

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

THIRD SECTION

DECISION

Application no. 33358/06
Victor GÎRLEA against Moldova
and 13 other applications
(see list appended)

The European Court of Human Rights (Third Section), sitting on 10 April 2012 as a Committee composed of:

Alvina Gyulumyan, *President,*
Ineta Ziemele,
Mihai Poalelungi, *judges,*

and Marialena Tsirli, *Deputy Section Registrar,*

Having regard to the above applications lodged between 27 July 2006 and 1 November 2009,

Having deliberated, decides as follows:

THE FACTS

1. The applicants, referred to in the annexed table, are private academic institutions registered in Moldova and Moldovan nationals except Mr Lîsenco who is a Ukrainian national. They lodged their applications between 27 July 2006 and 1 November 2009. The Moldovan Government ("the Government") are represented by their Agent, Mr V. Grosu. The Ukrainian Government were informed of their right to intervene in the application no. 18008/09, but did not avail themselves of that right.

2. All the applicants obtained final judgments in their favour. Enforcement warrants were issued. Some of these final judgments have not been enforced to date, either fully or in part, whereas others have been enforced with delay (see attached table).

3. On 1 July 2011 a new law (Law No. 87) entered into force, instituting a remedy against the problem of non-enforcement of final domestic judgments and against the problem of unreasonable length of proceedings.

4. On 29 September 2011 the Court informed the applicants of the new remedy, asking whether they intended to make use of it within the six-month time-limit set by Law No. 87. The applicants' attention was drawn to the fact that according to Article 35 § 1 of the Convention, the Court may only deal with a matter after all domestic remedies have been exhausted and that failure to observe the above rule could constitute a reason for declaring the applications inadmissible.

5. The applicants informed the Court in response that they were not intending to use the new remedy because it was not effective.

THE LAW

6. Relying on various provisions of the Convention (see attached table), the applicants complained that the State had failed to ensure the enforcement of the binding and enforceable judgments in their favour.

7. The Court finds that, given their common factual and legal background, it is appropriate to join the present applications.

8. The Court further notes that in the present cases the applicants decided not to use the new remedy, disputing its effectiveness. In this respect the Court recalls that in *Balan v. Moldova* ((dec.), no. 44746/08, 24 January 2012), it has held that the new remedy introduced by Law No. 87 was designed to address the issue of delayed enforcement of judgments and that it was not ineffective. It was also held that in spite of the fact that the new remedy only became available after the introduction of that application, the applicant was obliged to use it and that using it did not constitute and excessive burden for the applicant and for other applicants in a similar position.

9. Having regard to its findings in *Balan,* cited above, the Court concludes that the applicants in the present cases were also required by Article 35 § 1 to avail themselves of the new domestic remedy by pursuing the domestic proceedings under Law No. 87. It notes, however, that such proceedings have not been completed by them.

10. It follows that the present applications, in so far as they concern alleged violations of Articles 6 and 13 of the Convention and of Article 1 of Protocol No. 1 on account on non-enforcement of final judgments must be rejected pursuant to Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

11. The Court has examined the remainder of the applicants' complaints as submitted by them (see attached table). However, in the light of all the

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 and its Protocols. It follows that the respective parts of the applications must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Decides to join the applications;

Declares the applications inadmissible.

Marialena Tsirli	Alvina Gyulumyan
Deputy Registrar	President

ANNEX TABLE

No.	Application no. and date of lodging	Date of communication to the respondent Government	Applicant's details	Final judgment	Issue	Communicated complaints	Other complaints	Date of the applicant's letter concerning the new remedy
1.	33358/06, lodged on 27.07.2006	16.12.2008	Mr Victor GÎRLEA, born in 1948 and living in Rezina	Supreme Court of Justice, 1.02.2006	Partial enforcement	Articles 6 of the Convention and 1 of Protocol No.1	n/a	25.10.2011
2.	44201/06, lodged on 19.10.2006	20.01.2009	Mr Vladimir PANFIL, born in 1970 and living in Ialoveni	Ialoveni District Court, 4.11.1998	Partial enforcement	Articles 6 of the Convention and 1 of Protocol No.1	n/a	5.11.2011
3.	36981/07, lodged on 9.08.2007	17.06.2010	Liceul Columna, Liceul Elitex, Liceul de Limbi Moderne si Management and Liceul International de Management Imi-Nova, private academic institutions registered in Moldova	Supreme Court of Justice, 7.03.2007	Non-enforcement	Articles 6 of the Convention and 1 of Protocol No.1	n/a	20.10.2011
4.	38119/07, lodged on 13.08.2007	06.05.2011	Mr Nicolae CHETREAN, date of birth unknown, living in Boşcana	Ciocana District Court, 29.01.2001	Non-enforcement	Articles 6 and 13 of the Convention and 1 of Protocol No.1	n/a	20.10.2011
5.	5732/08, lodged on 18.01.2008	09.12.2008	Mr Dmitri ASTAŞOV, born in 1970 and living in Donetsk	Chişinău Court of Appeal, 13.04.2004	Non-enforcement	Articles 6 of the Convention and 1 of Protocol No.1	Article 6 of the Convention (length of proceedings)	9.11.2011
6.	9205/08, lodged on 29.01.2008	10.10.2008	Mr Grigore GUŢULEAC, born in 1960 and living in Chişinău	Chişinău Court of Appeal, 14.12.2007	Partial enforcement	Articles 6 of the Convention and 1 of Protocol No.1	n/a	10.11.2011
7.	38741/08, lodged on 17.07.2008	15.03.2010	Ms Ana GHENCIU and Mr Dumitru GHENCIU, born in 1932 and 1929 respectively and living in Suric	Cimişlia District Court, 15.12.2005	Non-enforcement	Articles 6 and 13 of the Convention and 1 of Protocol No.1	n/a	10.11.2011

8.	41590/08, lodged on 20.08.2008	06.05.2011	Mr Andrei NICOLAESCU, born in 30.03.1965 and living in Costiujeni	Supreme Court of Justice, 20.03.2008	Non-enforcement	Articles 6 and 13 of the Convention and 1 of Protocol No.1	Article 6 of the Convention (alleged lack of reasons)	8.11.2011
9.	18008/09, lodged on 19.03.2009	6.05.2011	Mr Igor LÎSENCO, Ukrainian national, and Mr Alexandru CRUCIC, Moldovan national, born on 27.06.1982 and 10.05.1974 respectively, living in Odessa and Chişinău respectively	Chişinău Court of Appeal, 18.10.2007	Non-enforcement	Articles 6 and 13 of the Convention and 1 of Protocol No.1	n/a	17.10.2011
10.	22923/09, lodged on 13.06.2009	25.05.2010	Ms Alexandra PAVLENCO, date of birth unknown, living in Chişinău	Rîscani District Court, 14.12.2002	Non-enforcement	Articles 6 of the Convention and 1 of Protocol No.1	n/a	19.11.2011
11.	49247/09, lodged on 26.08.2009	14.03.2011	Mr Ion LEVINŢA, born in 1958 and living in Chişinău	Orhei District Court, 11.02.1998	Belated enforcement	Articles 6 and 13 of the Convention and 1 of Protocol No.1	n/a	20.10.2011
12.	50214/09, lodged on 8.09.2009	14.03.2011	Mr Adrian CENUŞĂ, born in 1977 and living in Chişinău	Supreme Court of Justice, 16.09.2009	Belated enforcement	Articles 6 and 13 of the Convention and 1 of Protocol No.1	n/a	3.11.2011
13.	56223/09, lodged on 11.05.2009	14.03.2011	Mr Tudor CIORAP, born in 1965 and living in Chişinău	Supreme Court of Justice, 10.12.2008	Belated enforcement	Articles 6 and 13 of the Convention and 1 of Protocol No.1	Article 8 of the Convention	Received by the Court on 21.10.2011
14.	58514/09, lodged on 01.11.2009	14.03.2011	Mr Vasile NOGAI, born in 1942 and living in Chişinău	Supreme Court of Justice, 16.09.2009	Belated enforcement	Articles 6 and 13 of the Convention and 1 of Protocol No.1	Article 14 of the Convention	10.11.2011