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Meeting: 1377th meeting (June 2020) (DH)

Communication from an NGO (Promo-Lex) (17/04/2020) in the CATAN AND OTHERS group of cases v. Russian Federation (Application No. 43370/04)

Information made available under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1377^e réunion (juin 2020) (DH)

Communication d'une ONG (Promo-Lex) (17/04/2020) relative au groupe d'affaires CATAN ET AUTRES c. Fédération de Russie (requête n° 43370/04) **[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

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17 AVR. 2020

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

COMMUNICATION

in accordance with Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the
execution of judgments and of the terms of friendly settlements

Catan and others group of cases v. Russia
(Application No. 43370/04)

17 April 2020

DESCRIPTION OF THE CASE

1. The *Catan and Others* case concerns the violation of the right to education of 170 children or parents of children from Latin-script schools located in the Transdniestrian region of the Republic of Moldova (violation of Article 2 of Protocol No. 1 by the Russian Federation). Pursuant to the 'Moldavian Republic of Transdniestria' (the 'MRT') 'law' on languages, they suffered from the forced closure of these schools between August 2002 and July 2004, together with measures of harassment.
2. The European Court of Human Rights observed that there was "no evidence of any direct participation by Russian agents in the measures taken against the applicants, nor of Russian involvement in or approbation for the 'MRT's language policy in general." Nonetheless, it held that the Russian Federation exercised effective control over the 'MRT' during the period in question and that "by virtue of its continued military, economic and political support for the 'MRT', which could not otherwise survive, the Russian Federation incurred responsibility under the Convention for the violation of the applicants' rights to education."
3. The Committee of Ministers (CM) last examined this group at its 1362nd meeting, in December 2019. The Notes on the agenda conclude that the information provided by the Russian government in November 2019 could not be considered an Action Plan, as the CM had requested. The CM, in its [decision](#), expresses "regret that, some seven years after the *Catan and Others* judgment became final, no action plan has been provided."
4. Also, the Committee recalled that there was an unconditional obligation on the respondent State to abide by final judgments. This included the obligation to pay the just satisfaction awarded by the Court to the applicants to compensate them for non-pecuniary damage and legal costs and expenses, which remains unpaid more than seven years after the judgment was delivered (see 'Individual measures' below).
5. The Committee therefore firmly urged the Russian authorities to provide an action plan containing concrete measures by 31 March 2020 for these cases and, in the absence of an Action Plan by that date, instructed the Secretariat to prepare a draft interim resolution for consideration at their 1377th meeting (June 2020) (DH).
6. We noted with disappointment that the Russian Federation has not provided any information in this regard. In the absence of a Government Action Plan, the present submission, which follows on from our Rule 9.2 communications of [June 2013](#), [February 2019](#) and [November 2019](#), documents the lack of progress in the implementation of the individual and general measures required under the *Catan and Others* case.

ABOUT PROMO-LEX

7. Promo-LEX Association is a non-governmental, not-for-profit and politically independent human rights and advocacy organization established in 2002 and registered with the Ministry of Justice of the Republic of Moldova on July 19, 2002.
8. Promo-LEX's mission is to advance democracy in the Republic of Moldova through promoting and defending human rights and strengthening civil society. Promo-LEX does its work through two Programs: Human Rights Program and Monitoring Democratic Processes Program.

INDIVIDUAL MEASURES: PROLONGED FAILURE TO PAY JUST SATISFACTION AWARDS

9. The Court held that the Russian Federation was to pay EUR 6,000, plus any tax that may be chargeable, in respect of non-pecuniary damage to each applicant named in the annex

of the *Catan and Others* judgment, and EUR 50,000, plus any tax that may be chargeable to the applicants, in respect of costs and expenses, to all the applicants jointly.

10. More than seven years after the Court issued its judgment, no payment has been made. None of the applicants have received even part of the sum awarded by the Court. We consider that the failure, for more than seven years, to pay compensation – which could in fact be considered the reparation measure that is easiest to comply with – shows that the Russian Federation is flagrantly disregarding its obligation under article 46 of the Convention to execute the *Catan and Others* judgment.
11. In the initial period after the judgment became final, some of the applicants submitted requests for payment of the sums which the Court had awarded them to the Russian government. The Russian authorities never responded to these requests.
12. The long lapse of time since the judgment became final presents challenges for both the applicants and their legal representatives, who are often struggling to maintain contact with the applicants. For the applicants who are residents of Transnistrian region, it is difficult to keep their bank accounts open for such a long period of time to allow for payment because this implies costs which they will not be able to recover. Moreover, the addresses of many applicants have changed over the years. After graduating from school, many left the region for other cities or countries.
13. In this sense, the Russian authorities' prolonged failure to comply with the individual measures required under *Catan and Others* have created additional obstacles to the payment of the sums awarded by the Court. We consider, therefore, that the Russian authorities should be responsible for the identification of the location of each of the 170 applicants and find the best way of paying the just satisfaction, including the interest that has accumulated over the years, to each and every one of them.¹

GENERAL MEASURES: Failure by the Russian authorities to submit an Action Plan

14. As we stressed in previous submissions to the CM, several obstacles and issues have been identified leading the Court to find a violation of the right to education. Based on the Court's findings, we detailed a series of general measures that need to be taken by the Government of the Russian Federation, given its undeniable control over the public policies and the actions of the 'Government and President of Transdnistria'.
15. However, the problems highlighted by the applicants through the years persist even today.
16. The provisions limiting the use of the Latin script for the functioning of the Romanian language in the eastern territory of the Republic of Moldova (see §142 of the Court's Judgment) is still in force, seven years after the judgment.
17. Each of the schools operates in a distinct environment and is facing different kinds of problems in their activity, such as problems with access to adequate premises; obstacles for transportation of goods and delivery of supplies; and obstacles to the freedom of movement/transportation of children.
18. Most of the schools do not have their own premises, being obliged instead to rent buildings from their local administration and private companies operating in the region. The negotiations regarding the rental price are conducted with the local *de facto* administration based on an individual approach towards each school.

¹ These repercussions of the lack of collaboration from the Russian authorities' side were highlighted in a letter to the DEJ dated 14 February 2020 from the lawyers of Promo-LEX Association, who represented the applicants in the proceedings before the Court.

19. Harassment and persecution of teachers and pupils has persisted even after the event described in *Catan and Others* judgment. We would like to mention that, in the case of *Iovcev and others v. Moldova and Russia* (Appl. no. 40942/14, judgment of 17 September 2019), the Court found a violation of Article 2 of Protocol 1 to the Convention, on account of harassment of pupils and teachers from Romanian language schools in the Transnistrian region in the year 2014. It is submitted that this new violation stems from the Russian Federation's continuous inaction regarding the final judgment in *Catan and Others*.
20. Having examined the information notes submitted by the Government of the Russian Federation, we consider that they do not respond to the need to execute the general measures that the respondent Government must adopt. The lack of an Action Plan represents an implicit acknowledgement of the fact that the Court's judgment has not been executed, more than seven years after it was handed down.

CONCLUSIONS AND RECOMMENDATIONS

21. We recall the respondent State's obligation, under Article 46 § 1 of the Convention, to abide by all final judgments in cases to which it has been a party and that this obligation entails having to pay the just satisfaction awarded by the Court, as well as to take the necessary measure not to prevent similar violations in future.
22. In the proceedings under 46 § 4 in the case of *Ilgar Mammadov v. Azerbaijan* (Application no. [15172/13](#)), the European Court of Human Rights stated that "the execution of the Court's judgments should involve good faith on the part of the High Contracting Party. As the Court had noted in the first *Mammadov* judgment (§ 137), the whole structure of the Convention rests on the general assumption that public authorities in the member States act in good faith. That structure includes the supervision procedure and the execution of judgments should also involve good faith and take place in a manner compatible with the 'conclusions and spirit' of the judgment []."
23. Even though in case of *Mammadov*, the Azerbaijan Government paid the just satisfaction award and presented an Action Plan for implementation of the judgment, the Court found that the actions taken by the authorities were not enough to put an end to the violation. In the case of *Catan and Others*, the Russian Government has not even paid any damages and did not present any Action Plan. Moreover, the Russian Government did not take any measures to end the violation of pupils' right to education, despite the Committee having adopted numerous decisions and interim resolutions by which it reminded the respondent state that it was obliged to execute this final judgment. We submit that this is clear evidence of a lack of good faith on the part of the Russian authorities.
24. Stressing that more than seven years have elapsed since the Court's judgment was handed down, and that the Russian authorities have taken no tangible steps to execute the judgment, we ask the Committee to consider referring to the Court, in accordance with **Article 46 § 4 of the Convention**, the question of **whether the Russian Federation has failed to fulfil its obligation under Article 46 § 1 to execute the judgment on the *Catan and Others* case**.
25. We request that the Russian Government proceed, without delay, to pay, in full, the sums owed to the applicants and to present an Action Plan to the Committee of Ministers. To facilitate the procedures of payment, the applicants' representatives are prepared to set up a single bank account, and to coordinate the distribution of the just satisfaction to the applicants.
26. Also, we request the case to be included in every session of the Committee of Ministers until it is executed in full.