

**SECRETARIAT GENERAL**

SECRETARIAT OF THE COMMITTEE OF MINISTERS  
SECRETARIAT DU COMITE DES MINISTRES



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Date: 17/04/2014

**DH-DD(2014)522**

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Meeting: 1201 meeting (3-5 June 2014) (DH)

Item reference: Action plan (16/04/2014)

Communication from the Republic of Moldova concerning the Eremia group of cases against Republic of Moldova (Application No. 3564/11)

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Réunion : 1201 réunion (3-5 juin 2014) (DH)

Référence du point : Plan d'action

Communication de la République de Moldova concernant le groupe d'affaires Eremia contre République de Moldova (requête n° 3564/11) (**anglais uniquement**).

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## THE GOVERNMENT OF THE REPUBLIC OF MOLDOVA Agent for the Government

*in Chisinau, 03 April 2014*

### ACTION PLAN for execution of the judgments in the *Eremia* group of cases (see the list below)

The Government of the Republic of Moldova ("the Government") hereby submits:

#### CASES DESCRIPTION

1. The group includes the following three cases

Case	Application no.	Judgment of	Final on
<a href="#">Eremia and others</a>	3564/11	28/05/2013	28/08/2013
<a href="#">B.</a>	61382/09	16/07/2013	16/10/2013
<a href="#">Mudric</a>	74839/10	16/07/2013	16/10/2013

2. These cases concern the failure to observe the positive obligations under Article 3 on account of the manner in which the authorities and courts handled the applicants' complaints about domestic violence by their ex-/husbands. The Court notably found the following shortcomings:

- the authorities' knowledge of the danger of further domestic violence and their failure to take effective measures, and to ensure punishment under the applicable legal provisions (*Eremia*);
- the domestic courts' failure to properly balance competing rights (the right not to be subjected to ill-treatment and the right to use an apartment) (*B.*);
- the long and unexplained delays in enforcing court protection orders and in subjecting the offender to mandatory medical treatment (*Mudric*).

3. In *Eremia* and *B.*, the Court also found a failure to observe the positive obligations under Article 8, notably because the authorities failed to take adequate measures to protect two minor daughters from witnessing their father's violent assaults on their mother and the effects of such behaviour on them, and to prevent the recurrence of such behaviour (second and third applicants in *Eremia*). The Courts also found that the authorities failed to balance the competing rights involved, effectively forcing the applicant to continue risking being subjected to violence or to leave home (first applicant in *B.*).

4. Further, in *Eremia* and *Mudric*, the Court found a violation of Article 14 read in conjunction with Article 3, notably because the authorities' actions were not a simple failure or delay in dealing with violence against the applicants, but amounted to repeatedly condoning such violence and reflected a discriminatory attitude towards them as women.

#### INDIVIDUAL MEASURES

##### Payment of just satisfaction

5. The just satisfaction in all three cases was paid without delays and as follows:
- in the *Eremia* case - paid on 22 November 2013;
  - in the *B.* and *Mudric* cases - paid on 09 January 2014.

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### **Specific individual measures**

6. After the events assessed by the Court in the present judgments there has been no similar complaints registered from the applicants. It appears that the threats posed by the applicants' ex-husbands ceased to exist, due to continuous surveillance from the law enforcement agencies and social care authorities, as well as after the dissemination of the present judgments and awareness rising. The authorities were instructed by the Governmental Agent to pay particular attention to these cases.

7. The Government describes the following developments and individual measures taken in each case.

8. The *Eremia* case: The applicant lives with her children in the house that had been built with her ex-husband. She has divorced and taken her maiden name. Her ex-husband lives separately but occasionally he pays visits to his daughters. These visits are made either under the supervision or knowledge of the local social care authorities, which has not reported any new occurrences. The family relations between the father and the daughters are well developing and there is no indication of any violent behaviour towards the applicant.

9. The *Mudric* case: The applicant and her ex-husband live in the same homestead but in the separate buildings, which were split up by the domestic court as a result of divorce. They share the courtyard and farmyard. The applicant inherited another homestead in the nearby village where she had been advised to set up but she refused. The applicant's ex-husband was registered by the local social care authorities as a potential violent offender and placed under continuous surveillance. The social care representatives, along with law enforcement officers, continue visiting him and the applicant. The authorities provide social assistance and psychological care.

10. The *B.* case: after the divorce the applicant lives in her apartment with her children. The apartment was conferred in her full possession. The applicant's ex-husband lives separately. The local social care authorities have visited the applicant with several occasions but she always refused to benefit from any social assistance. The last proposal for social assistance was made in December 2013 but again it was rejected by the applicant. The authorities informed her that she can seek any assistance from them at any time.

### **Other individual measures**

11. The Government considers that no other particular individual measures, except for the payments for just satisfaction, are required in the present cases.

12. As to implementation of the [Recommendation No. R \(2000\) 2](#) the Government considers that the adverse effects of the violation were erased by the sole fact of awarding the monetary compensation for just satisfaction, which covers all negative consequences of the violations. Therefore, neither re-opening nor other individual measures are required.

## **GENERAL MEASURES**

### **Publication and dissemination**

13. The judgments have been translated, widely disseminated, and published in the *Hudoc* database (see [Eremia and others v. the Republic of Moldova \(Romanian version\)](#), [B. v. the Republic of Moldova \(Romanian version\)](#) and [Mudric v. the Republic of Moldova \(Romanian version\)](#)) and in the Official Journal (published on 4 October 2013 and on 26 November 2013, respectively). They have also been communicated *via post* to the relevant authorities. The Governmental Agent has given recommendations concerning individual and general measures that would be appropriate for implementation, having requested regular feedback.

14. Copies of translated judgments are available free of charge in the Governmental Agent's office at the request of any individual or private/public body.

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## **Legislation**

15. The Court concluded that the authorities had put in place a legislative framework allowing them to take measures against persons accused of family violence.

16. However, since the Court found violations on account of the applicants' discrimination, the Government informs that the authorities have instituted a legislative framework for these issues.

### *Non-discrimination*

17. Essentially, the Court found a breach of Article 14 because the authorities' actions amounted to repeatedly condoning the domestic violence and reflected a discriminatory attitude towards the applicants as a women (notably in the cases of *Eremia* and *Mudric*).

18. The Government notes that at the time of the events the Republic of Moldova had several anti-discrimination provisions. Specifically, the Law on gender equality<sup>1</sup>; the *Contravention* and *Criminal codes* that set responsibility for offences committed based on discrimination; and the *Labour code* that contains clear provisions prohibiting discrimination based on gender.

19. On 25 May 2012, the Parliament enacted the [Law no. 121 of 25.05.2012 on securing equality](#) ("the Antidiscrimination Law") which entered into force on 01 January 2013. After the adoption of the Antidiscrimination Law the Parliament instructed the Government to review all relevant primary and secondary legislation and to propose appropriate legislative amendments that will ensure compliance of the Moldovan laws with the new Anti-discrimination Law. This implementation is still pending and the relevant draft laws are under consideration by the Parliamentary Committees and the Government.

20. The Antidiscrimination Law sets clear procedures and remedies for settlement and quasi-judicial assessment of all discrimination-related disputes. All prohibited grounds of discrimination as defined in the Court's case-law were listed in the Antidiscrimination Law, including the ground of "gender". The Law sets up the Antidiscrimination Committee that has quasi-judicial and investigative powers. By means of an official request submitted to the prosecution and judicial authorities the said Committee can initiate an investigation or seek the responsibility of any person who breached the non-discrimination clauses. The activity of the Committee and the application of the Law is under judicial supervision (in individual cases) and under the Parliamentary control (periodic review). Activity of the Antidiscrimination Committee is governed by a special law and regulations. The members of the Committee have already been appointed by the Parliament and begun their activity in June 2013.

## **The implementation of legislative framework and regulations**

### *Laws and regulations against domestic violence*

#### *The National Mechanism for preventing domestic violence*

21. According to the law on combating domestic violence the Government shall create the National Mechanism for preventing domestic violence. By its Decision no. 72 of 7 February 2012 the Government instituted the Coordination Inter-ministerial Committee for fighting against the domestic violence, whose main task is to synchronise all activities between all institutions involved. The Committee is composed of the representatives appointed by the local and central authorities, judiciary, prosecution, investigative authorities and civil society. It meets periodically and delivers its reports for the attention of the authorities and civil society. The Committee can instruct authorities in their policy for fighting domestic violence and

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<sup>1</sup> Law no. 5 of 09 February 2002 on equality between women and men.

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propose regulations or legislative amendments, if any. It organises periodically thematic events, conferences, publicity campaigns for rising awareness and sharing experiences.

22. Among relevant events, the Government indicates the consultative meeting of 12 November 2013 held under auspices of the Ministry of Labour, Social and Family Protection. In that meeting the representatives of General Prosecution Office, National Institute of Justice, National Mediation Council, National Council for Legal Aid, non-governmental organizations discussed the topic "Legal aid and gender equal access to justice" and, in particular, what guarantees should be afforded to vulnerable women and victims of domestic violence.

23. Between 25 November and 10 December 2013, the authorities undertook a wide publicity campaign entitled "16 active days against gender violence", which included social publicity spots, public trainings, education, round tables, discussions with persons in rural localities, flash mobs, dissemination of flayers, posters, paper guides, etc.<sup>2</sup> In this context, the representatives of UN WOMEN have mentioned that the Republic of Moldova was the first country able to bring a thorough anti-violence message and to imply the national authorities in a proactive manner.

24. The Ministry of Interior, which is also part of the National Mechanism for prevention of the domestic violence, undertakes a large anti-violence campaign. In 2013 it published almost 140 mass-media messages, among which 53 in television broadcasting, 14 radio broadcasting, dozens in the printed and internet mass-media. The police officers were instructed how to conduct themselves with victims and how to prevent domestic violence. They also brought the same message during their regular instruction meetings with population, young people, pupils and students, representatives of local authorities (in 2013 more than 5000 of such short meetings were held).

25. The authorities allocated funds to a private TV channel that envisages broadcasting a special telecast aimed to explain legal and social opportunities for victims of domestic violence. It is planned to have almost 12 broadcastings, 2 telethons and 3 TV spots in 2014.

26. The authorities envisage continuing their efforts in promotion of anti-violence message to the population.

*Antidiscrimination laws*

27. The implementation of the Antidiscrimination Law is underway. The plan for implementation of the Antidiscrimination Law proposes, *inter alia*: to harmonise the primary and secondary legislation with provisions of the Antidiscrimination law; to establish permanent annual NGOs Forum for promotion of diversity and equality; to hold events (trainings and seminars, workgroups, conferences, etc.) designed for dissemination of good practices in the field of non-discrimination; to include the topic on combating discrimination in the education curricula of the judges, prosecutors, police officers and other public officials; to widely disseminate the information on non-discrimination by means of publications in the official public web resources, mass media, at the public seminars and roundtables, etc.

*Judicial and investigative practices*

28. The judicial practice is subjected to supervision and changes by the intervention of the Supreme Court. What concerns the domestic violence, the Supreme Court delivered its [Explanatory Decision of 28 May 2012](#), which is specifically intended to deal with application of the Law on domestic violence and the relevant civil and criminal provisions applicable in this respect. Among other relevant explanations, the said Decision in particular emphasizes that once a judge issues a protection order in the domestic violence cases, the right to physical

<sup>2</sup> See for details

[http://mmps.gov.md/file/2013/Matricea%2016%20zile%202013%20compilat\\_20%20noiembrie.pdf](http://mmps.gov.md/file/2013/Matricea%2016%20zile%202013%20compilat_20%20noiembrie.pdf)

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and psychical integrity of the victims should prevail over all possession rights of an aggressor regardless of his or her civil status and relations with that victim. According to the Decision, the privacy rights are also succumbed in these cases<sup>3</sup>. The judges are instructed to apply directly the Court's case law and its findings in similar cases, even if the domestic legislation does not allow it expressly or if the legislation is eventually unclear<sup>4</sup>. While adjudicating the victim's complaints against his or her aggressor, the judges should give priority to the victim's interests and to rule in such a way as to discourage any other recurrences and to underline non-tolerance of the domestic violence<sup>5</sup>.

29. At the institutional level the police, as well as the judges and the prosecutors have agreed that the domestic violence cases require their particular attention and the need to find practical solutions in each individual case. The Police General Inspectorate has adopted internal regulations on how to establish and investigate offences resulted in physical injuries and/or psychological abuses. The General Prosecutor's Office elaborated practical guidelines for prosecutors in the field of combating domestic violence. Both institutions generalise annually the investigation practice and identify developments thereof.

*Professional improvement and education*

30. Under the auspices of the National Institute of Justice, the judges and prosecutors are continuously instructed in the field of the Court's case law, including the present judgments. In 2013 about 30 judges and 30 prosecutors were subjected to 3 educational courses dedicated to investigation and adjudication of the domestic violence cases. The OSCE provided its aid for these seminars.

31. The police officers also benefit from continuous instruction during their periodic seminars for professional improvement, where the present judgments have been discussed and the findings of the Court were brought to knowledge. In 2013 the Ministry of Interiors and the UNFPA organised more than 5 thematic seminars for 160 police officers. The Police Academy and the UNFPA have prepared and disseminated between the police-students the *Guide for application of legislation on combating the domestic violence*. Also, the Ministry of Interiors adhered to the UNFPA project for education of *formateurs* during which about 550 of local police officers are expected to be educated in methods and investigations of the domestic violence cases. They will beneficiate from 20 educational sessions and will be instructed how to disseminate and share good practices between their colleagues. In 2013 6 sessions have already taken place and the rest will be hold in 2014.

32. The [National Plan for Human Rights for 2011-2014](#) includes specific actions planned for combating domestic violence with the scope, in particular, of enhancing the National Institutional Mechanism for Prevention of the domestic violence<sup>6</sup>. These actions envisage to hold annually extensive educational programs for public servants and, in particular, for social services. For example, in 2013 in cooperation with non-governmental organizations for protection of women rights (*AO Centrul de drept al Femeilor*), international institutions (*UNWomen*) and the Austrian Embassy in Moldova, more than 175 public servants were instructed.

The Government will keep the Committee of Ministers informed about any relevant developments.

  
**Lilian APOSTOL**  
**Agent for the Government**

<sup>3</sup> see p. 12 of the said Explanatory Decision

<sup>4</sup> The Supreme Court made references to several leading cases of the Court, as for example *Opuz v. Turkey*.

<sup>5</sup> see p. 13 of the said Explanatory Decision

<sup>6</sup> See p. 33 of the Plan