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

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The orders to vacate unauthorised camps did not interfere disproportionately with the right to respect for private and family life of the families living in them

In its decisions in the cases of Caldaras and Lupu v. France (application no. 13561/15), Ciurar and Others v. France (no. 35697/15), Stefan and Others v. France (no. 36779/16), Stan v. France (no. 41969/16), Sisu and Others v. France (no. 45871/16) and Margoi and Others v. France (no. 72596/16), the European Court of Human Rights has unanimously declared the applications inadmissible. The decisions are final.

The six applications concerned orders to vacate unauthorised camps at various locations in the Paris region where the applicants, Romanian nationals belonging to the Roma community, had been living with their families.

The Court noted at the outset that the interference by the authorities with the applicants' right to respect for their private and family life had been in accordance with the law and had pursued the legitimate aims of protecting health and public safety and protecting the rights and freedoms of others, in this instance the property rights of the landowners concerned.

As to the necessity of the disputed measures, the Court considered in each case that the eviction proceedings had taken account of the applicants' vulnerable situation and had entailed an assessment of the proportionality of the interference, in conformity with the requirements of Article 8. It dismissed the complaints alleging a violation of that provision as being manifestly ill-founded.

As to the complaints raised by the applicants under other Articles of the Convention, the Court noted that the applicants had not exhausted domestic remedies, and accordingly declared the complaints inadmissible on that ground.

Principal facts and complaints

The applicants are Romanian nationals belonging to the Roma community who were living in camps comprising makeshift dwellings in the Paris region.

Caldaras and Lupu v. France (no. 13561/15)

The applicants, Mr Stefan Caldaras and Mr Vasile Lupu, are two Romanian nationals who were born in 1977 and 1964 and live in Santmartin and Budapest.

The application concerned the dismantling of an unauthorised camp located at Porte de Paris in Saint-Denis, on land belonging to the Plaine de France Development Agency (EPAPF), where the applicants and their families had been living.

Under Article 3 (prohibition of inhuman or degrading treatment), taken alone and in conjunction with Article 14 (prohibition of discrimination), the applicants complained that their eviction from the settlement, without any alternative accommodation being provided, amounted to inhuman and degrading treatment based on their ethnic origin. They maintained that, for the same reasons, there had also been an infringement of their rights under Article 8 (right to respect for private and family life). Relying on Articles 3 and 13 (right to an effective remedy) taken together, they complained that no suspensive remedy had been available to them by which to challenge the eviction order.

Ciurar and Others v. France (no. 35697/15)

The applicants are seven Romanian nationals who were born between 1979 and 1993 and live in Bobigny.

The application concerned the dismantling of an unauthorised camp located on Avenue du 8 mai 1945 in Le Bourget, on State-owned land, where the applicants and their families had been living.

Under Article 3 the applicants complained that their eviction from the camp, without any alternative accommodation being provided, amounted to inhuman and degrading treatment. They also alleged an infringement of their Article 8 rights for the same reasons.

Stefan and Others v. France (no. 36779/16)

The applicants are twenty-nine Romanian nationals who were born between 1953 and 1997 and live in Bobigny.

The application concerned the dismantling of an unauthorised settlement known as the "Coignet shanty town" in Saint-Denis, set up on land belonging to the semi-public corporation (SEM) Plaine Commune Développement, where the applicants and their families had been living.

Under Article 8, one of the applicants complained that her eviction from the settlement had infringed her right to respect for her family life and home. Under Article 34 (right of individual application), all the applicants alleged that the Government, by authorising the eviction of the site's occupants in spite of the interim measure indicated by the Court, had hindered the effective exercise of their right of individual petition.

Stan v. France (no. 41969/16)

The applicant, Ms Silvia-Clara Stan, is a Romanian national who was born in 1972 and lives in Noisiel.

The application concerned the dismantling of an unauthorised camp located in Champs-sur-Marne, on land belonging to the Marne-la-Vallée Development Agency (EPA), where the applicant had been living with her family.

Under Article 3 taken alone and in conjunction with Article 14, the applicant complained that her eviction from the camp without any alternative accommodation being provided amounted to inhuman and degrading treatment based on her ethnic origin. She alleged that, for the same reasons, her Article 8 rights had also been infringed. Under Articles 3 and 8 of the Convention taken in conjunction with Article 13, she complained mainly that she had not had a suspensive remedy by which to challenge the eviction order.

Sisu and Others v. France (no. 45871/16)

The applicants are nine Romanian nationals who were born between 1957 and 1996 and live in Bobigny.

The application concerned the dismantling of an unauthorised camp on the site of a disused railway line in Paris (*petite ceinture*) belonging to SNCF Réseau, a public industrial and commercial agency (EPIC), where the applicants and their families had been living.

Under Article 3, taken alone and in conjunction with Article 14, the applicants complained that their eviction from the camp without any alternative accommodation being provided constituted inhuman and degrading treatment based on their ethnic origin. They also alleged a violation of their rights under Article 8, taken alone and in conjunction with Article 14, for the same reasons. Under Articles 3 and 8 of the Convention taken in conjunction with Article 13, they complained that they had not had a suspensive remedy by which to challenge the eviction order.

Margoi and Others v. France (no. 72596/16)

The applicants are 27 Romanian nationals who were born between 1973 and 1998 and live in Bobigny.

The application concerned the dismantling of an unauthorised camp located on rue Sacco et Vanzetti in Pierrefitte-sur-Seine, on land belonging to the company Promo Brico, where the applicants and their families had been living.

The applicants complained under Article 3 that their eviction from the camp without any alternative accommodation being provided amounted to inhuman and degrading treatment. They also alleged a violation of their rights under Article 8 for the same reasons. Under Articles 3 and 13 taken together, they complained that they had not had a suspensive remedy by which to challenge the eviction order.

Complaints, procedure and composition of the Court

The applications were lodged with the European Court of Human Rights on 6 March and 22 July 2015, and on 28 June, 7 July, 2 August and 2 December 2016. The decision was given by a Committee of three judges, composed as follows:

Carlo **Ranzoni** (Liechtenstein), *President*,
Mattias **Guyomar** (France),
Mykola **Gnatovskyy** (Ukraine),

and also Martina **Keller**, *Deputy Registrar.*

Decision of the Court

Article 8

Caldaras and Lupu v. France (no. 13561/15)

The Court noted at the outset that the interference had been in accordance with the law. The eviction had been ordered by the Court of Appeal, which had found the existence of a manifestly unlawful nuisance within the meaning of Article 809 of the Code of Civil Procedure on account of the unlawful occupation of the land without any title. In view of the nuisance and hazards created by the camp infrastructure, the Court went on to find that the interference had pursued the legitimate aims of protecting health and public safety, in addition to the protection of the rights and freedoms of others, in this instance the property rights of the EPAPF. Lastly, with regard to the necessity of the interference, the Court referred, for a summary of the applicable principles, to the judgments in Yordanova and Others v. Bulgaria, Winterstein and Others v. France, and Hirtu and Others v. France.

In the present case the Court noted that the applicants had occupied the site unlawfully without any title. They could not therefore claim to have had a legitimate expectation of remaining there.

The Court noted that the applicants' arguments concerning the proportionality of the interference, raised in the domestic proceedings, had been examined in detail by the Court of Appeal prior to the eviction. That court had given sufficient reasons in reply to their arguments, before finding that the conditions in which the land was being occupied clearly did not permit normal family life, given the lack of hygiene in the settlement and the hazardous nature of the infrastructure.

The Court concluded that the eviction proceedings had entailed an assessment of the proportionality of the interference with the applicant' rights satisfying the requirements of Article 8.

The Court reiterated that neither Article 8 nor the Court's case-law recognised as such a right to be provided with a home, and that any positive obligation to house homeless persons must therefore be limited. An obligation to provide accommodation for particularly vulnerable individuals could arise under Article 8 only in exceptional cases.

The Court noted that the authorities had provided emergency accommodation to the first applicant, in accordance with the undertaking given by the Government in the context of the applicants' request for an interim measure dated 16 April 2014. With regard to the second applicant, the Court accepted the Government's explanation that hotel rooms could be offered only to those occupants who were present when the camp was dismantled.

In these circumstances the Court considered that the authorities had taken into account the applicants' particular vulnerability owing to the fact that they belonged to a socially disadvantaged minority. It also noted that the applicants had not applied for social housing or undertaken any efforts to that end.

The Court therefore held that the complaint under Article 8 of the Convention was manifestly ill-founded and should be rejected.

Ciurar and Others v. France (no. 35697/15)

The Court noted that the applicants had been occupying the site unlawfully without any title and could therefore not claim to have had a legitimate expectation of remaining there.

Regarding the assessment of the proportionality of the interference by the domestic courts, the Court noted that the applicants' arguments had been examined in detail by the urgent-applications judge, prior to the eviction, and that he had given sufficient reasons in reply to them. The judge had weighed up the competing interests before concluding that the applicants had not demonstrated the existence of an urgent situation outweighing the obligation to ensure their safety and health, and in particular that of the children.

The Court concluded that the eviction proceedings had entailed an assessment of the proportionality of the interference with the applicants' rights satisfying the requirements of Article 8.

Lastly, the Court noted that the authorities had undertaken, at the stage of the request for application of Rule 39 of the Rules of Court, to provide emergency accommodation to any vulnerable persons who were present when the site was dismantled.

The Court therefore held that the complaint under Article 8 of the Convention was manifestly ill-founded and should be rejected.

Stefan and Others v. France (no. 36779/16)

The Court accepted the complaint under Article 8 only in respect of applicant no. 24. It noted that her arguments concerning the proportionality of the interference, which had been raised before the judge responsible for the execution of judgments, had been examined in detail by the latter prior to the eviction. The judge had given particularly detailed and sufficient reasons in reply, before granting the occupants an additional eight months to vacate the settlement, and had specifically referred to the fact that the occupants belonged to a socially disadvantaged group and to their particular needs on that account. The Court concluded that applicant no. 24 had had the benefit, in the context of the eviction proceedings, of an assessment of the proportionality of the interference that satisfied the requirements of Article 8.

The Court noted that the authorities had provided emergency accommodation for the vulnerable persons who were present when the site was dismantled. They had booked accommodation for applicant no. 24 in a hotel in Pantin, eight kilometres from the camp, but she had not appeared at the hotel. Furthermore, the Court noted that the applicant had not applied for social housing or made any attempt to do so in order to find a lasting solution to her housing needs.

The Court therefore held that the complaint under Article 8 of the Convention in respect of applicant no. 24 was manifestly ill-founded and should be rejected.

Stan v. France (no. 41969/16)

The Court observed that the authorities had taken numerous steps to ensure that the applicant and the other occupants of the camp were not left homeless. It considered that the authorities had taken into account the applicant's particular vulnerability owing to the fact that she belonged to a socially disadvantaged minority, and stressed her repeated refusals to take up the offers of accommodation. The Court also noted that the applicant had not applied for social housing or made any attempt to do so.

The Court held that the complaint under Article 8 of the Convention was manifestly ill-founded and should be rejected.

Sisu and Others v. France (no. 45871/16)

The Court noted that applicants nos. 1, 2, 3, 6, 7, 8 and 9 had not demonstrated that they had been living in the camp at the relevant time. Furthermore, they had not lodged any domestic appeal.

The Court noted that the only domestic appeal lodged by applicant no. 5 had been against the prefect's decision to authorise police assistance. It agreed with the Government that such an appeal could not call into question the actual order to vacate the camp but concerned only the arrangements for its implementation. It followed that the application was inadmissible for failure to exhaust domestic remedies.

As to applicant no. 4, his arguments concerning the proportionality of the interference had subsequently been examined in detail by the judge responsible for the execution of judgments, who had given sufficient reasons in reply, taking into account in particular "the fundamental right to housing" and the occupants' particular vulnerability, which had been exacerbated by a tuberculosis outbreak. Even though the evictions from the camp had taken place before the expiry of the period granted by the judge responsible for the execution of judgments, the Court noted that an assessment of the proportionality of the interference had been carried out beforehand. It concluded that applicant no. 4 had had the benefit, in the context of the eviction proceedings, of an assessment of the proportionality of the interference satisfying the requirements of Article 8.

Furthermore, the Court noted that the applicant had not applied for social housing or made any attempt to do so. The Court therefore held that the complaint under Article 8 of the Convention in respect of applicant no. 4 was manifestly ill-founded and should be rejected.

Margoi and Others v. France (no. 72596/16)

The Court noted that applicants nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27 had not challenged the formal notice of 14 September 2016 requiring them to vacate the site within 48 hours. This part of the application was therefore inadmissible for failure to exhaust domestic remedies.

With regard to applicant no. 16, the Court noted that her arguments concerning the proportionality of the interference, raised in the domestic proceedings, had been examined in detail, prior to her eviction, by the urgent-applications judge of the Administrative Court, who had given sufficient reasons in reply before ruling that the occupants of the site had failed to establish the existence of an emergency situation. The judge had made his ruling after weighing the seriousness of the effects of the occupants' eviction from the camp against the risk to their health and safety if they were to remain there. The eviction proceedings had therefore entailed an assessment of the proportionality of the interference with the applicant's rights satisfying the requirements of Article 8.

The Court noted that the authorities had undertaken, at the stage of the request for an interim measure under Rule 39 of the Rules of Court, to provide emergency accommodation to any vulnerable person present when the camp was dismantled. Eleven individuals had actually been provided with emergency accommodation. The applicant was not among them.

Firstly, the Court noted the care with which the domestic courts, to which the applicant had made an urgent application for accommodation, had examined her individual situation and assessed her vulnerability in the light of the presence of her two young children. They had taken the view that the applicant was not in a particularly vulnerable situation entailing, by way of exception, a positive obligation to provide her with accommodation. Secondly, the Court noted that the applicant had not appealed against the refusal by the urgent-applications judge of her request for an order requiring the prefect to provide her with access to emergency accommodation. Lastly, the Court noted that the applicant had not applied for social housing or made any attempt to do so in order to find a lasting solution to her housing needs.

The Court therefore held that the complaint under Article 8 of the Convention in respect of applicant no. 16 was manifestly ill-founded and should be rejected.

Other Articles

With regard to the remaining complaints raised by the applicants, the Court noted that domestic remedies had not been exhausted and that the complaints were therefore inadmissible.

Caldaras and Lupu v. France (no. 13561/15)

On the subject of the complaint under Article 3, taken alone and in conjunction with Article 14, the Court considered that the applicants had not exhausted domestic remedies, as they had not raised their complaints before the competent domestic authorities. Consequently, with regard to the complaint under Article 13, as the applicants had not raised their Article 3 complaint before the domestic courts, their complaint that their appeal on points of law did not have suspensive effect was ill-founded. Even assuming that the applicants had an arguable claim under Article 3 and that Article 13 was therefore applicable, the Court noted that the applicants had been able to exercise the relevant remedies and that their situation had been examined carefully. This part of the application was manifestly ill-founded and had to be rejected.

Stefan and Others v. France (no. 36779/16)

Regarding the complaint under Article 34 concerning the alleged failure of a Contracting State to comply with an interim measure, the Court observed that it had indicated an interim measure to the Government on 6 July 2016 at 12.35 p.m., while the eviction had been scheduled for the same day at 1 p.m., as the Government had informed the Court at 6.55 p.m. the previous day. The Court accepted the Government's explanation that it had not been possible to halt the dismantling of the camp twenty-five minutes before the start of the operation. The Court considered that in the circumstances of the present case the Government had faced an objective obstacle preventing them from suspending implementation of the eviction.

The Court took note of the fact that, in parallel with the dismantling of the camp, all the vulnerable persons present on the site had been offered accommodation. The Government had kept the Court informed in good time of the progress of the operation and the implementation of the safeguards they had announced. Hence, the applicants could not validly maintain that the Government had not complied with the interim measure indicated by the Court. This part of the application therefore had to be rejected.

Stan v. France (no. 41969/16)

With reference to the complaints under Article 3 of the Convention, taken alone and in conjunction with Article 14, and under Article 8 taken in conjunction with Article 14, the Court agreed with the Government's assessment that the applicant had not exhausted domestic remedies, contrary to the requirements of Article 35 § 1 of the Convention.

As to the complaint under Article 13 of the Convention, even assuming that the applicant had an arguable complaint under Article 3 of the Convention or Article 8 and that Article 13 was therefore

applicable, the Court noted that the applicant had been able to exercise the relevant remedies and that her situation had been examined with care. It followed that this part of the application was manifestly ill-founded and should be rejected.

Sisu and Others v. France (no. 45871/16)

With regard to the complaints under Article 3 taken alone and in conjunction with Article 14, and under Article 8 taken in conjunction with Article 14, the Court considered that domestic remedies had not been exhausted as applicant no. 4 had not raised his complaints before the competent domestic authorities, even in substance.

As to the complaint under Article 13 of the Convention, even assuming that there was an arguable complaint under Article 3 or Article 8 and that Article 13 was therefore applicable, the Court noted that applicant no. 4 had been able to make use of a combination of relevant remedies and that his situation had been examined carefully. As the Court had repeatedly found, even if a single remedy did not by itself entirely satisfy the requirements of Article 13, the aggregate of remedies provided for under domestic law could do so. It followed that this part of the application was manifestly ill-founded and should be rejected.

Margoi and Others v. France (no. 72596/16)

The Court held that the complaint under Article 3 of the Convention was inadmissible with regard to all the applicants, on the grounds of failure to exhaust domestic remedies.

As to Article 13, the applicants' complaint that the remedy available under domestic law did not have suspensive effect was unfounded, since applicants nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27 had not made use of that remedy and applicant no. 16 had not raised the Article 3 complaint in the context of the remedy which she had exercised. It followed that their complaint under Article 13 of the Convention taken in conjunction with Article 3 was manifestly ill-founded and should be rejected.

The decision is available only in French.

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