



## Romanian/Moldovan-speaking schools in Transdnistria Region: Russia breached a number of Convention rights including the right to education

The case concerned complaints about pressure that had been brought to bear in 2013-14 by the authorities of the self-proclaimed “Moldavian Republic of Transdnistria” (the “MRT”), on four Romanian/Moldovan-speaking schools in that Region which used the Latin alphabet. The applicants were five pupils, three parents and 10 members of staff of those schools.

In its Committee judgment in the case of [Iovcev and Others v. the Republic of Moldova and Russia](#) (application no. 40942/14) the European Court of Human Rights unanimously held that there had been:

- a violation by Russia of Article 2 of Protocol No. 1 (right to education) to the Convention in respect of 8 applicants (5 pupils and 3 parents of pupils in the schools concerned);
- a violation by Russia of Article 8 (right to respect for private life) in respect of 10 applicants (staff members of the schools concerned) on account of harassment by the “MRT” authorities;
- a violation by Russia of Article 5 § 1 (right to liberty and security) in respect of 3 applicants (staff members of one of the schools concerned);
- a violation by Russia of Article 8 (right to respect for private and family life) on account of searches imposed on 3 applicants (staff members of one of the schools concerned) and the seizure of their property by the “MRT” authorities.

The Court also found, unanimously, that there had been:

- no violation by the Republic of Moldova of Article 2 of Protocol No. 1 (right to education) to the Convention in respect of 8 applicants (5 pupils and 3 parents of pupils in the schools concerned);
- no violation by the Republic of Moldova of Article 8 (right to respect for private life) in respect of 10 applicants (staff members of the schools concerned) on account of alleged harassment by the “MRT” authorities;
- no violation by the Republic of Moldova of Article 5 § 1 (right to liberty and security) in respect of 3 applicants, staff members in one of those schools;
- no violation by the Republic of Moldova of Article 8 (right to respect for private and family life) on account of searches imposed on 3 applicants (staff members of one of the schools concerned) and the seizure of their property by the “MRT” authorities.

In particular the Court found that the Russian Federation had exercised effective control over the “MRT” during the period in question and that, in view of its continuing military, economic and political support for the “MRT”, without which the latter could not have survived, the responsibility of Russia was engaged under the Convention on account of the interference with the applicants’ rights. The Court found, by contrast, that the Republic of Moldova had not failed, in respect of the complaints raised by the applicants, to fulfil its positive obligations.

*The judgment is final.*

## Principal facts

The applicants are 18 Moldovan nationals: 5 pupils, 3 parents of pupils and 10 members of staff from Romanian/Moldovan-speaking schools<sup>1</sup> in an area under the control of the authorities of the self-proclaimed “Moldavian Republic of Transdnistria” (the “MRT”). The schools in question used the Latin script and followed a curriculum approved by the Moldovan Ministry of Education with which they were registered. Article 12 of the “MRT” Constitution provides that the official languages within the MRT are Moldovan, Russian and Ukrainian. Article 6 of the “MRT Law on languages”<sup>2</sup> states that Moldovan must be written with the Cyrillic alphabet and that the use of the Latin alphabet may amount to an offence.

The applicants alleged that they had been subjected to pressure by the “MRT” authorities as part of a campaign of harassment and intimidation against the schools in 2013-2014. They complained in particular about tax and health inspections; the levying of duties; rent increases; the freezing of bank accounts preventing them from pay teachers’ wages; stoppages in the electricity and gas supply; arrests and customs searches of staff members from the schools when they tried to bring in cash in order to pay wages and the seizure of some of their property. Two pupils said that they had been subjected to searches and identity checks, of between 10 minutes and two hours every day, because they went by bus to a school that had been moved to an area under the control of the Republic of Moldova after the school premises had been taken over by the “MRT” police.

## Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 28 May 2014.

Relying on Article 2 of Protocol No. 1 (right to education) to the European Convention on Human Rights, 8 applicants (5 pupils and 3 parents of pupils) complained that measures had been taken to harass and intimidate them because of their choice to pursue their or their children’s education at Romanian/Moldovan-language schools.

Relying on Article 8 (right to respect for private life) of the Convention, 10 applicants (members of staff of the schools) complained that they had been subjected to harassment because of their choice to use the Romanian/Moldovan language, and that their right to cultural identity had thereby been infringed.

Relying on Article 5 § 1 (right to liberty and security), 3 applicants (members of staff) complained that they had been unlawfully deprived of their liberty. Relying in addition on Article 8 (right to respect for private life), these 3 applicants complained of searches and seizures of their possessions.

Judgment was given by a Committee of three judges, composed as follows:

**Julia Laffranque** (Estonia), *President*,  
**Paul Lemmens** (Belgium),  
**Arnfinn Bårdsen** (Norway),

and also **Hasan Bakırcı**, *Deputy Registrar*.

<sup>1</sup> The names of the schools are as follows: Lucian Blaga de Tiraspol, Ștefan cel Mare de Grigoriopol, Mihai Eminescu de Dubăsari and Corjova College.

<sup>2</sup> Law enacted on 8 September 1992.

## Decision of the Court

[Article 2 of Protocol No. 1 \(right to education\)](#) – Five pupils and three parents of pupils had complained that they had been harassed and intimidated because of their choice to pursue their or their children’s education at Romanian/Moldovan-speaking schools.

### **1. The interference and whether there was a legitimate aim**

The Court began by referring to its case-law from *Catan and Others*<sup>3</sup>. It went on to find that there had been an interference with the rights of the applicant pupils and parents guaranteed by Article 2 of Protocol No. 1 to the Convention. Moreover, it pointed out that in the *Catan and Others* judgment it had found that there was no evidence to suggest that the measures taken by the “MRT” authorities in respect of the schools in question pursued a legitimate aim. Further, it had taken the view that the “MRT”’s language policy, as applied to those schools, was intended to enforce the Russification of the language and culture of the Moldovan community living in the Transdnistria Region, in accordance with the “MRT”’s overall political objectives of uniting with Russia and separating from Moldova. In the present case it did not see any reason to reach a different conclusion. Accordingly, the Court found that the interference with the rights of the applicant pupils and parents guaranteed by Article 2 of Protocol No. 1 pursued no legitimate aim and that there had therefore been a violation of that provision in respect of those applicants.

### **2. The issue of State responsibility**

As regards the Republic of Moldova, the Court referred to the principles set out in its *Mozer*<sup>4</sup> case-law. In this connection it noted in particular that the Moldovan authorities had made considerable efforts to protect the applicants’ interests, by funding the Romanian/Moldovan-language schools in Transdnistria to allow them to continue operating and so that the children could continue their schooling. Consequently it took the view that the Republic of Moldova had not failed, in respect of the applicants, to fulfil its positive obligations and had not breached Article 2 of Protocol No. 1.

As regards the Russian Federation the Court had established that this State exercised effective control over the “MRT” in the period in question. Having regard to this conclusion, and in accordance with its case-law<sup>5</sup>, the Court took the view that there was no need to determine whether Russia had been in specific control of the policies and acts of the local subordinated administration. In view of its continuing military, economic and political support for the “MRT”, without which the latter could not have survived, the responsibility of Russia was engaged under the Convention on account of the interference with the applicants’ rights. Consequently there had been a violation of Article 2 of Protocol No. 1 by the Russian Federation in respect of those applicants.

[Article 8 \(right to respect for private life\)](#) – 10 staff members of the schools had complained that their right to cultural identity had been infringed.

The Court found that the harassment by the “MRT” against the schools of which the above-mentioned applicants were staff members had given rise to well-founded feelings of fear and humiliation. It further took the view that the pressure on the schools was part of a broader campaign of intimidation against Romanian/Moldovan-speaking schools in the Transdnistrian Region and that this had necessarily affected the feelings of self-esteem and self-confidence of the staff of these schools, including the applicants. Thus, the harassment measures taken by the “MRT” authorities had necessarily affected, in a particularly significant way, the private life, within the meaning of Article 8 of the Convention, of these 10 applicants through their ethnic identity and

<sup>3</sup> *Catan and Others v. Republic of Moldova and Russia* ([GC], nos. 43370/04 and 2 others, ECHR 2012).

<sup>4</sup> *Mozer v. Republic of Moldova and Russia* ([GC], no. 11138/10, 23 February 2016).

<sup>5</sup> *Ilaşcu and Others v. Moldova and Russia* ([GC], no. 48787/99, ECHR 2004-VII); *Ivanțoc and Others v. Moldova and Russia* (no. 23687/05, 15 November 2011); *Mozer*, cited above; and *Catan*, cited above.

professional activities. Consequently, the Court held that there had been an interference with the right to respect for the private life of these 10 applicants and that such interference did not pursue any legitimate aim. There had thus been a violation of Article 8 of the Convention in respect of these 10 applicants by the Russian Federation.

The Court found, however, that there had been no violation of Article 8 of the Convention by the Republic of Moldova.

#### Articles 5 § 1 (right to liberty and security) and 8 (right to respect for private and family life)

The Court first took the view that the three applicants in question, who had remained for several hours under the control of the “MRT” authorities, which had arrested and searched them, had been deprived of their liberty within the meaning of Article 5 of the Convention. The Court drew attention to its *Mozer* case law, in which it had found that the Transdniestrian Region did not have a system which reflected a Convention-compliant judicial tradition. Therefore, neither the courts of the “MRT” nor, by implication, any other authority of the “MRT”, had been entitled to order that the applicants should be “arrested and detained [lawfully]” within the meaning of Article 5 § 1 (c) of the Convention. Consequently, there had been a violation of Article 5 § 1 of the Convention in respect of these three applicants.

Further, the Court found that the searches imposed on these applicants and the seizure of their personal property constituted an interference with the exercise of their right to respect for their private life and home, as guaranteed by Article 8 § 1 of the Convention. It noted that there was no evidence in the present case to suggest that the interference in question had a legal basis. There had thus been a violation of Article 8 of the Convention in respect of these three applicants.

The Court lastly took the view that the Republic of Moldova had not failed in respect of these complaints to fulfil its positive obligations. It found, however, that these provisions had been breached by the Russian Federation.

#### Just satisfaction (Article 41)

The Court held that Russia was to pay 12,000 euros (EUR) each to three applicants in respect of non-pecuniary damage; EUR 6,000 each to 15 applicants in respect of non-pecuniary damage; and EUR 5,000 jointly to all the applicants in respect of costs and expenses.

*The judgment is available only in French.*

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