



COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

FOURTH SECTION

DECISION

Application no. 3934/05
by Iurie FIONAT
against Moldova

The European Court of Human Rights (Fourth Section), sitting on 8 July 2008 as a Chamber composed of:

Lech Garlicki, *President*,
Giovanni Bonello,
Ljiljana Mijović,
David Thór Björgvinsson,
Ján Šikuta,
Päivi Hirvelä,
Mihai Poalelungi, *judges*,

and Lawrence Early, *Section Registrar*,

Having regard to the above application lodged on 20 December 2004,

Having regard to the decision to examine the admissibility and merits of the case together (Article 29 § 3 of the Convention),

Having regard to the formal declarations accepting a friendly settlement of the case,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Iurie Fionat, is a Moldovan national who was born in 1965 and lives in Chisinau. He was represented before the Court by Mr I. Manole, a lawyer practising in Chişinău. The Moldovan Government (“the Government”) were represented by their Agent, Mr V. Grosu.

A. The circumstances of the case

The facts of the case, as submitted by the parties, may be summarised as follows.

On 30 June 2003 the Centru District Court ordered the Chişinău municipality to allocate accommodation to the applicant and his family, in accordance with legal requirements. No appeal was lodged and the judgment became final 15 days later.

The Decisions Enforcement Department of the Ministry of Justice (“the Department”) set several time-limits for the municipality to comply with the judgment, but it remained unenforced owing to a lack of available accommodation.

The applicant located an apartment in Chişinău which was vacant and asked the Department to enforce the judgment by seizing that apartment. On 8 August 2003 the Department seized the apartment and prohibited the municipality from disposing of it in any way. It also ordered the municipality to issue the applicant with an occupancy voucher, required by law to confirm his occupancy of the apartment (*bon de repartiție*).

According to the applicant, he and his family moved into the apartment with the agreement of the Department. It is unclear whether he also received the occupancy voucher from the municipality. After moving into the apartment, the applicant and his family did some repair work.

On 30 October 2003 the applicant was informed by prosecutor A. G. that on 20 October 2003 the latter had been given permission by the municipality to reconstruct and build an individually planned apartment on the premises in which the applicant lived.

Following the applicant’s refusal to vacate the apartment, he and his family were forcibly removed on 3 November 2003 by the Centre for Fighting Economic Crime and Corruption (“the CFEECC”).

The applicant complained to the Prosecutor General’s Office that unlawful actions had been taken against his family, but his complaint was dismissed since the allocation of the disputed apartment to prosecutor A. G. had begun “following the Prosecutor General’s request of 15 April 2004 that permission be given to A. G. to plan and build new accommodation”. The applicant did not challenge that decision in court.

On 3 December 2003 the Department annulled its order of 8 August 2003 for the seizure of the apartment.

On a request by the applicant, who had located another vacant apartment in Chişinău, the department seized it by an order of 28 April 2004. It also ordered the municipality to issue the applicant with the occupancy voucher for the apartment.

On 7 July 2004 the municipality informed the Department and the applicant that the apartment concerned by the new seizure order was not its

property and was, moreover, not suitable for living in as it was damaged. It could not, therefore, be allocated to the applicant.

The applicant's repeated request to be allocated the damaged apartment was refused for the same reasons.

The judgment of 30 June 2003 was enforced on 13 October 2005.

COMPLAINTS

1. The applicant complained under Article 6 § 1 of the Convention that his right of access to court had been infringed by the failure to enforce the final judgment in his favour.

2. The applicant also alleged that that failure to enforce had infringed his right to protection of property guaranteed by Article 1 of Protocol No. 1 to the Convention.

THE LAW

On 29 January 2008 the Court received the following declaration from the Government:

"I, Vladimir Grosu, Agent for the Government of Republic of Moldova, declare that the Government of Moldova offer to pay the sum of 2,000 (two thousand) euros to Mr Iurie Fionat with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be converted into Moldovan lei at the rate applicable on the date of payment, and free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case."

On 30 January 2008 the Court received the following declaration signed by the applicant:

"I, I. Manole, the applicant's representative in the above case, note that the Government of Moldova are prepared to pay the sum of 2,000 (two thousand) euros to Mr Iurie Fionat with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights

This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be converted into Moldovan lei at the rate applicable on the date of payment, and free of any taxes that may be applicable. It will be payable

within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.

I accept the proposal and waive any further claims against Moldova in respect of the facts giving rise to this application. I declare that this constitutes a final resolution of the case.”

The Court takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no reasons to justify a continued examination of the application (Article 37 § 1 *in fine* of the Convention). In view of the above, it is appropriate to discontinue the application of Article 29 § 3 and to strike the case out of the list.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases.

Lawrence Early
Registrar

Lech Garlicki
President