

People's detention at the peacekeeping post on the Dniester River examined by the ECtHR

On May 16, 2019, the European Court of Human Rights (ECtHR) communicated to the Governments in Chisinau and Moscow that it received for examination the case of *Manole and Postica v. the Republic of Moldova and the Russian Federation*.



The case concerns the situation, where Russian soldiers detained three persons and without any warning illegally opened fire (using a Kalashnikov automated weapon), thus putting at risk the lives and physical integrity of dozens of peaceful people.

On July 19, 2005, at 16.00, two members of the Promo-LEX

Association (Ion Manole and Alexandru Postica) and another person that is not an applicant in the given case, were detained at a "peacekeeping post", while travelling from Cosnita to Chisinau on the grounds that they shot an advertisement placed near the post no. 9 with the inscription "Have a safe trip – Dubasari District". A Russian officer, who was the head of the military group, demanded that the film on the camera be deleted.

The members of Promo-LEX asked the Russian officer to draw up procedural documents on this request, but the officer suddenly become very aggressive and threatened them. On the phone, he requested his superiors from Dubasari to come to the place.

Even when several representatives of the military and witnesses from various organizations arrived at the place, Russian soldiers continued to behave aggressively towards the peaceful people present on the scene, and despite their insistence, the soldiers refused to unblock the car that belonged to the persons abusively detained. At a certain moment, for no reason and without warning the people and policemen present there, the Russian soldier produced two bursts of sub-machine gun fire. Due to the professional intervention of a traffic police officer from Dubasari district, a serious incident that could end up tragically was avoided.

The incident was solved only after midnight by the joint efforts of the representatives of the national, central and local constitutional authorities, as well as due to the prompt reaction of the journalists, civil society and many locals from Dubasari district, who unblocked the traffic and released the car of the Promo-Lex representatives. However, those who ordered the detention did not draw up any record, nor did they justify their behavior.

Before the Court, the applicants claimed that their rights under Articles 3, 5 § 1 and 13 of the Convention had been

violated.

The Court asked the parties questions about the existence or non-existence of violations under the described circumstances.

According to a new practice, the examination of cases by the ECtHR takes place in two stages: in a *non-contentious* procedure – where the parties are given the opportunity to settle the case amicably and in a *contentious* procedure – where the parties will be able to submit their observations, if the reconciliation fails.

For the first stage, the Section President decided to give the parties time (till September 18, 2019) to decide whether the parties can settle the case amicably.

We emphasize that this is not the only case when Russian peacekeepers abusively opened fire against civilians. The appeals made by the Promo-LEX Association in the period of 2005-2012 on the purpose, location and clear regulation of the presence of these armed troops on the territory controlled by the constitutional authorities were ignored. Thus, on January 1, 2012, a soldier from the same peacekeeping post deadly shot an 18-year-old man from Parata.

The Promo-LEX Association reiterates the need for an analysis and discussion on the relevance, risks and socio-economic and security impact of at least two posts in Vadul-lui-Voda, one of which is located on the territory of Chisinau – the capital of the Republic of Moldova.

Information about the status of peacekeeping forces in international law can be found in the [study](#) developed in 2015.

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Court decisions on abusive detention endanger human lives

On March 29, 2018, the European Court of Human Rights communicated, under the urgent procedure, the Serghei Cosovan's complaint, filed by the Promo-LEX Association on March 20, 2018. Moreover, the Court ordered that the case be examined as a matter of priority.

The Court asked the Government of the Republic of Moldova to submit its observations on the submitted complaint. [The High Court posed questions](#) on the way, in which the measure of pre-trial detention was ordered with respect to the person and whether the person was offered the necessary medical assistance (Articles 2, 3 and 5 of the Convention).

The case of the applicant, Serghei Cosovan, reveals several serious issues that exist for a very long time, both in the judiciary and in the penitentiary systems. *Thus, the excessive and unjustified use of pre-trial detention, as well as the issue of providing medical assistance in penitentiary, still remain extremely serious problems in the Republic of Moldova.* In the above case, the applicant, held in custody pending trial, risks dying in the penitentiary. Despite the existence of confirmed serious illnesses, the authorities do not display diligence in saving his life. The person is in the end-stage of liver cirrhosis (survival indicator – [Child-Pugh C\[1\]](#)),

which is the terminal stage of the disease. Despite the fact that these serious maladies are documented, his pre-trial detention has been continuously prolonged by the court since September 28, 2017.

Statistics show that the measure of pre-trial detention is being excessively used in Moldova, although the legislation provides for alternative measures, not less effective. The high rate of pre-trial detentions is still maintained in 2017. About 90% of the prosecutors' requests for pre-trial detention are accepted by the courts. Almost the same rate is recorded with respect to the acceptance of the prolongation of pre-trial detention.

In addition to the continuous pre-trial detention, this case highlighted an earlier problem – the quality of medical assistance in prisons and lack of a legal framework that would provide for the appropriate medical assistance for people in custody.

According to the information provided by the Department of Penitentiary Institutions, the penitentiary system suffers from a shortage of medical staff, considering the ration of the number of prisoners existing in the Republic of Moldova in 2017 (about 8000) to the current number of medical *workers* – 205 in the 17 penitentiaries.

On December 21, 2017, in their final [report](#), the experts of the UN Committee Against Torture expressed their concern about the lack of medical care in penitentiary institutions, their inadequate quality, the increase in the number of deaths and the lack of independence of the medical staff in the penitentiary system in relation to administration of penitentiaries.

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[1] According to the Child-Pugh scoring, the severity of liver cirrhosis correlates with the patients' survival indices: survival duration for patients referred to **Class C is of 2-3 months** (according *The National Clinical Protocol PCN-24, on the treatment of chronic hepatitis and liver cirrhosis of viral etiology C in adults, approved at the meeting of the Council of Experts of the Ministry of Health of the Republic of Moldova of 28.12.2013*).

Case L.B. v. Moldova (Application no. 10540/15)

Application no. 10540/15

by L.B.

against Moldova

lodged on February 19, 2015

The case was communicated to the Government of Moldova on January 12, 2015.

Case of Iovcev and others v. Moldova and Russia (Application no. 40942/14)

Application no. 40942/14
by Ion Iovcev and 13 others
against Moldova and Russia
lodged on May 18, 2014

The case was communicated to the Government of Moldova on October 20, 2015. Details of the statement of facts can be found in the document attached below.

DOC – [IOVCEVANDOTHERSV.THEREPUBLICOFMOLDOVAANDRUSSIA](#)

Case of Cerbu and others v. Moldova (Application no. 50435/14)

Application no. 69086/14
by Tatiana Machina
against Moldova
lodged on October 23, 2014

The case was communicated to the Government of Moldova on October 6, 2015. Details of the statement of facts can be found in the document attached below.

DOC – [CERBUv.THEREPUBLICOFMOLDOVA](#)

Case of Cotofan v. Moldova and Russia (Application no. 5659/07)

Application no. 5659/07
by Iurie Cotofan
against Moldova and Russia
lodged on January 16, 2007

The case was communicated to the Government of Moldova on September 14, 2014. Details of the statement of facts can be found in the document attached below.

DOC – [COTOFANv.THEREPUBLICOFMOLDOVAANDRUSSIA](#)

Case of Flocea and others v. Moldova (Application no. 39413/12)

Application no. 71243/14

by Mihail Cuiban
against Moldova
lodged on October 24, 2014

The case was communicated to the Government of Moldova on June 17, 2015. Details of the statement of facts can be found in the document attached below.

DOC – [FLOCEAv.THEREPUBLICOFMOLDOVA](#)

Case of Botnari v. Moldova (Application no. 74441/14)

Application no. 74441/14
by Victoria Botnari
against Moldova
lodged on November 20, 2014

The case was communicated to the Government of Moldova on January 27, 2015. Details of the statement of facts can be found in the document attached below.

DOC – [CauzaBotnaricMoldova](#)

Case of Casian v. Moldova and Russia (Application no. 18832/06)

Application no. 18832/06
by Petru Casian
against Moldova and Russia
lodged on December 18, 2007

The case was communicated to the Government of Moldova on December 18, 2014. Details of the statement of facts can be found in the document attached below.

DOC – [TURTURICAIURIEv.THEREPUBLICOFMOLDOVAANDRUSSIA](#)

Case of Negruta v. Moldova and Russia (Application no. 3445/13)

Application no. 3445/13
by Ghennadi Negruta
against Moldova and Russia
lodged on 07 December 2012

The case was communicated to the Government of Moldova on December 18, 2014. Details of the statement of facts can be found on the official page of ECtHR – here, or in the document attached below.

DOC – [NEGRUTA v. THE REPUBLIC OF MOLDOVA AND RUSSIA](#)