SECOND SECTION CASE OF POMUL SRLET SUBERVIN SRLcREPUBLIC OF MOLDOVA (Applications Nos. 14323/13 and 47663/13) JUDGMENT Art 6 § 1 (civil) • Access to a court • Art 1 P1• Respect for property • Non-execution of final judgments in favor of the applicant companies against a company whose majority shareholder is the State within a reasonable period of time, i.e. approximately fourteen years and six months Art 13 (+ Art 6 § 1 + Art 1 P1) • Ineffectiveness of the appeal not having offered sufficient relief STRASBOURG October 24, 2023 This judgment will become final under the conditions defined in Article 44 § 2 of the Convention.

It may undergo alterations in form.POMUL SRLET SUBERVIN SRL JUDGMENT REPUBLIC OF MOLDOVA 1 In the Pomul SRLet Subervin case SRLcRepublic of Moldova, The European Court of Human Rights (second section), sitting in a Chamber composed of: Arnfinn Bårdsen, President, Egidijus Kūris, Pauliine Koskelo, Saadet Yüksel, Lorraine Schembri Orland, Frédéric Krenc, Diana Sârcu, judges , and Hasan Bakırcı, section registrar, Seen: the applications (nos. 14323/13 and 47663/13) directed against the Republic of Moldova and including two companies, “Pomul” SRL

and “Subervin” SRL (“the applicant companies”), applied to the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) on 21 January 2013 and on July 19, 2013 respectively, the partial decision of September 1, 2015 to join the two present applications to applications nos. 16000/10 and others and to bring to the attention of the Moldovan government (“the Government”) the complaints based on Articles 6 § 1 and 13 of the Convention, as well as Article 1 of Protocol No. 1 to the Convention, and to declare the remainder, the observations of the parties inadmissible, Having deliberated in private on October 3, 2023, Makes the judgment as follows, adopted on this date: INTRODUCTION 1.

The applications concern the liability of the State for the failure to enforce court decisions rendered in favor of the applicant companies against a company whose majority shareholder was the State. The applicant companies complain of the violation of Articles 6 § 1 and 13 of the Convention, as well as Article 1 of Protocol No. 1 to the Convention.

THE FACTS 2.The applicant in application no. 14323/13 (“the first applicant”) and the applicant in application no. 47663/13 (“the second applicant”) are two limited liability companies under Moldovan law having their registered office in Țibirica, Călărași. They were represented before the Court by Me A.

Chiriac, lawyer.POMUL SRLET SUBERVIN SRLJUDGMENT REPUBLIC OF MOLDOVA 2 3.The Government was represented by its former agents, Messrs. M.Gurin and O.Rotari, as well as by its former ad interim agent, Ms. R.Revencu.4. Vinuri-Ialoveni SA is a joint stock company created in 1996 by the Ministry of Privatization and Public Property Management, following the reorganization of a public company.

The production and trade of wine and spirit drinks constitute its main activity. Since its creation, the State's participation in the latter company amounts to around 60% of its total shares.5. In 2005, the companies The applicants signed two contracts with Vinuri-Ialoveni SA relating to the sale of goods, but the latter failed to honor the agreed payments.

6.By two judgments rendered respectively on November 20, 2008 and December 8, 2008, the district economic court recognized the claims of the applicant companies against Vinuri-Ialoveni SA arising from the contracts concluded in 2005, for an amount of 335,302, 31 Moldovan lei (MDL) (approximately 16,919 euros (EUR)) for the first applicant and 692,089.04 MDL (approximately 34,922 EUR) for the second applicant.

7. In February 2009, as soon as the judgments were made enforceable, the applicant companies contacted a bailiff. The bailiff proceeded to sequester real estate belonging to the debtor company, namely two buildings and land. 'an estimated value of 6,204,064 MDL (approximately 310,203 EUR).

8.On August 26, 2009, the bailiff relinquished the auction for the benefit of the Ministry of Economy and Trade, as a public authority authorized by article 7 § 4 of the law relating to the management and privatization of public property for the sale of assets belonging to the debtor company (see paragraph 15 below).

Despite several reminders from the bailiffs, this sale ultimately did not take place.9.On October 1, 2010, the debtor company entered into insolvency proceedings.The bailiff suspended the execution procedure.Both applicant companies became creditors in the proceedings for amounts equivalent to their claims.

10.In November 2011, the two applicants brought before the domestic courts two parallel actions against the Ministry of Finance based on Law no. 87 of 21 April 2011 (see paragraph 17 below) for compensation by the State for the damage caused by violation of the right to execution of a court decision within a reasonable time.

The applicants claimed the amounts of the debts held against the debtor company, alleging the liability of the State for the debts of the latter. They also requested compensation for the material damage resulting from the increases and penalties during the period of non-performance and the amounts as moral reparation.

POMUL SRLET SUBERVIN SRL JUDGMENT REPUBLIC OF MOLDOVA 3 11. In the proceedings initiated by the first applicant, the court of first instance ruled in her favor and ordered the State to repay the debt, interest and penalties for the non-performance of the final decision, as well as to repair the moral damage caused.

However, on November 1, 2012, the Chișinău Court of Appeal annulled the judgment rendered in first instance and dismissed the action for lack of merit, in view of the measures taken by the bailiff in the execution procedure and account given the entry of the debtor company into insolvency proceedings.

12.As regards the proceedings initiated by the second applicant on the merits of the same law, the court of first instance partially upheld the action on 6 April 2012, finding that the delay in execution could not be justified by the lack of funds from a public organization.

He awarded 15,000 MDL (approximately 970 EUR) as moral compensation and dismissed the action for the remainder. On July 11, 2013, the Supreme Court of Justice confirmed this judgment.13.To date, the insolvency proceedings of the debtor company is still pending.THE RELEVANT INTERNAL LEGAL FRAMEWORK 14.

The relevant provisions in this case of the civil code of June 6, 2002, as they were in force at the material time, read as follows: Article 156 General provisions relating to the joint stock company “(1) The company par actions represents a commercial company whose share capital is divided into shares and whose obligations are guaranteed by the company's assets.

(...) (3) The shareholders are not responsible for the obligations of the company, but bear the risk of losses within the limit of their participation in the share capital.' 15.The provisions relevant in this case of Law No. 121 of May 4, 2007 relating to the management and privatization of public property, as they were in force at the time when the execution procedure was launched, read as follows: Article 2 Main concepts “For the purposes of this law, the main concepts are defined as follows: (...) commercial company with majority public capital – commercial company in which the State holds a shareholding or in shares which grants it, at the general meeting, more than 50% of all the votes of the shareholders (associates) or another proportion which ensures a simple majority of the votes (...) » JUDGMENT POMUL SRL

ET SUBERVIN SRLcREPUBLIC OF MOLDOVA 4 Article 7 Functions of the authorized body of management and privatization of public property “(4) In the field of privatization, the authorized body [the Public Property Agency] holds the following powers: (...) e) the organization (...) and implementation of the process of marketing the seized assets of state enterprises and commercial companies in which the state's share is not is not less than 25%, not included in the list of non-privatizable assets; (...) » In accordance with Article 12, the management of public property includes, among other things, commercial operations targeting assets “not used in the technological process” of commercial companies with majority public capital, such as the rental, lease, free lease and sale, as well as the restructuring of these companies, the promotion of private investments or, where appropriate, their liquidation.

Under the terms of articles 17 and 18, unused assets of commercial companies with majority public capital can be rented or sold only with the prior agreement of the central and local public administration authorities. The income thus generated can be used primarily for payment of corporate debts to the public budget.

In accordance with Article 21, the activity of commercial companies with public or majority public capital is subject to the financial supervision of the Ministry of Finance. 16. Article 69 of Law No. 1134 of April 2, 1997 relating to joint stock companies in force at the material time read as follows: “(6) The executive body of the company presents to the authorities of the the central or local public administration founding the reports on the economic and financial activity of the company, in which the State's share represents 50% plus one share, and, where applicable, the results of the independent audit of the reports annual financial statements.

» 17.The provisions of Law No. 87 of April 21, 2011 on state compensation for damage caused by the violation of the right to a judgment of the case within a reasonable time or the right to execution of the decision justice within a reasonable time are summarized in the case of Balan v.

Republic of Moldova ((dec.), no. 44746/08, § 9, 24 January 2012), Cristea v. Republic of Moldova (no. 35098/12, § 21, 12 February 2019), and Titan Total Group SRLcRepublic of Moldova (no. 61458/08, § 43, July 6, 2021). HER

v. Republic of Moldova and 60 other applications (dec.), nos. 16000/10 and POMUL JUDGMENT SRLET SUBERVIN SRLcREPUBLIC OF MOLDOVA 5 others, September 1, 2015). She considers that it is now necessary to separate them from this group of requests. 19.However, taking into account the factual and legal similarities between the two present applications, the Court considers it appropriate to examine them jointly in a single judgment (Rule 42 § 1 of the Rules of Court).

II. ON THE ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION, ARTICLE 1 OF PROTOCOL NO. 1 TO THE CONVENTION AND ARTICLE 13 OF THE CONVENTION 20. The applicant companies complain of the non-execution of the judgments rendered in their favor. They rely on Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention, alone and in conjunction with Article 13 of the Convention, which are worded as follows: Article 6 § 1 “Every person has the right to have their case heard (...) by a court (...) which will decide (...) disputes over their civil rights and obligations (...)” Article 13 “Any person whose rights and freedoms recognized in the (...) Convention have been violated has the right to the granting of an effective remedy before a national authority, even if the violation was committed by persons acting in the exercise of their official functions.

» Article 1 of Protocol No. 1 “Every natural or legal person has the right to the peaceful enjoyment of his property. No one may be deprived of his property except for reasons of public interest and under the conditions provided for by the law and the general principles of law international.The foregoing provisions do not affect the right of States to enforce such laws as they deem necessary to regulate the use of property in accordance with the general interest or to ensure the payment of taxes or other contributions or fines.

» A.On admissibility 21.The Government maintains that the applicant companies had access to compensation for the duration of the alleged non-compliance and that they can no longer claim victim status under the articles invoked, because the domestic courts called upon to rule on the liability of the State in the disputed enforcement proceedings would have allocated adequate remedies to the circumstances of the two cases.

He also asserts the status of private debtor of the company Vinuri-Ialoveni SA and the complexity of the insolvency procedure which is still ongoing. Invited to comment on the independence of the debtor company in relation to POMUL SRLET SUBERVIN JUDGMENT SRLcREPUBLIC OF MOLDOVA 6 to the public authorities, the Government limited itself to providing information regarding the legal form of the company and the proportion of

State participation in its share capital (see paragraph 4 above).

It further indicates that the claims will be satisfied in the insolvency proceedings according to the order of priority.22.The applicant companies retort that they did not benefit from adequate relief, because the domestic courts refused to hold the State liable for the debts of the company Vinuri-Ialoveni SA

They maintain that, despite the expiration of a new period of non-execution after the exercise of the compensatory remedy, they have still not benefited from the payment of their debts. They then contest the effectiveness of the internal remedy taking into account the deadlines for examining the actions for compensation initiated by the applicants.

23.The Court observes that the preliminary objections raised by the Government in the present case relate, on the one hand, to the question of the liability of the respondent State for the debts of the debtor company and, on the other hand, to the question of whether, having regard to the compensatory remedies exercised at domestic level, the applicants can still claim to be victims of the alleged violations.

Consequently, the Court will examine these questions.1.The liability of the State for the debts of the debtor company (compatibility ratione personae) a) The Court's case law 24.The Court recalls that when If an applicant complains about the impossibility of executing a court decision given in his favor, the extent of the State's obligations under Articles 6 of the Convention and 1 of Protocol No. 1 to the Convention varies depending on whether the debtor is or is not a State (Mikhaïlenki and Others v.

Ukraine, nos. 35091/02 and 9 others, § 43, ECHR 2004-XII, and Anokhin v. Russia (dec.), no. 25867/02, May 31, 2007). When the judgment is rendered against the State itself, this latter must take the initiative to execute it in full and in due time (see among many others Prodan v. Moldova, no. 49806/99, § 75, ECHR 2004-III (extracts), and Liseytseva and Maslov v.

Russia, nos. 39483/05 and 40527/10, § 183, October 9, 2014).25.When the debtor is an individual or a private company, the situation is different, because the State is not, as a general rule, directly responsible for the debts of individuals or companies. In such cases, the task of the Court is to examine whether the measures taken by the authorities were adequate and sufficient.

The State's responsibility is limited to the involvement of its authorities in execution procedures (see Ciocodeică v. Romania, no. 27413/09, §§ 84-85, 16 January 2018).POMUL SRLET SUBERVIN SRL JUDGMENT REPUBLIC OF MOLDOVA 7 26. The Court recalls that the responsibility of a State may be engaged with regard to debts contracted by a company, even if it has an independent legal personality, since it does not enjoy sufficient institutional and operational independence vis-à-vis the State so that the State can be exempt from its responsibility under the Convention (see Ališić and Others v.

Bosnia and Herzegovina, Croatia, Serbia, Slovenia and the former Yugoslav Republic of Macedonia

[GC], no. 60642/08, § 114, ECHR 2014, with the references cited therein). The key criteria for determining whether the State was actually responsible for such debts are the legal status of the company (legal public or private), the nature of its activity (public service or ordinary commercial enterprise), the context of its operation (such as a monopoly or a highly regulated enterprise), its institutional independence (the degree of state ownership) and its operational independence (the degree of state surveillance and control) (ibidem, § 114, in fine).

Other factors to consider are whether the state was directly responsible for the company's financial difficulties, whether it misappropriated the company's funds to the detriment of the company and its stakeholders, and whether it had undermined its independence or otherwise abused its legal personality (Anokhin, cited above, and Khachatryan v.

Armenia, no. 31761/04, §§ 51-53, 1 December 2009). None of these factors is decisive in itself and their effect on institutional and operational independence should be analyzed jointly (Liseytseva and Maslov, cited above, § 187).b) Application in the present case 27. The Court notes that the Government limited itself to providing information concerning the State's participation in the share capital of the company Vinuri-Ialoveni SA, without providing further information. detailed information about its governance model and economic activity.

The Court is therefore led to examine the question of the institutional and operational independence of the debtor company in the light of the provisions of domestic law and the circumstances revealed in the domestic procedures initiated by the two applicant companies.i.The legal status of the debtor company 28.

Firstly, the Court observed that the debtor company was constituted as a joint stock company, which gave it a distinct legal personality, and therefore rights and obligations distinct from those of its shareholders. Constituted in the form of a joint stock company, the debtor company stands out from the public or municipal company, which represents historical legal forms for legal entities established and managed through state authorities on which the Court has already ruled (see Cooperativa Agricola Slobozia-Hanesei v.

Moldova, POMUL SRLET SUBERVIN SRL JUDGMENT REPUBLIC OF MOLDOVA 8 no 39745/02, § 19, 3 April 2007, Clionov v. Moldova, no 13229/04, § 29, 9 October 2007).29. Furthermore, the information provided by the parties also indicate that this company operated in an economic sector open to competition, without benefiting from a state monopoly or a privileged position on the market or carrying out activities associated with a public service or function (compare with Cooperativa Agricola Slobozia-Hanesei, cited above, § 17, April 3, 2007, Dimitar Yordanov v.

Bulgaria, no. 3401/09, § 60, September 6, 2018, or Libert v. France, no. 588/13, § 38, February 22, 2018).30.The Court notes that in the compensatory remedies exercised by the applicant companies, the The conclusions of the domestic courts differ as to the status of the debtor company in domestic law.

In a procedure, the Court of Appeal considered that Vinuri-Ialoveni SA was a subject of law

private, while in the other procedure, the courts considered that it was a public debtor (see paragraphs 11-12 above).31.In any event, the Court recalls that the legal qualification of a legal entity under domestic law is not decisive for the examination of the State's liability for debts contracted by a company.

Indeed, the specific circumstances of each case may lead to State liability being incurred regardless of this formal qualification in domestic law (see, among others, Tokel v. Turkey, no. 23662/08, § 60, February 9, 2021).32.The Court notes, however, that Law No. 121 of May 4, 2007 on the management and privatization of public property imposes specific regulations on commercial companies majority owned by the State (see paragraph 15 above). .

Consequently, despite the distinct legal personality and its commercial activity according to common law, it is necessary to examine whether, in accordance with this legislation and in the light of the way in which it was applied in the present case, the debtor company had had institutional and operational independence sufficient to avoid the responsibility of the State in relation to its debts.

ii.The control exercised by the State over the assets of the debtor company 33.The Court immediately notes that the majority shareholder of the debtor company is the State, with a participation of approximately 60% of shares. The applicant companies assert that this element is sufficient to engage the direct liability of the State for the debts of the debtor company.

However, the Court recalls that it distinguishes between the exercise by the State of its shareholder rights, which remains responsible for the debts of the company to the extent of its investment in the company, and the control exercised by the State over society in its role as a public power which affects its institutional and operational independence (compare, on this point, with Shipping Company of the Islamic Republic of Iran JUDGMENT POMUL SRL

AND SUBERVIN SRLcREPUBLIC OF MOLDOVA 9 v. Turkey, no. 40998/98, § 81, ECHR 2007-XIV, and Khachatryan, cited above, § 51).34.The Court thus reveals that, according to domestic law, when the State detains a majority stake in the share capital of the company, it is empowered by Law No. 121 of May 4, 2007 on the management and privatization of public property to exercise a certain degree of control over the management of the company's assets outside of the company's statutory bodies.

It notes, in particular, the provisions specific to the rental and sale of unused assets belonging to public companies or majority-owned by the State (see paragraph 15 above). These provisions provide that transactions having for the purpose of these assets must be subject to the prior agreement of the State authorities and the income thus generated must be used as a priority to repay debts to the State budget.

35. The Court thus notes that the State has control over assets not used by the debtor company which may in principle prove to be significant, depending in particular on the structure of the company's assets and the impact of such an intervention on its solvency (see, mutatis mutandis, Khachatryan, cited above, § 51).

However, in this case it does not have any evidence showing that the State would have acted in this way with the debtor company and would thus have exercised significant influence over the management of its assets.iii.State control over the sale of goods seized by bailiffs 36.The Court then observes that under the terms of Law No. 121 of May 4, 2007 on the management and privatization of public property, seized goods which belong to a company in which the participation of the State amounts to at least 25%, can be sold only by the Agency for Public Property (see paragraph 15 above).

In the present case, the bailiffs invoked this provision before the domestic courts to justify the failure to implement the auction of the seized assets of the debtor company.37. The Court notes that none of the parties contested these facts. However, this situation certainly prevented the applicant companies from recovering the debts held against the debtor company, given that the value of the seized buildings would have covered these debts (see paragraph 7 above).

Furthermore, although the bailiff withdrew in favor of the competent public authority, there is no evidence in this case to show that the latter had taken the necessary measures to carry out the sale and ensure payment of the debts of the debtor company. The way in which the State found itself in a position to exercise this sale exclusively and the fact that it did not implement it constitute proof of a significant degree of control over the property of the company, although this control is not exercised to the detriment of the statutory bodies of the company, but of the bailiff responsible for execution.

POMUL SRLET SUBERVIN SRL JUDGMENT REPUBLIC OF MOLDOVA 10 38. The Court notes that the Government has not provided any information as to the reasons which prevented the authorities from implementing the sale of the seized goods and allowing the recovery of debts in favor of the companies applicants thanks to the means obtained.

Consequently, the Court considers that the intervention of the Agency for Public Property as the sole competent authority to carry out the sale of the seized property of the debtor company and its omission in this respect proved decisive for the failure of the enforcement procedure in favor of the applicant companies.

39. The Court therefore concludes that the State must be held responsible for the non-performance of debts in favor of the applicant companies. Therefore, it rejects the Government's objection as to incompatibility ratione personae.2. Victim status of the applicant companies 40. The Court recalls that the principles according to which a person can always claim to be a victim for the failure to execute a court decision which is favorable to them, when there is an internal remedy for compensation, have been recalled in its judgment in the Cristea case (cited above, §§ 25-31).

41.It is therefore incumbent on the Court to verify whether the authorities have implicitly or explicitly recognized the violation of a right protected by the Convention and to determine whether the compensation granted can be considered adequate and sufficient.a) The first company applicant 42.The Court notes that when the first applicant brought before the domestic courts the complaints based on the duration of the non-execution, her request was dismissed (see

paragraph 11 above).

This exemption from liability seems to have been based on the assessment of the steps which were carried out by the bailiff, in particular the sequestration of the assets of the debtor company and its inability to pay, leading to the triggering of the procedure of insolvency.

The courts avoided the question of the state's liability for the company's debts. 43. Therefore, the Court considers that the lack of recognition by the authorities of the violation of the first applicant's rights does not allow her victim status to be ruled out and renders the subsequent examination of the effectiveness of the domestic remedy unnecessary. .

b) The second applicant company 44.As for the second applicant, the Court notes that the domestic courts recognized the violation of the right to the execution of a final decision within a reasonable time (see paragraph 12 above). finding is equivalent to an explicit recognition of the alleged violations JUDGMENT POMUL SRL

ET SUBERVIN SRLcREPUBLIC OF MOLDOVA 11 by the second applicant. It is therefore necessary to analyze the characteristics of the relief from which the second applicant benefited in the present case.45. The Court recalls that the fundamental criteria making it possible to assess the effectiveness of a compensatory remedy have been set out in its consistent case law in cases of non-execution (Bourdov v.

Russia (no. 2), no. 33509/04, § 99, ECHR 2009, Scordino v. Italy (no. 1) [GC], no. 36813/97, §§ 195-207, ECHR 2006-V, and Cristea, cited above, § 28).In the Cristea case (cited above, § 35), the Court noted, among other things, that despite the State being ordered to pay compensation for the non-execution of a decision in its favor, the The applicant was faced with a new period of non-compliance, which led the Court to consider that the compensatory remedy was not effective.

46.The Court notes that a further period of non-compliance of approximately eleven years elapsed after the exhaustion of the domestic remedy by the second applicant and the initial finding of a violation. Given this persistent failure of the Moldovan authorities to execute the initial decision in favor of the second applicant, the Court considers that the compensatory remedy based on Law no. 87/2011 did not provide the applicant with adequate relief of her rights.

Furthermore, arriving at this conclusion, the Court considers that an assessment of the effectiveness of the internal remedy is no longer justified in the present case. 47. Consequently, the Court notes that the applicant companies can still claim to be victims of the violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention.

Therefore, the Court rejects the Government's objection concerning the loss of victim status for the applicant companies.3.Conclusion on admissibility 48.Having rejected the Government's objections (see paragraphs 39 and 47 above) and finding furthermore that the applications are not manifestly ill-founded or inadmissible for any other reason referred to in Article 35 of the Convention, the Court declares them admissible.

B. On the merits 49. The applicant companies maintain that they are victims of a failure to execute debts held against a company with majority state capital for an unreasonable period. 50. The Government argues that the company Vinuri- Ialoveni SA would be a private company and that the domestic courts called upon to rule on the liability of the State in the disputed enforcement procedures would have allocated adequate remedies to the circumstances of the two cases.

POMUL SRLET SUBERVIN SRL JUDGMENT REPUBLIC OF MOLDOVA 12 1. Period of non-execution to be taken into consideration 51. The Court observes that the periods of non-execution alleged by the applicants in the present case began on the dates when the judgments delivered in the first instance became final.

In the absence of more precise information, these dates correspond, at the latest, to the month of February 2009. The domestic courts called upon to rule on actions for compensation for an excessive delay in non-execution have retained the period of non-execution of approximately one year and ten months which had passed at the material time.

52.However, the Court recalls its approach in cases of non-execution in which the compensatory remedy proved ineffective, where it ruled that it was appropriate to take into account the overall period of non-execution which elapsed until the date of delivery of his judgment, and not only the period examined by the domestic courts.

In the present case, this period currently amounts to approximately fourteen years and six months.2.Reasonability of the duration of the execution proceedings 53.The Court notes that the periods of non-execution suffered by the applicants in the present case are, in view of the Court's consistent case-law, incompatible with the requirements of Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention (see, among numerous other precedents, Prodan, cited above, § 54, and Cooperativa Agricola Slobozia-Hanesei, cited above, § 26).

54.Moreover, if a liquidation procedure can objectively justify certain limited delays in execution, the persistent non-execution of judgments in favor of the applicants for several years cannot in any case be justified (see, mutatis mutandis, Liseytseva and Maslov, cited above, § 222).

55. The Court considers that the circumstances which arise in the present case indicate that the State authorities did not consider themselves bound by an obligation to honor the debts owed to the applicant companies, but limited themselves to the pursuit of an insolvency procedure which gave little prospect of the applicant companies' debts being enforced within a reasonable time.

56. However, the Court refers to the conclusion it reached in paragraphs 37-39 above with regard to the State's responsibility for the execution of the debts held by the applicants. In the exercise of the powers attributed by Law No. 121 of May 4, 2007, the authorities had the possibility of selling the property seized by the bailiffs in order to obtain funds intended for the recovery of the applicants' debts,

but they failed to do so.

Despite the seizure of assets sufficient to repay the debts of the applicant companies (see paragraph 7 above), the authorities did not fulfill their role in the procedure and therefore assumed responsibility for JUDGMENT POMUL SRLET SUBERVIN SRLcREPUBLIQUE OF MOLDOVA 13 non-execution of final judgments on the account of the debtor company.

They thus infringed the applicants' right to a court and prevented them from satisfying the claims they had, which constitutes a disproportionate interference in the enjoyment of their property.57.Therefore, the Court concludes that there was violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention due to the non-enforcement of the final judgments in favor of the applicants within a reasonable time.

58.For the same reasons which led it to consider that the remedy exercised by the applicants did not offer them sufficient relief (paragraphs 43 and 46 above), the Court considers that there was also a violation of Article 13 of the Convention combined with Article 6 § 1 of the Convention and with Article 1 of Protocol No. 1 to the Convention.

III. ON THE APPLICATION OF ARTICLE 41 OF THE CONVENTION 59. Under the terms of Article 41 of the Convention: “If the Court declares that there has been a violation of the Convention or its Protocols, and if the domestic law of the High Contracting Party only imperfectly allows the consequences of this violation to be erased, the Court grants the injured party, if necessary, just satisfaction.

» A. Damage 60. The applicant companies claim as material damage the amount of debts they have against the debtor company, i.e. 16,919 euros (EUR) for the first applicant and 34,922 EUR for the second applicant. They also claim the amount of late payment interest for the period which elapsed from the date of entry into force of the court decisions until the date on which they presented their requests for just satisfaction, i.e. July 4, 2016.

These amounts, supported by expert reports showing a calculation based on the provisions of the Civil Code concerning late payment interest, represent EUR 19,945 for the first applicant and EUR 41,238 for the second applicant.61. They then each request 3 000 EUR for the moral damage they believe they have suffered.

62.The Government contests all of these amounts as excessive. However, it does not propose another method of calculation or amounts that it considers appropriate in the present case.
63.The Court considers that the applicant companies certainly suffered damage resulting from the impossibility of obtaining payment of the debts held against the debtor company.

Even if the latter is subject to ongoing insolvency proceedings and the applicants participate in them as creditors, the Court notes that these proceedings have continued for the last thirteen years without no payment is made for the clearance of debts

held by the applicants.

It considers, therefore, that the execution of these debts is not really possible in this procedure and decides that it is appropriate to allocate to the applicants the amounts of the debts held against the debtor company. Furthermore, taking into account the impossibility of the applicant companies to use the money which was theirs, as well as the national legislation concerning the calculation of late payment interest, the Court considers that there is reason to compensate for the delay in execution .

It considers that it is appropriate to award the applicants the amounts claimed in this respect. In these circumstances, the Court considers it reasonable to award as material damage the amount of the debts together with the interest claimed by the applicant companies, i.e. EUR 36,864 to the first applicant and EUR 76,160 to the second applicant (see, mutatis mutandis, Arnaboldi v.

Italy, no. 43422/07, § 74, March 14, 2019, Oferta Plus SRL v. Moldova (just satisfaction), no. 14385/04, § 71, February 12, 2008).64.As for the claims made in respect of non-pecuniary damage, the Court notes that taking into account the violations found in these cases for the prolonged non-execution of favorable court decisions for a period of more than fourteen years (see paragraphs 57-58 above), the applicants should be granted the amount resulting from the overall period of non-execution which has elapsed to date, less the amount which was awarded on this basis to the second applicant in the domestic proceedings.

The Court therefore awards as non-pecuniary damage EUR 1,600 to the first applicant, and EUR 600 to the second applicant, plus any amount that may be due on these sums as tax.B.Costs and expenses 65.The applicant companies each claim EUR 186.20 in respect of costs and expenses which they incurred for the purposes of the proceedings before the Court.

These amounts correspond to the fees of the expert who produced the reports relating to the interest applicable to the debts in this case. In this regard, they produce invoices attesting to the payment of fees for the amounts claimed.66.The Government has not commented these amounts.67.According to the Court's jurisprudence, an applicant can only obtain reimbursement of his costs and expenses to the extent that their reality, their necessity and the reasonableness of their rate are established (see, among many Others, Karácsony and Others v.

Hungary [GC], nos. 42461/13 and 44357/13, § 189, May 17, 2016). In the present case, taking into account the documents in its possession and the aforementioned criteria, the Court considers it reasonable to award each of the companies applicants the sum of EUR 186.20 for the costs and expenses incurred in the proceedings before it, plus any amount which may be due on this sum by way of tax.

FOR THESE REASONS, THE COURT, UNANIMOUSLY, 1. Decides to separate the present applications from the group of applications Nos. 16000/10 and others; 2.Decides to join the two present requests; 3.Declares the requests admissible; 4.Holds that there has been a violation of Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 to the Convention; 5.

Holds that there has been a violation of Article 13 of the Convention taken in conjunction with Article 6 § 1 of the

Convention and Article 1 of Protocol No. 1 to the Convention; 6. Holds a) that the respondent State must pay to the applicant companies, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following sums , to be converted into the currency of the respondent State at the rate applicable on the date of settlement: i.

36,864 EUR (thirty-six thousand eight hundred and sixty-four euros) to the first applicant company and 76,160 EUR (seventy-six thousand one hundred and sixty euros) to the second applicant company, plus any amount that may be due on these sums as tax, for material damage; ii.1,600 EUR (one thousand six hundred euros) to the first applicant company and 600 EUR (six hundred euros) to the second applicant company, plus any amount that may be due on these sums as tax, for non-pecuniary damage; iii.

186.20 EUR (one hundred and eighty-six euros twenty cents) to each of the applicant companies, for costs and expenses; b) that from the expiry of the said period until payment, these amounts will be subject to simple interest at a rate equal to that of the marginal lending facility of the European Central Bank applicable during this period, increased by three percentage points; 7.

Rejects the remainder of the claims for just satisfaction. POMUL SRLET SUBERVIN SRL JUDGMENT REPUBLIC OF MOLDOVA 16 Done in French, then communicated in writing on October 24, 2023, pursuant to Article 77 §§ 2 and 3 of the Rules. Hasan Bakırcı Arnfinn Bårdsen Registrar President