

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

THIRD SECTION

DECISION

Application no. 18472/05
Elena GUDEŢ against Moldova
and 23 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 10 May 2005 and 15 September 2010,

Having deliberated, decides as follows:

THE FACTS

1. The applicants and the applicant companies, referred to in the annex table, are Moldovan nationals or private companies registered in Moldova, except Partidul Popular Republican, which is a political party registered in Moldova. They lodged their applications between 10 May 2005 and 16 August 2010. The Moldovan Government ("the Government") are represented by their Agent, Mr V. Grosu.

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 that they intended to make use of the new remedy. Some of them had already initiated proceedings in accordance with Law No. 87. They did not dispute the effectiveness of the new remedy.

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 agreed to use the new remedy and that in some cases the proceedings initiated by them under Law No. 87 are still pending. They did not dispute the effectiveness of the new remedy. 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, and *Manascurta v. Moldova* ((dec.), no. 31856/07, 14 February 2012), 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 yet 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.	18472/05, lodged on 10.05.2005	16.12.2008	Ms Elena GUDEŢ, born in 1936, deceased in 2006, represented by her daughter and successor, Ms Elena RAŞCO	Chişinău Court of Appeal, 3.05.2006	Belated enforcement	Articles 6 of the Convention and 1 of Protocol No.1	n/a	1.11.2011
2.	18763/05, lodged on 15.05.2005	20.01.2009	Ms Maria GOLBA, born in 1956 and living in Criuleni	Supreme Court of Justice, 24.03.2004	Belated enforcement	Articles 6 of the Convention and 1 of Protocol No.1	n/a	7.11.2011
3.	25110/05, lodged on 28.06.2005	22.01.2009	Mr Gheorghe CIOCAN, born in 1953 and living in Chişinău	Court of Appeal of the Republic of Moldova, 26.03.2002	Belated enforcement	Articles 6 and 13 of the Convention and 1 of Protocol No.1	n/a	7.11.2011
4.	36351/05, lodged on 29.08.2005	9.12.2008	Mr Ion JOSANU, born in 1954 and living in Cioresti	Chişinău Court of Appeal, 20.07.2004	Belated enforcement	Articles 6 of the Convention and 1 of Protocol No.1	n/a	19.10.2011
5.	859/06, lodged on 12.12.2005	30.11.2009	Mr Igor ŢURCANU, born in 1969 and living in Edineţ	Supreme Court of Justice, 13.04.2005	Partial enforcement	Articles 6 of the Convention and 1 of Protocol No.1	n/a	29.09.2011
6.	10831/06, lodged 23.02.2006	16.12.2008	Ms Vera ZBÎRNEA and Mr Nicolae CIOINA, born in 1959 and 1964 respectively and living in Chişinău	Court of Appeal of the Republic of Moldova, 30.11.2000	Non-enforcement	Articles 6 of the Convention and 1 of Protocol No.1	Article 2 of the Convention	Received by the Court on 15.11.2011
7.	38638/06, lodged on 8.09.2006	16.12.2008	Mr Sergiu BALTA, born in 1967 and living in Chişinău	Buiucani District Court, 4.09.2000	Belated enforcement	Articles 6 of the Convention and 1 of Protocol No.1	n/a	4.11.2011
8.	39499/06, lodged on 14.09.2006	12.11.2008	Proiecttehservice SRL, private company registered in Moldova	Economic Court of Appeal, 24.03.2004 and Economic Court of Appeal, 24.02.2004	Belated enforcement	Articles 6 of the Convention and 1 of Protocol No.1	n/a	4.11.2011

9.	42436/06, lodged on 28.09.2006	27.01.2009	Coldin-DC, private company registered in Moldova	Chişinău District Economic Court, 31.01.2003	Partial enforcement	Articles 6 and 13 of the Convention and 1 of Protocol No.1	n/a	14.10.2011
10.	11003/07, lodged on 09.02.2007	09.12.2008	Mr Ion CERNICA, born in 1962 and living in Sărăţenii-Vechi	Orhei District Court, 20.05.1998	Partial enforcement	Articles 6 of the Convention and 1 of Protocol No.1	Article 3 of the Convention	27.10.2011
11.	432/08, lodged on 26.12.2007	5.12.2008	Ms Svetlana ŞURAVSCHI and Ms Larisa SOLONARI, born in 1961 and 1960 respectively and living in Chişinău	Supreme Court of Justice, 1.03.2006	Partial enforcement	Articles 6, 13 and 14 of the Convention and 1 of Protocol No.1	n/a	9.11.2011
12.	755/08, lodged on 19.10.2007	6.05.2011	Auto-Mar SRL, private company registered in Moldova	Supreme Court of Justice, 30.09.2004	Non-enforcement	Articles 6 and 13 of the Convention and 1 of Protocol No.1	Article 14 of the Convention	9.11.2011
13.	6928/08, lodged on 16.01.2008	20.01.2009	Ms Elena BORDENIUC, born in 1961 and living in Orhei	Supreme Court of Justice, 4.07.2006	Partial enforcement	Articles 6 of the Convention and 1 of Protocol No.1	n/a	Received by the Court on 9.11.2011
14.	28426/08, lodged on 5.06.2008	27.05.2011	Mr Grigore CIOBANU, born in 1942 and living in Căuşeni	Chişinău Court of Appeal, 24.05.2006 Causeni District Court, 25.10.2006	Non-enforcement	Articles 6 and 13 of the Convention and 1 of Protocol No.1	n/a	19.10.2011
15.	25686/09, lodged on 29.04.2009	6.05.2011	Mr Ion RARU, born on 1.11.1958, living in Andruşul de Jos	Cahul District Court, 6.04.2004	Non-enforcement	Articles 6 of the Convention and 1 of Protocol No.1	n/a	Received by the Court on 8.12.2011
16.	30861/09, lodged on 10.06.2009	6.05.2011	Subervin SRL, private company registered in Moldova	Chişinău Economic District Court, 20.11.2008	Non-enforcement	Articles 6 of the Convention and 1 of Protocol No.1	n/a	2.11.2011
17.	30862/09, lodged on 10.06.2009	6.05.2011	Pomul SRL, private company registered in Moldova	Chişinău Economic District Court, 20.11.2008	Non-enforcement	Articles 6 of the Convention and 1 of Protocol No.1	n/a	2.11.2011
18.	34177/09, lodged on 15.06.2009	6.05.2011	Mr Valeriu LEONDARI, born on 8.03.1970 and living in Edineţ	Bălţi Court of Appeal, 1.12.2006	Non-enforcement	Articles 6 of the Convention and 1 of Protocol No.1	n/a	Received by the Court on 7.11.2011

19.	34196/09, lodged on 17.06.2009	6.05.2011	Partidul Popular Republican, a political party registered in Moldova	Economic Court of Appeal, 3.12.2004	Non-enforcement	Articles 6 and 13 of the Convention and 1 of Protocol No.1	n/a	16.12.2011
20.	40912/09, lodged on 20.07.2009	6.05.2011	Drabant SRL, private company registered in Moldova	Supreme Court of Justice, 23.07.2008	Non-enforcement	Articles 6 of the Convention and 1 of Protocol No.1	n/a	2.11.2011
21.	43501/09, lodged on 01.07.2009	14.03.2011	Ms Galina RUSU, born in 1969 and lives in Chişinău	Chişinău Court of Appeal, 12.05.2009	Belated enforcement	Articles 6 of the Convention and 1 of Protocol No.1	Article 14 of the Convention	8.11.2011
22.	20260/10, lodged on 22.03.2010	14.03.2011	Mr Victor GURĂU, date of birth unknown, living in Chişinău	Supreme Court of Justice, 29.10.2008	Non-enforcement	Articles 6 and 13 of the Convention and 1 of Protocol No.1	n/a	2.11.2011
23.	49294/10, lodged on 16.08.2010	14.03.2011	Ms Tatiana LOGACIOV, born in 1972 and living in Vadul lui Vodă	Chişinău Regional Court, 13.11.2002	Non-enforcement	Articles 6 and 13 of the Convention and 1 of Protocol No.1	n/a	12.10.2011
24.	56395/10, lodged on 15.09.2010	14.03.2011	Rodea-Lux SRL, private company registered in Moldova	Supreme Court of Justice, 10.12.2008	Non-enforcement	Articles 6 and 13 of the Convention and 1 of Protocol No.1	n/a	10.11.2011