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Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1514th meeting (December 2024) (DH)

Reply from the authorities (23/10/2024) following a communication from the applicant concerning the case of Mereacre v. Republic of Moldova (Application No. 9353/13) (Olaru group, 476/07).

Information made available under Rule 9.5 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 : 1514^e réunion (décembre 2024) (DH)

Réponse des autorités (23/10/2024) suite à une communication du requérant relative à l'affaire Mereacre c. République de Moldova (requête n° 9353/13) (groupe Olaru, 476/07) **[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 9.5 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



DGI

23 OCT. 2024

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

MINISTRY OF JUSTICE OF THE REPUBLIC OF MOLDOVA GOVERNMENT AGENT

No. 06/9436

Chisinau, 23 October 2024

REPLY

to the Communication of the applicant
on the individual measures in the case of
Mereacre v. the Republic of Moldova (no. 9353/13 and other 7 applications),
judgment of 18 January 2024

1. The Government of the Republic of Moldova (hereinafter “the Government”) hereby submit their position in reply to the communications submitted by the applicant concerning the individual measures in the above-mentioned judgment (see [https://hudoc.exec.coe.int/?i=DH-DD\(2024\)760E](https://hudoc.exec.coe.int/?i=DH-DD(2024)760E) and [https://hudoc.exec.coe.int/?i=DH-DD\(2024\)1084E](https://hudoc.exec.coe.int/?i=DH-DD(2024)1084E)).

2. In the present case the European Court of Human Rights (hereinafter “the Court”) found a violation of Article 6 § 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter “the Convention”) and of Article 1 of Protocol No. 1 to the Convention, as a result of the non-execution of the judgment favorable to the applicant Valeriu Mereacre, pronounced by the Buiucani District Court of the Chisinau Municipality on 7 December 2009, by which a private company, M., was obliged to pay for the benefit of the applicant a debt in the total amount of 30.265,25 Moldovan Lei.

3. The Court reiterated its case-law and the general principles regarding the enforcement of final judgments and found, after examining all the elements submitted to it, that there were no facts or arguments which would lead it to reach to a different conclusion on the admissibility and merits of the complaint. In the light of its case-law on the matter, the Court considered that, in the present case, the national authorities did not make sufficient efforts to ensure the full and timely execution of the final judgment in favour of the applicant.

4. The Court further noted that the enforcement proceedings were pending at the national level and that the applicant still had the possibility to obtain the execution of the judgment favourable to him within the internal proceedings. Therefore, the Court held that the Government should use the appropriate means to ensure the execution of the judgment in the applicant's favour.

5. Based on the Court's findings, for the purpose of a speedy and full enforcement of the final judgment favourable to the applicant, the Government Agent notified the National Union of Bailiffs regarding the violation of the applicant's rights guaranteed by Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention. At the same time, taking into account the particular circumstances of the present case, relevant information was requested regarding the evolution of the execution procedure in regard to the judgment of the Buiucani District Court of the Chisinau Municipality of 7 December 2009, along with the undertaking of all measures provided by law to ensure the prompt and full execution of the respective judgment.

6. In reply to the applicant's complaints raised before the Committee of Ministers, it should be noted that, according to the information submitted by the Public Services Agency, the private debtor –

company M. – was registered in the State Register of Legal Entities on 17 September 2004, and there is currently no information in the respective Register about any suspension of its activity, any initiation of insolvency proceedings in its regard or any liquidation of the respective company. Therefore, since the private debtor still exists, the applicant is still empowered to obtain his debt within corresponding enforcement procedures.

7. Furthermore, according to the circumstances of the present case, by the bailiff's ruling of 1 March 2011, the enforceable writ related to the judgment of the Buiucani District Court of the Chisinau Municipality of 7 December 2009 was returned to the applicant, given that the debtor did not have any assets or incomes. In this regard, it should be noted that Article 17 of the Enforcement Code allowed the applicant to resubmit for enforcement – within a period of three years – the judgment of the Buiucani District Court of the Chisinau Municipality of 7 December 2009. Since the applicant has already omitted this term, according to Article 18 of the Enforcement Code, he may request before a court of law his reinstatement within the limitation period, since as basis for initiating a new enforcement procedure at the competent territorial bailiff serves the enforcement writs expressly stipulated in Article 11 of the Enforcement Code.

8. In this context, it should be noted that the debtor company continues to exist, whereas the applicant has not resubmitted the enforcement writ for execution within the above-mentioned three-year term. Hence, currently there are no enforcement proceedings pending.

9. However, the applicant has the possibility to lodge an action before the national courts in order to ask for being reinstated within that limitation period, which would allow him to repeatedly submit the enforcement writ for execution. The domestic law does not allow the domestic authorities to come with such initiative, since this is a lever that only the creditor/applicant has.

10. In the same context, it should be reiterated that, according to the case-law of the Court, the State cannot be obliged to compensate the debts of private debtors. In such situations, the State's obligation based on Article 6 § 1 of the Convention is to equip itself with an adequate and sufficient legal arsenal to ensure the execution of a judgment pronounced against a private debtor. Hence, during a period of more than 13 years, and not even after the delivery of the Court's judgment, has the applicant availed himself of the relevant legal rules in order to seek his reinstatement in the limitation period, which would allow him to repeatedly submit the execution writ against the private debtor, so that the bailiff could undertake all the necessary and possible measures within corresponding enforcement proceedings. Instead, he seeks this amount directly from the Government, although no such thing results from the Court's judgment delivered in his case.

11. The Government undertake to further keep the Committee of Ministers informed about any possible individual measures undertaken at national level in the above case.



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Acting Government Agent