

# Great Britain refuses extradition of Moldovan citizens due to poor detention conditions and violence between detainees



Bindmans LLP Law office in London, Bindmans LLP acted for Andrian Tabuncic, one of the appellants, in the proceedings before the High Court in the case [Tabuncic & Coev / Moldova \[2021\] EWHC 1269 \(Admin\)](#). Mr Tabuncic's extradition was requested by Moldova and was successfully challenged by Bindmans on the grounds that it violated his rights not to suffer inhuman or degrading treatment or punishment under Article 3 of the European Convention on Human Rights (ECHR).

The Divisional Court, consisting of LJ Stuart-Smith and Judge Holgate, allowed the appeal, and found that the extradition orders must be cancelled.

### **Legal issues:**

The issues considered by the Divisional Court in this case were: whether there are substantial grounds for believing that there is a real risk of infringement of appellants' rights under Article 3 of the European Convention on Human Rights (ECHR) due to the material conditions of imprisonment, and , in particular, violence between prisoners; if and to what extent could the assurances given by Moldova be based.

### **Judgment**

Lawyers from London also indicated that the British court found based on the evidence administered that the Moldovan penitentiary system is run by a strong criminal subculture, which is tolerated by the penitentiary authorities. The Divisional Court accepted evidence from the European Committee for the Prevention of Torture (CPT) that this problem remains as "acute as ever" and it led to the fact that prisoners were subjected to extortion, violence and prolonged periods of arbitrary isolation. It noted that the problems of violence between prisoners were "endemic". Moldova has offered assurances that if extradited, Mr Tabuncic will be detained in cells compliant with in Article 3 and will be protected from violence by other detainees. Based on the above and based on the evidence obtained regarding the "substantial" breaches of insurance granted to the first individual extradited from Great Britain to Moldova, the Divisional Court found that the assurances given in connection with Mr. Tabuncic cannot be accepted because the Republic of Moldova does not respect them.

### **Conclusion**

By its [decision](#) of 14 May, the Divisional Court concluded

that:

“The extradition system applied by the courts in this jurisdiction is based on mutual trust and respect. The failure of the defendant (in this case, the Government of the Republic of Moldova) to provide any admissible information in response to the issues raised by the appellants is a matter of real concern. The statements made by the Defendant (Republic of Moldova) in future cases will have to be examined very carefully”.

Bindmans LLP Associate Jessica Skinns, who represented Mr. Tabuncic:

“This decision clearly shows that there are very real problems regarding the conditions of detention in the Republic of Moldova and, in particular, those arising from violence between prisoners. This decision may have a wider impact on other cases of extradition of the Republic of Moldova. Moldova is likely to be required to provide further updated assurances in these cases, which undoubtedly will be examined with “special attention” by lower courts. It remains to be seen whether such decisions and judicial criticism from the United Kingdom will have a material impact on the appalling conditions for Moldovan detainees. ”

The issue of subculture and penitentiary violence is an increasingly worrying problem in the Republic of Moldova. The Promo-LEX Association has assisted and is assisting detainees, victims of violence between detainees and the penitentiary subculture. The European Court has previously ruled in the case [I.E. v. Republic of Moldova](#), Complaint no. 45422/13. Promo-LEX lawyers are in the process of documenting other serious cases related to the prison subculture and violence between detainees.

Andrian Tabuncic was represented by Jessica Skinns, associate in the Crime and Extradition team at Bindmans LLP. She

assisted lawyers Ben Keith and David Josse QC of 5 St Andrews Hill, independent expert George Tugushi, but also expert Vadim Vieru from Promo-LEX.

The decision can be accessed [here](#)