

19 September 2006

## FOURTH SECTION

Application no. 43370/04  
by Alexei CATAN and 27 Others  
against Moldova and Russia  
lodged on 25 October 2004

### Statement of Facts

#### THE FACTS

The applicants are children studying at Evrica High School in Rîbnița, their parents, and a teacher at that school, whose names appear in the list annexed hereto.

They are Moldovan nationals and live in Rîbnița. They are represented before the Court by Mr I. Manole, Mr A. Postică and Mr V. Țurcan, lawyers practising in Chișinău, and Mr A. Unger, professor of law at London South Bank University.

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

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

Evrica High School in Rîbnița is one of the six schools using the Moldovan/Romanian language with the Latin script in the so-called “Moldavian Republic of Transdnistria” (MRT). The applicants are pupils or parents of pupils at Evrica School, which has about 600 pupils.

On 18 August 1994 the MRT regime forbade the use of the Latin script in the school.

Since 1997, Evrica School has been using premises situated on Gagarin Street built with Moldovan public funds. The school was registered with the Moldovan Ministry of Education and was therefore using a Latin script curriculum approved by the Ministry of Education.

By a decision of 21 May 1999, the MRT regime ordered that all schools belonging to foreign States and functioning on the territory of the MRT had to register with the MRT authorities, failing which they would not be recognised and would be deprived of their rights.

Evrica School refused to register, since registration involved using the Cyrillic script curriculum devised by the MRT regime and deprived the schools thus registered of the right to be sponsored by the Moldovan Ministry of Education.

On 26 February 2004 the building used by the school was transferred by the Transdnistrians to the administration of the Rîbnița Department of

Education. They reiterated their request for registration with the MRT education system.

On 14 July 2004 the Transdnistrians closed down all schools using the Latin script.

Having regard to incidents in which the other schools in Transdnistria teaching in Romanian had been involved following the decision to close them down, students, parents and teachers from Evrika School took it upon themselves to guard the school day and night.

On 29 July 2004 Transdnistrian police stormed the school and evicted the women and children who were inside it. Five men who were inside the school were arrested and subsequently sentenced to three or seven days' administrative imprisonment. The same day the husband of the school's director was arrested in the street and sentenced to seven days' administrative imprisonment for public-order disturbances.

Over the following days local police and civil servants from the Rîbnița Department of Education visited the parents of children registered with the school, asking them to withdraw their children from the school and to put them in a school registered with the MRT regime. The parents were told that if they did not do so, they would be fired from their jobs and would even be deprived of their parental rights. As a result of this pressure, many parents withdrew their children and transferred them to another school.

On 29 September 2004, and following the intervention of the OSCE Mission to Moldova, the school was able to register with the Tiraspol Chamber of Registration as a foreign institution of private education, but could not resume its activity for lack of premises.

It was only on 2 October 2004 that the MRT regime allowed the school to reopen in another unfinished and inappropriate building, which used to be a kindergarten. Since its reopening, the school has been obliged to use a Cyrillic alphabet curriculum devised by the MRT regime and has been deprived of a telephone. Moreover, the school's repeated requests to be allowed to return to the building situated on Gagarin Street, which is bigger and more appropriate, were rejected on the ground that another school was now using that building.

The applicants filed a number of petitions and complaints with the authorities of the Russian Federation, since most of the MRT leaders are Russian citizens, some of them having even received Russian State decorations, and the Russian Federation continues to have troops stationed in Transdnistria and is the mediator in the conflict between Moldova and the secessionist regime in Tiraspol. The Ministry of Foreign Affairs of the Russian Federation replied by making public general statements about the escalation of the conflict around the Moldovan-speaking schools in Transdnistria. Stating that the underlying problem was the ongoing conflict between Moldova and the MRT, the Russian Ministry of Foreign Affairs drew the attention of Moldova and MRT to the fact that the use of force to solve the conflict could endanger security in the region and urged them to use various types of negotiations in order to solve the conflict.

The applicants also complained about their situation to the Moldovan authorities, who, despite promises to solve the problem of schools in the MRT using the Latin script, have not succeeded in doing so.

In reply to the events described above, but also concerning other schools, the Council of Europe's Committee of Ministers and Commissioner for Human Rights and the OSCE expressed their concerns at the serious difficulties facing schools in the Transdniestrian region of Moldova using the Latin script as a result of the measures taken by the MRT regime.

The applicants point out that there are 92,000 pupils in the MRT. While in 1989 Moldovans represented 40% of the total population, Ukrainians 26 % and Russians 26%, this proportion is far from being respected in the schools in the MRT: in 82 % of these schools, the curriculum is devised in Russian, in 13.5 % the curriculum is in Moldovan/Romanian with the Cyrillic script, in 3.8 % the curriculum is in Moldovan/Romanian with the Latin script and in 0.7 % in Ukrainian.

## COMPLAINTS

The applicants complained that they were unable to continue using the building on Gagarin Street. They also alleged that they were harassed by the MRT regime because they chose to use the Latin alphabet.

They claimed that the children were obliged to study in an artificial language created by the Soviet authorities, that is, Moldovan/Romanian with the Cyrillic script. Moreover, they were obliged to follow a Transdniestrian curriculum, which was inspired by the theory and methods of denationalisation of the local population initiated in the Transdniestrian region in 1924. This curriculum, they alleged, cultivated hostility towards the legitimate Moldovan authorities, the Moldovan/Romanian language, and also towards the history, culture and values pertaining to the territory on the west bank of the Dniestr river (under Moldovan control). Disciplines such as history and the mother-tongue language were not presented in an objective and critical way; instead, they were used as instruments of propaganda and indoctrination. In sum, the education received by the children in Evrika School was not based on the values of a democratic society and did not correspond to the parents' philosophical convictions. This constituted an infringement of their right to education and teaching in conformity with their philosophical convictions guaranteed by Article 2 of Protocol No. 1 to the Convention, as interpreted by the Court in many cases, *inter alia*, in the case of *Kjeldsen, Busk Madsen and Pedersen v. Denmark* (judgment of 7 December 1976, Series A no. 23).

They further complained of discrimination on ethnic grounds, which denoted a lack of respect on the part of the MRT for their cultural and ethnic background. The shock and stress which they felt as a result of this discrimination, particularly between July and October 2004, but also today, amounted to treatment contrary to Article 3 of the Convention. They relied in this respect on the case of *Abdulaziz Cabales and Balkandali v. United Kingdom* (judgment of 28 May 1985, Series A no. 94).

They also alleged that, having regard to the threats, persecution and mockery to which they and their families were regularly subjected, they feared for their physical security, and invoked in this respect Articles 3

and 8 of the Convention and the Court's judgment in the *Belgian Linguistics case* (judgment of 23 July 1968, Series A no. 6).

They also invoked Articles 13 and 14 of the Convention taken together with Articles 3 and 8 of the Convention and Article 2 of Protocol No. 1.

The applicants considered that the Moldovan authorities were responsible because Transnistria was a part of Moldova and the Moldovan authorities therefore had positive obligations to secure the applicants' rights. They further considered that the Russian authorities were responsible for the foregoing violations since the Transnistrian territory was under Russia's *de facto* control.