



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

FOURTH SECTION

DECISION

Application no. 26916/04  
by Leonid GRUSCA and Others  
against Moldova

The European Court of Human Rights (Fourth Section), sitting on 22 January 2008 as a Chamber composed of:

Nicolas Bratza, *President*,

Josep Casadevall,

Giovanni Bonello,

Kristaq Traja,

Stanislav Pavlovschi,

Ján Šikuta,

Päivi Hirvelä, *judges*,

and Fatoş Aracı, *Deputy Section Registrar*,

Having regard to the above application lodged on 17 June 2004,

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

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

Having deliberated, decides as follows:

THE FACTS

The applicants, Mr Leonid Gruşca, Mr Valeriu Gruşca, Mr Vitalie Chitoroagă and Mr Victor Ungureanu are Moldovan nationals who were born in 1974, 1969, 1942 and 1942 respectively and live in Bălţi. They are represented before the Court by Mr I. Manole, a lawyer practising in Chişinău.

### **A. The circumstances of the case**

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

On 16 September 2001 the applicants were arrested by the police and taken to the Sîngerei police commissariat. They were suspected of theft. According to the applicants, they were severely beaten while in custody.

On 18 September 2001 the Sîngerei District Court found that their detention had been unlawful and ordered their release. On the same day one of them (Mr Chitoroagă) was admitted to a hospital having been diagnosed with head trauma.

At the request of a prosecutor, on 19 September 2001 the applicants were all examined by a doctor, who found numerous injuries on their bodies; in the case of two of the applicants further examinations were recommended by specialist doctors, including a neurologist. In respect of Mr Chitoroagă the doctor added that the injuries could not have been caused by a simple fall.

On 17 October 2001 the prosecutor decided not to initiate criminal proceedings against the police officers concerned since it had not been established that they had committed a crime. He stated that the applicants had failed to return to his office with the results of their medical examinations or to give more details concerning their complaints, while all the police officers had denied having ill-treated the applicants.

The applicants did not challenge this decision in court.

On an unspecified date in 2003 the applicants initiated civil proceedings asking for compensation for damage caused by their illegal detention and ill-treatment, as well as the seizure and retention of their car for six months and unlawful searches.

On 10 September 2003 the Sîngerei District Court partly accepted their claim, finding that by unlawfully detaining them for two days the police had caused them damage. The court awarded each applicant 1,000 Moldovan lei (65 euros at the time). The court added that it could not examine the other complaints since they related to the criminal proceedings and had been the object of examination by the prosecutor, who had decided not to initiate criminal proceedings in 2001.

That judgment was upheld by the Bălți Court of Appeal on 4 December 2003. The applicants lodged an appeal in cassation but on 3 January 2004 they were informed by the Supreme Court of Justice that the appeal could not be examined due to their failure to pay court fees.

Since the applicants did not pay the court fees, the judgment of 10 September 2003 became final. On 18 August 2004 it was enforced.

## COMPLAINTS

1. The applicants complained under Article 3 of the Convention that they had been ill-treated by the police during their detention in 2001.

2. They also complained under Article 6 that the courts had incorrectly applied the law by awarding inadequate compensation, that their appeal in cassation had not been examined and that the proceedings had been excessively long.

## THE LAW

On 25 and 30 October 2007 the parties submitted to the Court signed declarations accepting a friendly-settlement agreement, according to which the Government had offered

“to pay 1,800 (one thousand eight hundred) euros jointly to Messrs Leonid Gruşca, Valeriu Gruşca, Vitalie Chitoroagă and Victor Ungureanu 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.”

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 reason to justify a continued examination of the application (Article 37 § 1 *in fine* of the Convention). Accordingly, Article 29 § 3 of the Convention should no longer apply to the case and it should be struck out of the list.

For these reasons, the Court unanimously

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

Fatoş Araci  
Deputy Registrar

Nicolas Bratza  
President