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COMMITTEE
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Contact: John Darcy
Tel: 03 88 41 31 56

Date: 08/01/2019

DH-DD(2019)15

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: 1340th meeting (March 2019) (DH)

Communication from the applicant (07/12/2018) in the case of Omegatech Entreprises Ltd. v. Romania (Application No. 24612/07) (judgment S.C. Polyinvest S.R.L. v. Romania (Application No. 20752/07) (Sacaleanu group (73970/01))).

Information made available under Rule 9.1 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Réunion : 1340^e réunion (mars 2019) (DH)

Communication du requérant (0712/2018) relative à l'affaire Omegatech Entreprises Ltd. c. Roumanie (requête n° 24612/07) (arrêt S.C. Polyinvest S.R.L. c. Roumanie (requête n° 20752/07) (groupe Sacaleanu (73970/01))). **(Anglais uniquement)**.

Informations mises à disposition en vertu de la Règle 9.1 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

De: Marijan Kepic <omegakepic@gmail.com>
Envoyé: vendredi 7 décembre 2018 14:56
À:
Cc: ilo Na K epic
Objet: Communication/complaint dated 07 December 2018 - non-payment of judgement in application 24612/07 joined to 20752/07 Fwd:
Communication/complaint dated 08 October 2018 - non-payment of judgement in application 24612/07 joined to 20752/07
Pièces jointes: Evidence of bank details and receivables list sent 20 04 2018.pdf; HUDOC-EXEC Status on 28 09 2018, 23 10 2018, 06 12 2018 „Case Details“ - Payment Information.pdf; ECHR-LE20.2bR IBAOLTdcz transmission letter and delivery of Judgment of the European Court of Human Rights dated 29 March 2018.pdf; 3125_001.pdf; Email received from DGI Council of Europe 26 April 2018 at 10.15 hours with subject title EXEC - Omegatech Enterprises Ltd., Application No. 2461207 (S.C. Polyinvest S.R.L. and others v. Romania, Appl. no. 2075207)".pdf

Council of Europe

- Department for the Execution of ECHR judgments
at the DGI (Directorate General of Human Rights and Rule of Law)
F-67075 Strasbourg Cedex

by Email:

dgI_execution_just_satisfaction@coe.int & christophe.poirel@coe.int

- Directorate General of Human Rights and Rule of Law
- Finnish Presidency of the Committee of Ministers of the Council of Europe
- Private Office of the Secretary General



Email: omegakepic@gmail.com
ilokepic@gmail.com

07/December 2018

Ref.: Application no. 24612/2007
Omegatech Enterprises Ltd. v. Romania
With received communication: Filtering Section ECHR-LE20.2bR
IBA/OLT/dcz dated 29 March 2018

Communication/complaint dated 07 December 2018

Judgement in Application no. 24612/2007
Omegatech Enterprises Ltd. v. Romania
Joined to application no. 20752/07 - S.C. Polyinvest S.R.L. v. Romania

Dear Sirs/Madams,

Please find our communication/complaint dated 07 December 2018 herewith.

Below you may see our communication/complaint from 08 October 2018 in accordance with the procedure described on the website of the Department for the Execution of Judgments of the European Court of Human

Rights <https://www.coe.int/en/web/execution/payment-information> where we notified the Department for the Execution of Judgments of the European Court of Human Rights together with 3 pages attachment „Evidence of bank details and receivables list sent 20 04 2018“ that until the ‚deadline for complaint 08/10/2018‘ we had indeed not received payment from the respondent state, Romania, being the sum of USD 4.665.912,03 as only per the date of the Judgement of 29 March 2018 only, and further. We forward the communication/complaint **sent on 08 October 2018** by email at 16:21 hours - **non-payment of judgement in application 24612/07 (Omegatech Enterprises Ltd. v. Romania) joined to 20752/07 S.C. Polyinvest S.R.L. v. Romania** with its total 3 pages attachment {in attachment 1} (*Evidence of bank details and receivables list sent 20 04 2018: including the Email sent 20 April 2018 at 16:19 hours to the Department for the Execution of Judgments of the European Court of Human Rights at the DGI (Directorate General of Human Rights and Rule of Law) of the Council of Europe with the subject title: Judgement dated 29 March 2018 in the application 24612/07: Bank details (1/3 pages), the payment request (the letter for payment of the Judgment) of the sum in the amount of USD 4.665.912,03 as per 29.03.2018 only, to be received within the time frame legally set along with bank account information (2/3 pages), the Receivables List (3/3 pages)*) to the Department for the Execution of ECHR Judgements (Directorate General I of Human Rights and Rule of Law) dgi.execution.just.satisfaction@coe.int and the Head of the Human Rights Directorate Mr. Christophe Poirel christophe.poirel@coe.int.

Repeating and following our communication/complaint from 08 October 2018, also the HUDOC-EXEC database of the Department for the Execution of Judgments of the European Court of Human Rights stated on 28 September 2018 „**Payment information: Paid**“ and then under „Case details“ stated: „Payment information: Just Satisfaction paid on 08/08/2018, **deadline for the applicant to complain: 08/10/2018**“; on 23 October 2018 stated under „Case details“: „Payment information: Just Satisfaction paid on 08/10/2018, deadline for the applicant to complain: 08/12/2018“, the information on the HUDOC-EXEC database still states on 06 December 2018 „**Payment information: Paid**“ and then under „Case details“: „Payment information: Just Satisfaction paid on 08/10/2018, **deadline for the applicant to complain: 08/12/2018**“. We attach these 5 pages attachment {in attachment 2} (*HUDOC-EXEC Status on 28 09 2018, 23 10 2018, 06 12 2018 „Case Details“ - Payment Information*).

Now, also as described on the website for the Execution of Judgments of the European Court of Human Rights, we are forced to submit this communication today, 07 December 2018 as [quote from website open]: „once this deadline has passed the applicant is [being] considered as having **accepted payment of the sums on the State’s terms and conditions**“ [end of quote from website] and we do not accept this non-payment by the respondent state Romania until today as the [quote from website open]: „payment of the sums on the State’s terms and conditions“ [end of quote from website], thus we send our communication/complaint today. Until today, 07 December 2018 we have not received any payment from the respondent state Romania **as per the Judgment of the European Court of Human Rights in our application 24612/07 (Omegatech Enterprises Ltd. v. Romania) joined to 20752/07 S.C. Polyinvest S.R.L. v. Romania** and the transmission letter of the European Court of Human Rights dated 29 March 2018 and the payment request (the letter for payment of the Judgment) of **the sum in the amount of USD 4.665.912,03 as per 29.03.2018 only**, to be received within the time frame legally set along with bank account information and the Receivables List sent on 20 April 2018 to the Department for the Execution of Judgments of the European Court of Human Rights at the DGI (Directorate General of Human Rights and Rule of Law) of the Council of Europe and its dispatch/receipt firmly confirmed.

We attach 7 pages attachment {in attachment 3} (*ECHR-LE20.2bR IBA/OLT/dcz transmission letter and delivery of Judgment of the European Court of Human Rights dated 29 March 2018*) the above referenced transmission letter (1 page) which enclosed the final Judgment of the European Court of Human Rights in our application no. 24612/07 Omegatech Enterprises Ltd. v. Romania dated 29 March 2018 joined to 20752/07 - S.C. Polyinvest S.R.L. v. Romania (6 pages). Further we attach {in attachment 3} (*3125_001*) the payment request (the letter for payment of the Judgment) of **the sum in the amount of USD 4.665.912,03 as per 29.03.2018 only**, to be received within the time frame legally set along with bank account information (1/3 pages) and the Receivables List (2/3 pages) and the fax transmission report dated 20 April 2018 (3/3 pages) of the fax sent to the fax number +33 3 88 41 27 93 of the Department for the Execution of Judgements of the European Court of Human Rights at the DGI (Directorate General of Human Rights and Rule of Law) on 20 April 2018. In attachment 5 we send 1 page {in attachment 5} (*Email received from DGI Council of Europe 26 April 2018 at 10.15 hours with subject title "EXEC - Omegatech Enterprises Ltd., Application No. 24612/07 (S.C. Polyinvest S.R.L. and others v. Romania, Appl. no. 20752/07)"*), the email received on 26 April 2018 at 10:15 hours with the subject title „EXEC - Omegatech Enterprises Ltd., Application No. 24612/07 (S.C. Polyinvest S.R.L. and others v. Romania, Appl. no. 20752/07)“ from the Directorate General of Human Rights

and Rule of Law - Department for the Execution of Judgments of the European Court of Human Rights (1 page).

Further to the above and due to this current status of **non-payment of the Judgment of the European Court of Human Rights in our application 24612/07 (Omegatech Enterprises Ltd. v. Romania) joined to 20752/07 S.C. Polyinvest S.R.L. v. Romania**, we send this communication/complaint directly -as advised on 30 November 2018 by the Adviser to the Secretary General of the Council of Europe Mr. Frédéric Dolt- to <https://www.coe.int/en/web/execution/contact-us>, asking the Department for the Execution of Judgments of the European Court of Human Rights kindly to please take urgent action, so that also the payment information under „Case details“ on the HUDOC-EXEC database clearly and visibly shows the information that the **Judgment of the European Court of Human Rights in our application 24612/07 (Omegatech Enterprises Ltd. v. Romania) joined to 20752/07 S.C. Polyinvest S.R.L. v. Romania is not paid** further to bringing this complaint of non-payment, neither within nor out-of- time limit set by the Court and not until today, of the **Judgment of the European Court of Human Rights in our application 24612/07 (Omegatech Enterprises Ltd. v. Romania) joined to 20752/07 S.C. Polyinvest S.R.L. v. Romania dated 29 March 2018**, to the much needed attention of the honoured Committee of Ministers, being overdue, so please have this information reflected on the relevant documents and lists of the Committee of Ministers, so that this case and more specifically case of non-payment, as we have been informed by email from the Director General of the Directorate General Human Rights and Rule of Law Mr. Christos Giakoumopoulos on 15 October 2018 „is under the supervision of the Committee of Ministers and will remain so until the payment is made“, and to put the **time for debate** on the agenda for the next 1340th (Human Rights) Meeting in March 2019 for the case Omegatech Enterprises Ltd. v. Romania (Application No. 24612/07) (judgment S.C. Polyinvest S.R.L. v. Romania (No. 20752/07) (Sacaleanu group (73970/01) **so the case is examined with debate during the CM-DH 1340th meeting (March 2019) (DH)** recalling the unconditional obligation of Romania under Article 46 of the European Convention of Human Rights that Romania is bound by and so is to abide by the final and binding Judgement of the European Court of Human Rights in 24612/07 Omegatech Enterprises Ltd. v. Romania (joined to 20752/07 S.C. Polyinvest S.R.L. and others v. Romania) of 29 March 2018 and pay the final and binding Arbitral Award of the International Court of Arbitration, Paris 23/08/2002- Place of Arbitration: Geneva (also final and binding domestic recognition and enforcement -in USD- as of 01/07/2003). Also under the judgment of European Court of Human Rights dated 29 March 2018, the respondent state, Romania, as from 30 June 2018 with expiry from the deadline set by the European Court of Human Rights being 30 June 2018, is in default period, already by nearly 6 months now; the final and binding Judgment of the European Court of Human Rights dated 29 March 2018 carefully provided for.

We kindly ask you to publish and distribute to the Council of Europe member states' national delegations in Strasbourg this communication/complaint including its attachments.

Thank you very much in advance.

With best regards,
Marijan Kepic
Representative of the Applicant

Attached (19 pages):

Attachment 1: *Evidence of bank details and receivables list sent 20 04 2018*: including the Email sent 20 April 2018 at 16:19 hours to the Department for the Execution of Judgments of the European Court of Human Rights at the DGI (Directorate General of Human Rights and Rule of Law) of the Council of Europe with the subject title: Judgement dated 29 March 2018 in the application 24612/07: Bank details (1/3 pages)

the payment request (the letter for payment of the Judgment) of **the sum in the amount of USD 4.665.912,03 as per 29.03.2018 only**, to be received within the time frame legally set along with bank account information (2/3 pages)
the Receivables List (3/3 pages))

Attachment 2: *HUDOC-EXEC Status on 28 09 2018, 23 10 2018, 06 12 2018 „Case Details“ - Payment Information*: including HUDOC-EXEC 28 September 2018 „Payment information Paid“ (1 page)

HUDOC-EXEC „Case details“ 28 September 2018 Payment information paid on 08/08/2018, deadline to complain 08/10/2018 (1 page)

HUDOC-EXEC „Case details“ 23 October 2018 Payment information paid on 08/10/2018, deadline to complain 08/12/2018 (1 page)

HUDOC-EXEC 06 December 2018 „Payment information Paid“ (1 page)

HUDOC-EXEC „Case details“ 06 December 2018 Payment information paid on 08/10/2018, deadline to complain 08/12/2018 (1 page)

Attachment 3: *ECHR-LE20.2bR IBA/OLT/dcz transmission letter and delivery of Judgment of the European Court of Human Rights dated 29 March 2018* (1+6 pages)

Attachment 4: 3125_001:

including the payment request (the letter for payment of the Judgment) of the sum in the amount of USD 4.665.912,03 as per 29.03.2018 only, to be received within the time frame legally set along with bank account information (1/3 pages)

the Receivables List (2/3 pages)

the fax transmission report dated 20 April 2018 (3/3 pages) of the fax sent to the number +33 3 88 41 27 93 of the Department for the Execution of Judgements of the European Court of Human Rights at the DGI (Directorate General of Human Rights and Rule of Law) on 20 April 2018.

Attachment 5: *Email received from DGI Council of Europe 26 April 2018 at 10.15 hours with subject title "EXEC - Omegatech Enterprises Ltd., Application No. 24612/07 (S.C. Polyinvest S.R.L. and others v. Romania, Appl. no. 20752/07)"*: from the DGI - Directorate General of Human Rights and Rule of Law Council of Europe - Department for the Execution of judgments of the European Court of Human Rights

----- Forwarded message -----

From: **Marijan Kepic** <omegakepic@gmail.com>

Date: Mo., 8. Okt. 2018 um 16:21 Uhr

Subject: Communication/complaint dated 08 October 2018 - non-payment of judgement in application 24612/07 joined to 20752/07

To: <dgi_execution_just_satisfaction@coe.int>, <christophe.poirel@coe.int>

Cc: ilo Na K epic <ilokepic@gmail.com>

Council of Europe

- Department for the Execution of ECHR judgements
at the DGI (Directorate General of Human Rights and Rule of Law)
F-67075 Strasbourg Cedex
by Email to: dgi_execution_just_satisfaction@coe.int

- Directorate General of Human Rights and Rule of Law

- Private Office of the Secretary General

Email: omegakepic@yahoo.com
ilokepic@gmail.com

08/October 2018

Ref.: Application no. 24612/2007
Omegatech Enterprises Ltd. v. Romania
Last received communication: Filtering Section
ECHR-LE20.2bR
IBA/OLT/dcz dated 29 March 2018

Communication/complaint dated 08 October 2018

Judgement in Application no. 24612/2007
Omegatech Enterprises Ltd. v. Romania
Joined to application no. 20752/07 - S.C. Polyinvest S.R.L. v. Romania
Dear Sirs/Madams,

as described on your website <https://www.coe.int/en/web/execution/payment-information>) kindly find the requested **communication/complaint within the deadline** of two months from the date of the publication of the lists (in our case being: 08/08/2018), thus 08/10/2018.

It is further described on your website that a complaint must be sent to the above address „if there is a problem“: **Until today, 08/10/2018 we have not received payment from the respondent state, being the sum of USD 4.665.912,03 as only per the deadline of the Judgment of 29 March 2018 only.**

For the payment of the Judgement we have correctly notified you on 20/04/2018 (find a copy of evidence attached) the bank details and the receivables list of the above receivables amount in accordance with the instructions found in the subject referenced, thus followed correctly, also as described on your website „the procedure ... to obtain a swift payment is described in the transmission letter of the judgement of the Court“ dated 29 March 2018.

This communication/complaint being notified and submitted today 08/10/2018, we **do not** -again as described on your website- „once this deadline has passed the applicant is [being] considered as having **accepted payment of the sums on the State’s terms and conditions**“.

Thank you very much for your attention and urgent action to update the status of the case.

With best regards,
Marijan Kepic
Representative of the Applicant

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Judgement dated 29 March 2018 in the application 24612/07: Bank details

ilo Na K epic <ilokepic@gmail.com>

20 April 2018 at 16:19

To: dgl_execution_just_satisfaction@coe.int

Dear Department for the Execution of European Court of Human Rights (ECHR) judgements
at the Directorate General of Human Rights and Rule of Law,

Kindly find attached the communication for the attention of your department.

Please confirm receipt of this email and its attachment.

Thank you very much in advance.

Respectfully yours,
Marijan Kepic



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 **Letter to Council of Europe_Department dated 20 April 2018.pdf**
84K

Council of Europe
Department for the Execution of ECHR judgements
at the DGI (Directorate General of Human Rights and Rule of Law)
F-67075 Strasbourg - Cedex
Fax: +33 (0)3 88 41 27 93
Email: dgl_execution_just_satisfaction@coe.int

Marijan Kepic
Bratov Babnik 21
SLO-1000 Ljubljana
Mob.: +386 41 686 282

E-mail: omegakepic@gmail.com
ilokepic@gmail.com

20/April 2018

Ref.: Application no. 24612/2007
Omegatech Enterprises v. Romania
Last received communication: Filtering Section
ECHR-LE20.2bR
IBA/OLT/dcz dated 29 March 2018

Dear Department for the Execution of European Court of Human Rights judgements
at the Directorate General of Human Rights and Rule of Law (DGI),

We are in receipt of the above referenced letter which enclosed the Judgement in our
application 24612/07, for which we thank you very much.

For the payment of the Judgement kindly find the bank details of the account of our
lawyers:

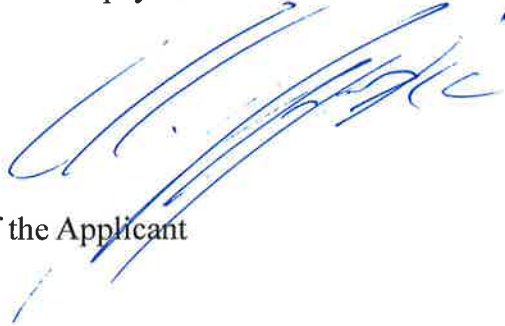
Florentz und Partner mbB
UniCredit Bank AG HypoVereinsbank München
IBAN DE77700202700657566217
BIC HYVEDEMMXXX

Also a receivables list is enclosed.

Please let us know when payment will be done.

Faithfully yours,

Marijan Kepic
Representative of the Applicant



31.05.1999	Award of ICC Paris dated August 23, 2002	Amount	Sum	
29.03.2018	Interest of 18% aac. Award of ICC Paris dated August 23,2002 18,00% of 1.046.449,68 US\$ from 31.05.1999 till 29.03.2018 (6878 days)	1.046.449,68	1.046.449,68	US\$
31.05.1999	Costs acc. Award of ICC Paris dated August 23, 2002	3.546.862,35	4.593.312,03	US\$
29.03.2018	Total	72.600,00	4.665.912,03	US\$

Additional Interest from the date of March 30, 2018	Interest Method					Daily Interest	
18,000 % p.a.	p.a.	30.03.2018			1.046.449,68	516,0574	US\$

Text : Polyinvest

Document Type : Cases

S.C. POLYINVEST S.R.L. AND OTHERS v. Romania

Repetitive | Case | 20752/07 | Romania | English | Published Date: 04/04/2018 | Judgment Date: 29/03/2018 | Date Final Judgment: 29/03/2018 | Payment
Information: Paid | Pending | Enhanced Procedure | Violations: NE, NERB | 1 Leading Case: 73970/01 - SACALEANU v. Romania

S.C. POLYINVEST S.R.L. ET AUTRES c. Roumanie

Repetitive | Case | 20752/07 | Romania | French | Published Date: 04/04/2018 | Judgment Date: 29/03/2018 | Date Final Judgment: 29/03/2018 | Payment
Information: Paid | Pending | Enhanced Procedure | Violations: NE, NERB | 1 Leading Case: 73970/01 - SACALEANU c. Roumanie

DGI

07 DEC. 2018

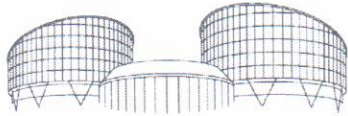
SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

Title S.C. POLYINVEST S.R.L. AND OTHERS v. Romania
Document Type Cases
App Number 20752/07
State Romania
Language English
Publication Date 04/04/2018
Judgment Date 29/03/2018
Final Judgment Date 29/03/2018
CM Meeting Number 1318
Supervision Violations Enhanced Procedure
Non Execution
Violation of property rights resulting from non-execution of judgments (no separate violation of Art. 6)
AP Status Action Plan/Report Not Required
Leading Cases 73970/01 - SACALEANU v. Romania
Type Repetitive
Payment Information Just Satisfaction paid on 08/08/2018, deadline for the applicant to complain: 08/10/2018

Title S.C. POLYINVEST S.R.L. AND OTHERS v. Romania
 Document Cases
 Type
 App 20752/07
 Number
 State Romania
 Language English
 Publication 04/04/2018
 Date
 Judgment 29/03/2018
 Date
 Final 29/03/2018
 Judgment
 Date
 CM Meeting 1318
 Number
 Supervision Enhanced Procedure
 Violations Non Execution
 Violation of property rights resulting from non-execution of judgments (no separate violation of Art. 6)
 AP Status Action Plan/Report Not Required
 Leading 73970/01 - SACALEANU v. Romania
 Cases
 Type Repetitive
 Payment Just Satisfaction paid on 08/10/2018, deadline for the applicant
 Information to complain: 08/12/2018

Document Type : Cases
Text : omegatech
S.C. POLYINVEST S.R.L. AND OTHERS v. Romania Repetitive Case 20752/07 Romania English Published Date: 04/04/2018 Judgment Date: 29/03/2018 Date Final Judgment: 29/03/2018 Payment Information: Paid Pending Enhanced Procedure Violations: NE, NERB 1 Leading Case: 73970/01 - SACALEANU v. Romania

Title S.C. POLYINVEST S.R.L. AND OTHERS v. Romania
Document Cases
Type
App 20752/07
Number
State Romania
Language English
Publication 04/04/2018
Date
Judgment 29/03/2018
Date
Final 29/03/2018
Judgment
Date
CM Meeting 1318
Number
Supervision Enhanced Procedure
Violations Non Execution
Violation of property rights resulting from non-execution of judgments (no separate violation of Art. 6)
AP Status Action Plan/Report Not Required
Leading 73970/01 - SACALEANU v. Romania
Cases
Type Repetitive
Payment Just Satisfaction paid on 08/10/2018, deadline for the applicant
Information to complain: 08/12/2018
Cite as S.C. POLYINVEST S.R.L. AND OTHERS v. Romania |
Application N°: 20752/07 | Date(s) of Judgment: 29/03/2018 |
Judgment(s) became final: 29/03/2018 | Latest Decision: see
Status of Execution



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

07 DEC. 2018

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

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FILTERING SECTION

ECHR-LE20.2bR
IBA/OLT/dcz

29 March 2018

Application no. 24612/07

Omegatech Enterprises Ltd v. Romania

Joined to application no. 20752/07 – S.C. Polyinvest S.R.L. v. Romania

Dear Sir,

In accordance with Rule 77 §§ 2 and 3 of the Rules of Court, I enclose a copy of the Committee's judgment in the above applications. This notification constitutes delivery of the judgment.

The judgment is final and cannot therefore be referred to the Grand Chamber. The judgment is now available on the Court's Internet site (www.echr.coe.int). When it is placed on the Internet site the judgment is deemed to have been published for the purposes of Article 44 § 3 of the Convention and Rule 78 of the Rules of Court.

I would draw your attention to the fact that execution of final judgments is within the competency of the Committee of Ministers (Article 46 § 2 of the Convention). Any question in this respect, including, where relevant, payment of just satisfaction and possible default interest, should be addressed to the Department for the Execution of Judgments of the Court at the DGI (Directorate General of Human Rights and Rule of Law) of the Council of Europe:

- Fax number: 33 (0) 3 88 41 27 93
- Website: www.coe.int/t/dghl/monitoring/execution
- Email just satisfaction: dgl_execution_just_satisfaction@coe.int
- Address: Council of Europe, Department for the Execution of ECHR judgments, F-67075

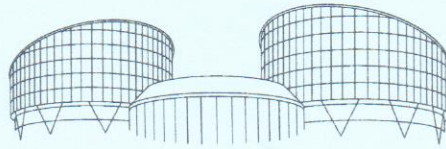
Strasbourg Cedex.

Yours faithfully,

Liv Tigerstedt

Deputy to the Registrar of the Filtering Section

Enc.: Judgment



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

FOURTH SECTION

CASE OF S.C. POLYINVEST S.R.L. AND OTHERS v. ROMANIA

*(Application no. 20752/07 and 2 others -
see appended list)*

JUDGMENT

STRASBOURG

29 March 2018

This judgment is final but it may be subject to editorial revision.

In the case of S.C. Polyinvest S.R.L. and Others v. Romania,
The European Court of Human Rights (Fourth Section), sitting as a
Committee composed of:

Vincent A. De Gaetano, *President*,
Georges Ravarani,
Marko Bošnjak, *judges*,
and Liv Tigerstedt, *Acting Deputy Section Registrar*,
Having deliberated in private on 8 March 2018,
Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in applications against Romania lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on the various dates indicated in the appended table.

2. The applications were communicated to the Romanian Government (“the Government”).

THE FACTS

3. The list of applicants and the relevant details of the applications are set out in the appended table.

4. The applicants complained of the non-enforcement of domestic judgments. In application no. 24612/07 the applicant also complained of the lack of an effective remedy in domestic law.

THE LAW

I. JOINDER OF THE APPLICATIONS

5. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single judgment.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION AND OF ARTICLE 1 OF PROTOCOL No. 1

6. The applicants complained principally of the non-enforcement of domestic judgments given in their favour. They relied, expressly or in

substance, on Article 6 § 1 of the Convention and on Article 1 of Protocol No. 1, which in relevant parts read as follows:

Article 6 § 1

“In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...”

Article 1 of Protocol No. 1

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

7. The Court reiterates that the execution of a judgment given by any court must be regarded as an integral part of a “trial” for the purposes of Article 6. It also refers to its case-law concerning the non-enforcement or delayed enforcement of final domestic judgments (see *Hornsby v. Greece*, no. 18357/91, § 40, *Reports of Judgments and Decisions* 1997-II).

8. In the leading case of *Foundation Hostel for Students of the Reformed Church and Stanomirescu v. Romania*, nos. 2699/03 and 43597/07, 7 January 2014, the Court already found a violation in respect of issues similar to those in the present case.

9. The Court further notes that the judgments in the present applications ordered specific actions to be taken. The Court therefore considers that the judgments in question constitute “possessions” within the meaning of Article 1 of Protocol No. 1.

10. Having examined all the material submitted to it, the Court has not found any fact or argument capable of persuading it to reach a different conclusion on the admissibility and merits of these complaints. Having regard to its case-law on the subject, the Court considers that in the instant case the authorities did not deploy all necessary efforts to enforce fully and in due time the judgments in the applicants’ favour.

11. These complaints are therefore admissible and disclose a breach of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1.

III. OTHER ALLEGED VIOLATION OF THE CONVENTION

12. In application no. 24612/07 the applicant company also complained of a breach of Article 13 of the Convention, namely of the lack of an effective remedy allowing the enforcement of the final domestic judgment rendered in its favour.

13. The Court notes that this complaint is linked to the ones examined above and must therefore, likewise, be declared admissible.

14. Regard being had to its finding of a violation concerning the applicant's rights under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 (see paragraphs 10-11 above), the Court does not consider it necessary to examine this complaint separately (see *Mihăescu v. Romania*, no. 5060/02, § 47, 2 November 2006).

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

15. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

16. Regard being had to the documents in its possession and its case law (see the *Foundation Hostel for Students of the Reformed Church and Stanomirescu*, cited above, §§ 90-91), the Court considers it reasonable to award the sums indicated in the appended table and to dismiss the remainder of the applicants' claim for just satisfaction, as the applicants either did to submit any claims or failed to properly substantiate their claims as required by Rule 60 of the Rules of Court. In application no. 24612/07, where the applicant did not make a claim for non-pecuniary damage and failed to submit a properly substantiated claim for cost and expenses, the Court makes no award.

17. The Court further notes that the respondent State has an outstanding obligation to enforce the judgments which remain enforceable.

18. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.


FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications;
2. *Declares* the applications admissible;
3. *Holds* that the applications disclose a breach of Article 6 § 1 of the Convention and Article 1 of Protocol No.1 concerning the non-enforcement or delayed enforcement of domestic judgments, as indicated in the appended table;

4 S.C. POLYINVEST S.R.L. AND OTHERS v. ROMANIA JUDGMENT

4. *Holds* that, in application no. 24612/07, there is no need to examine separately the complaint under Article 13 of the Convention;
5. *Holds* that the respondent State is to ensure, by appropriate means, within three months, the enforcement of the pending domestic judgments referred to in the appended table;
6. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months, the amounts indicated in the appended table, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.
7. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 29 March 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.


Liv Tigerstedt
Acting Deputy Registrar


Vincent A. De Gaetano
President

APPENDIX

List of applications raising complaints under Article 6 § 1 of the Convention and Article 1 of the Protocol No. 1 (non-enforcement or delayed enforcement of domestic decisions)

No.	Application no. Date of introduction	Applicant name	Relevant domestic judgment	Start date of non-enforcement period	End date of non-enforcement period Length of enforcement proceedings	Domestic order	Amount awarded for non-pecuniary damage and costs and expenses per applicant (in euros) ¹
1.	20752/07 09/05/2007	S.C. Polyinvest S.R.L. represented by Vesselin Kamenov	Court of International Commercial Arbitration attached to the Chamber of Commerce and Industry, 02/04/2002	02/04/2002	pending More than 15 years and 9 months and 25 days	Financial order	700
2.	24612/07 04/06/2007	Omegatech Enterprises Ltd. represented by Marijan Kopic	International Court of Arbitration, 23/08/2002	01/07/2003	pending More than 14 years and 6 months and 26 days	Financial order	0
3.	49814/13 29/07/2013	S.C. Conspad Serv S.R.L.	Vaslui County Court, 05/09/2011	27/02/2012	pending More than 5 years and 11 months	Financial order	3.823

¹ Plus any tax that may be chargeable to the applicants.

Council of Europe
Department for the Execution of ECHR judgements
at the DGI (Directorate General of Human Rights and Rule of Law)
F-67075 Strasbourg - Cedex
Fax: +33 (0)3 88 41 27 93
Email: dgl_execution_just_satisfaction@coe.int

DGI
07 DEC. 2018
SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

Marijan Kepic
Bratov Babnik 21
SLO-1000 Ljubljana
Mob.: +386 41 686 282

E-mail: omegakepic@gmail.com
ilokepic@gmail.com

20/April 2018

Ref.: Application no. 24612/2007
Omegatech Enterprises v. Romania
Last received communication: Filtering Section
ECHR-LE20.2bR
IBA/OLT/dcz dated 29 March 2018

Dear Department for the Execution of European Court of Human Rights judgements
at the Directorate General of Human Rights and Rule of Law (DGI),

We are in receipt of the above referenced letter which enclosed the Judgement in our
application 24612/07, for which we thank you very much.

For the payment of the Judgement kindly find the bank details of the account of our
lawyers:

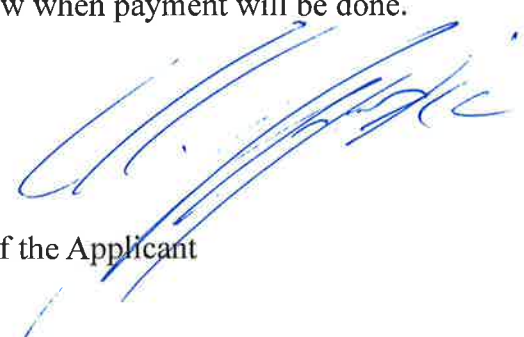
Florentz und Partner mbB
UniCredit Bank AG HypoVereinsbank München
IBAN DE77700202700657566217
BIC HYVEDEMMXXX

Also a receivables list is enclosed.

Please let us know when payment will be done.

Faithfully yours,

Marijan Kepic
Representative of the Applicant



		Amount	Sum
31.05.1999	Award of ICC Paris dated August 23, 2002	1.046.449,68	1.046.449,68 US\$
29.03.2018	Interest of 18% acc. Award of ICC Paris dated August 23,2002 18,00% of 1.046.449,68 US\$ from 31.05.1999 till 29.03.2018 (6878 days)	3.546.862,35	4.593.312,03 US\$
31.05.1999	Costs acc. Award of ICC Paris dated August 23, 2002	72.600,00	4.665.912,03 US\$
29.03.2018	Total		4.665.912,03 US\$

Additional Interest from the date of March 30, 2018	Interest Method		Daily Interest
18,000 % p.a.	p.a.	30.03.2018	516,0574 US\$
			1.046.449,68



EXEC - Omegatech Enterprises Ltd., Application No. 24612/07 (S.C. Polyinvest S.R.L. and others v. Romania, Appl. no. 20752/07)

DGI-Execution <DGI-Execution@coe.int>

26. April 2018 um 10:15

An: "omegakepic@gmail.com" <omegakepic@gmail.com>, "ilokepic@gmail.com" <ilokepic@gmail.com>

Dear Mr. Kepic,

We acknowledge receipt of your communication of 20 April 2018, which has been included in the case-file and transmitted to the Romanian authorities and will be brought to the attention of the Committee of Ministers, in accordance with the Rules adopted by the Committee for the supervision of the execution of judgments and of the terms of friendly settlements (Rule 9 § 1).

We have taken note of the fact that in its judgment, the European Court indicated that Romania was to ensure, by appropriate means, within three months from the date of the judgment, the enforcement of the pending domestic judgments referred to in the table appended to the Court's judgment, that is, as far as the applicant company is concerned, the International Court of Arbitration's award of 23 August 2002. The Romanian authorities are therefore expected to provide to the Committee of Ministers information on the measures taken to comply with the above indication of the European Court and have been invited to do so.

For any further information concerning the follow-up of the case before the Committee of Ministers, you can consult the relevant documents by accessing the HUDOC-EXEC database of the Department for the Execution of Judgments. In this respect, please note that the judgment given by the European Court on the application brought by Omegatech Enterprises Ltd. (No. 24612/07) is examined by the Committee of Ministers in the framework of the group of cases Sacaleanu v. Romania (No. 73970/01).

Yours sincerely,

DGI

07 DEC. 2018

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH



Directorate General of Human Rights and Rule of Law

Council of Europe - Conseil de l'Europe

Department for the Execution of judgments of the European Court of Human Rights

Service de l'Exécution des arrêts de la Cour européenne des droits de l'Homme

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