



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 Tiggerstedt, *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 not 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. *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 Kepic	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.