to be converted into the national currency at the rate applicable at the date of settlement;
  - (c) 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;
6. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 16 December 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Marialena Tsirli  
Deputy Registrar

Ján Šikuta  
President

No.	Application no. Date of introduction Date of communication to the Government	Applicant name Date of birth	Relevant domestic decision	Length of enforcement proceedings	Article 41 (EUR)
1.	11472/07 14/02/2007 07/05/2013	<b>Vasile BUTI</b>	Decision of 27 March 2006, Galați County Court	7 years and 11 months	Non-pecuniary damage: 3,600 Costs and expenses: 2,000
2.	68568/10 12/11/2010 07/05/2013	<b>Violeta DUMITRESCU</b> 05/04/1966	1) Decision of 8 June 2007, Dâmbovița County Court, final on 30 October 2007; 2) Decision of 11 December 2008, Dâmbovița County Court, final on 1 June 2009; 3) Decision of 23 February 2012, Dâmbovița County Court, final on 13 June 2012	1) 6 years and 11 months <i>pending</i> 2) 3 years and 3 months  3) 2 years and 3 months <i>pending</i>	Non-pecuniary damage: 4,700 Costs and expenses: 750
3.	70670/10 18/09/2010 07/05/2013	<b>Gheorghe Constantin STAN</b> 25/06/1944	Decision of 20 March 2009, Argeș County Court, final on 13 January 2010	4 years and 8 months <i>pending</i>	Non-pecuniary damage: 3,900 Costs and expenses: -
4.	71506/10 25/11/2010 10/04/2012	<b>Victor MISCHIE</b> 20/09/1958	Decision of 23 December 2009, Bucharest County Court, final on 11 October 2010	3 years and 11 months <i>pending</i>	Non-pecuniary damage: 2,100 Costs and expenses: 50
5.	2804/12 05/12/2011 07/05/2013	<b>S.C. BIT S.A.</b>	Decision of 23 February 2010, Bucharest County Court, final on 13 April 2011	3 years and 5 months <i>pending</i>	-