



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

FOURTH SECTION

CASE OF MOLDOVAHIDROMAŞ v. MOLDOVA

(Application no. 30475/03)

JUDGMENT
(Just satisfaction – Friendly settlement)

STRASBOURG

13 May 2008

FINAL

13/05/2008

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

In the case of Moldovahidromaş v. Moldova,

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

Nicolas Bratza, *President*,

Lech Garlicki,

Stanislav Pavlovski,

Ljiljana Mijović,

David Thór Björgvinsson,

Ján Šikuta,

Päivi Hirvelä, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 22 April 2008,

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

PROCEDURE

1. The case originated in an application (no. 30475/03) against the Republic of Moldova lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by SA Moldovahidromaş.

2. In a judgment delivered on 27 February 2007 (“the principal judgment”), the Court held there had been a violation of the applicant company’s rights provided by Article 6 § 1 and Article 1 of Protocol No. 1 to the Convention (see *Moldovahidromaş v. Moldova*, no. 30475/03, 27 February 2007).

3. Under Article 41 of the Convention the applicant sought just satisfaction in the amount of 7,233,040 euros (EUR).

4. Since the question of the application of Article 41 of the Convention was not ready for decision as regards the applicant’s claim for pecuniary and non-pecuniary damage, the Court reserved it and invited the Government and the applicant to submit, within three months, their written observations on that issue and, in particular, to notify the Court of any agreement they might reach.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant is a Moldovan incorporated company based in Chişinău.

6. Moldovahidromaş (M.) was a State-owned company which owned a subsidiary Hidrotehnica (H.). In 1992 H.'s staff attempted to create a separate company on the basis of H.'s assets. The contract for the creation of H. was eventually annulled by a final court judgment of 22-23 October 1992. M. retained ownership of H. as a result.

7. The applicant company was created as a result of the privatisation of M. in 1994 and thereafter. During the privatisation, the new owners bought the entire company from the State, including its subsidiary H.

8. In 2002 the Prosecutor General, at the request of H.'s staff, asked for annulment of the final judgment of 22-23 October 1992. On 24 April and 24 July 2003 the Supreme Court of Justice annulled that judgment and ordered the registration of H. as an independent company.

9. Relying on the Court's judgment of 27 February 2007, the applicant company requested annulment of the judgments of 24 April and 24 July 2003. On 19 July and 2 August 2007 the Supreme Court of Justice annulled those two judgments, reinstating the applicant company in its rights. On 8 August 2007 the State Registration Chamber made changes to the State registry of companies and issued the applicant company a certificate, confirming its ownership of its subsidiary SA Hidrotehnica.

THE LAW

10. On 1 October 2007 the Court received from the parties a document containing a friendly settlement agreement which read, *inter alia*, as follows:

"In view of the judgment of the European Court of Human Rights dated 27 February 2007 in the case of Moldovahidromaş v. Moldova, in which a violation of Article 6 § 1 and Article 1 of Protocol No. 1 to the Convention was found as a result of the annulment of the Arbitral Tribunal's judgment of 22-23 October 1992;

... In view of the judgment of the Supreme Court of Justice dated 19 July 2007 whereby ... the judgments of 24 April and 24 July 2003 were annulled;

In view of the judgment of the Supreme Court of Justice dated 2 August 2007 whereby all the acts for the creation of CTŞ Hidrotehnica ... were declared void from the date of the annulment of the judgments of 24 April and 24 July 2003; the subsidiary Hidrotehnica of SA Moldovahidromaş was reinstated in its rights and all

the documents for the creation of the subsidiary were recovered; it was ordered to delete the registration of CTŞ Hidrotehnica from the State registry of companies and to register CTŞ Hidrotehnica, the subsidiary of SA Moldovahidromaş, in the above-mentioned registry;

In view of the fact that on 8 August 2007 the State Registration Chamber ... decided to register CTŞ Hidrotehnica, the subsidiary of SA Moldovahidromaş, in the State registry of companies, and issued the relevant certificate;

The parties have agreed as follows:

1. The Government undertake, in the context of friendly settlement proceedings in the present case, to contribute on a priority basis, by all lawful means, to the full and efficient enforcement of the judgments adopted by the ... Supreme Court of Justice on 19 July and 2 August 2007.

2. The judgments adopted on 19 July and 2 August 2007 by the ... Supreme Court of Justice, as well as the decision of the State Registration Chamber dated 8 August 2007 shall constitute the final resolution of the case.

3. The applicant company declares that it does not have and will not have any pecuniary, non-pecuniary or other claims towards the Government in respect of application no. 30475/03 *Moldovahidromaş v. Moldova*".

4. The parties will inform the Court of the present agreement and will ask for the striking of the case out of the Court's list of cases. ..."

11. The Court takes formal note of the above agreement. It observes that its purpose is to put an end to the dispute. It further observes that the applicant company has already recovered ownership of its subsidiary H. and that, under the terms of the settlement, the Government have undertaken to contribute to the enforcement of the judgments in the applicant company's favour. The Court finally observes that the applicant company has withdrawn all its compensation claims against the respondent State before the Court.

12. Having examined the terms of the agreement reached, the Court considers that it is equitable within the meaning of Rule 75 § 4 of the Rules of Court and that it is based on respect for human rights as defined in the Convention and its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court) (see *Maurice v. France* (just satisfaction - friendly settlement) [GC], no. 11810/03, §§ 34-35, ECHR 2006-...).

13. Accordingly, the remainder of the case should be struck out of the Court's list (Article 37 § 1 (b) of the Convention and Rule 43 § 3).

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Takes formal note* of the agreement between the parties and the arrangements made to ensure compliance with the undertakings given therein (Rule 43 § 3 of the Rules of Court);
2. *Decides* to strike the remainder of the case out of its list.

Done in English, and notified in writing on 13 May 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President