LCRM – Legal Resources Centre from Moldova

The mechanism for repairing the damage caused by the breach of the reasonable time examination must be improved

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The compensations for non-material damages in Moldova are much lower than those offered by the European Court for Human Rights (ECtHR) in comparable cases. This is the conclusion drawn by the Legal Resources Centre from Moldova (LRCM) following an analysis of the efficiency of the mechanism of compensation by government of the damage caused by the delay in the examination of cases or failure to enforce final court judgments. This mechanism was introduced on July 1st, 2011 by Law No. 87/2011 with a view to enforcing the judgment of the ECtHR in the case of *Olaru and others v. Moldova.* LRCM has also found that many of the cases related to Law No. 87 have been examined at a slow pace, while judges have provided insufficient grounds for their decisions in the respective cases. Sometimes judges even ascertained that the reasonable term had been violated, although ECtHR standards do not allow for such conclusions. Consequently, the gaps identified in the Law No. 87/2011 may determine ECtHR to conclude that the mechanism introduced by this law is inefficient. These findings were made after an analysis by LRCM of over 90% of the cases related to Law No. 87 in which final judgments were issued, by November 2013. As a result, LRCM recommends in a policy document to change the procedure for provision of compensations for violation of the reasonable term. The compensation might be provided by the Ministry of Justice (MoJ) based on clear standards that have already been developed by MoJ. MoJ's decision could be appealed at the Supreme Court of Justice (SCJ). Presently, similar mechanisms are efficiently implemented in the Czech Republic, UK, and Spain. If the existing mechanism for compensation by government of the damage caused by the delay in the examination of cases or the failure to enforce court decisions is maintained, a system should be introduced in the courts to ensure prompt examination of the cases related to Law No. 87. In addition, SCJ should establish practices to ensure proper compensations for violation of the reasonable term.

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Until the middle of the last decade, failure to enforce court decisions was an extremely serious problem in Moldova. Through its judgment in the case of Olaru and others v. Moldova (July 28, 2009), the European Court for Human Rights requested the Government to establish a national mechanism for remedies in case of people affected by the failure to enforce court decisions. For this purpose, on April 21, 2011, the Parliament adopted Law No. 87. In 2012, the European Court acknowledged that the recourse introduced by Law No. 87 is an efficient one and declared over 300 Moldovan complaints inadmissible. Plaintiffs were advised to use the remedy provided for by Law No. 87.

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