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**DH-DD(2019)1299**

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Meeting: 1362<sup>nd</sup> meeting (December 2019) (DH)

Communication from the authorities (07/11/2019) in the case of CATAN AND OTHERS v. Russian Federation (Application No. 43370/04)

Information made available under Rule 8.2a 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 : 1362<sup>e</sup> réunion (décembre 2019) (DH)

Communication des autorités (07/11/2019) dans l'affaire CATAN ET AUTRES c. Fédération de Russie (requête n° 43370/04) **[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 8.2a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

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**МИНИСТЕРСТВО ЮСТИЦИИ  
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**DEPARTMENT FOR THE  
EXECUTION OF JUDGMENTS  
OF THE EUROPEAN COURT  
OF HUMAN RIGHTS**

Mr Fredrik Sundberg

07.11.2019 № 10-3150-19

На № \_\_\_\_\_ от \_\_\_\_\_

Dear Sir,

Please find enclosed the information of the Russian authorities with regard to the judgment of the European Court of Human Rights in the case "*Catan and Others v. Republic of Moldova and the Russian Federation*".

Yours faithfully,

Head of the Office of Representative  
of the Russian Federation at  
the European Court of Human Rights

Andrey Fedorov

Enc: on 2 pages.

Prepared for the CM (DH) meeting  
in December 2019

**Information**  
**with regard to the judgment of the European Court of Human Rights**  
**in applications nos. 43370/04, 8252/05, 18454/06**  
***“Catan and Others v. Republic of Moldova and the Russian Federation”***

In the judgment on the case of *“Catan and Others v. the Republic of Moldova and Russia”* (hereinafter – “the *Catan* case”) the European Court applied its own “effective control” doctrine, having attributed to Russia the responsibility for violations occurred in the territory of another State, to which the Russian authorities had no relation whatsoever, which created serious problems of practical implementation of this judgment.

It is recalled that the Russian authorities have applied significant efforts in order to find acceptable solutions for ways out of this situation.

Since January 2015, a number of events were held in Moscow, St. Petersburg and Strasbourg (round tables, consultations and conferences, including on a high level), at which issues, related to the problems of extraterritorial responsibility of states in the light of the practice of the European Court, were substantively discussed. These issues, including in the context of the application by the European Court of the doctrine of “effective control”, the relationship of this practice with the norms of international law and the practice of other international courts, were also discussed at two sessions of the St. Petersburg International Legal Forum held in May 2018. A similar conference was also held in Chisinau. Detailed information on these events is contained in the documents DH-DD(2018)779 and DH-DD(2019)123).

Conference proceedings are published on the websites of the organizers. A special issue of the journal “Case-law of the European Court of Human Rights” was prepared and distributed in cooperation with the Council of Europe between the judges of the ECHR, the representatives of the CMCE’s Secretariat and the member-states of the Convention. It reflected the deep discussions at these conferences regarding the search for acceptable solutions to the situation that has arisen in connection with the judgment of the ECHR on the so-called “Transnistrian cases”.

These events, held in the Russian Federation and at other venues, confirmed the complexity of the existing situation and also demonstrated the need to further search for weighted and relevant ways out of the current situation with the participation of prominent Russian and foreign experts.

In view of the foregoing, the Russian authorities continued their efforts in this regard during the reporting period.

At the regular St. Petersburg International Legal Forum, held in May 2019, the discussion (started at the conference in Moscow in November 2018) was continued on the

topic of evidence in international courts and tribunals. During the discussion at these events, the relevance, admissibility and use of evidence were discussed, including with respect to evidence under the doctrine of “effective control”. The discussion was attended by prominent Russian and foreign experts and scientists.

Along with this, the work is being continued on the issues related to application of the “effective control” doctrine by the ECHR in the framework of the Experts Committee on the Convention System (DH-SYSC).

The problematics of application by the ECHR of the “effective control” doctrine were reflected in the section “State responsibility and extraterritorial application of the European Convention on Human Rights” of the draft report of the Human Rights Steering Committee “On the place of the Convention for the Protection of Human Rights and Fundamental Freedoms in European and International Legal Orders” preliminarily adopted at the meeting of the Committee of Experts on the Convention System (15-18 October 2019). The draft document contains important provisions which, it is believed, will help find solutions to the problematic issues arising from the *Catan* case and other similar cases. The final adoption of this section of the draft report will take place on 26-29 November 2019 at the meeting of the Steering Committee for Human Rights (CDDH) with subsequent transmission to the Committee of Ministers for information.

During the reporting period regular rounds of consultations were held between the Representative of the Russian Federation at the European Court of Human Rights and representatives of the CMCE Secretariat and other Council of Europe structures on the search for mutually acceptable solutions to the current situation.

Considering that the problems of execution of the judgment in the *Catan* case stem from the judgment of the European Court itself, the efforts have been made to resolve the relevant problems in the framework of new communications of the European Court on the so-called “Transnistrian cases”. The Russian authorities have collected and analyzed information in this regard, which is submitted to the ECHR for consideration and, it seems, can contribute to resolution of the situation, taking into account the existing realities. The relevance of this approach is obvious, since the situation directly in Transnistria does not stand still, including thanks to the efforts of peacekeeping missions.

The Russian authorities proceed from the fact that a detailed and independent consideration of all circumstances directly by the European Court is necessary, taking into account the arguments and materials presented not only by Russia and the Republic of Moldova, but also information from local authorities of the Transnistrian region.

The Russian authorities believe that the measures taken by them constitute real implementation of the recommendations set out in the decisions of the Committee of Ministers on the necessity to continue constructive dialogue in order to find solutions for the problematic issues related to the Court’s judgment in the *Catan* case.