



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

Communicated on 27 August 2018

SECOND SECTION

Application no. 63750/17
V.I. against the Republic of Moldova and Russia
lodged on 16 August 2017

STATEMENT OF FACTS

The applicant, Mr V.I., is a Moldovan and Ukrainian national, who was born in 1985 and lives in Camenca, a town in the Transdnistrian region of Moldova. The President granted the applicant's request for his identity not to be disclosed to the public (Rule 47 § 4). He is represented before the Court by Mr A. Postică and Ms N. Hriplivii, lawyers practising in Chişinău.

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

When the applicant reached the drafting age in 2004, in order to avoid his conscription into the "Transdnistrian army", his parents obtained a false medical certificate in which it was indicated that he was unfit for military service due to mental health problems.

Later, in 2011, the applicant attempted to find employment but was unable to because his military booklet contained a code indicating his mental health problems.

The applicant initiated civil proceedings in the courts of the self-proclaimed republic of Transdnistria ("MRT") seeking a change of the inscription in the military booklet concerning his mental health problems, but without any success. The final judgment in the case was adopted by the Supreme Court of the MRT on 16 February 2016.

COMPLAINTS

1. The applicant complains that his right to respect for his private life, in particular the right to protection of personal medical data, as guaranteed by

Article 8 of the Convention, was breached by virtue of the fact that his military booklet contains an inscription about his mental health problems.

2. The applicant complains under Article 6 § 1 of the Convention that the proceedings before the MRT courts were not fair. He submits, in particular, that the courts in question did not qualify as tribunals established by law within the meaning of Article 6 §1 of the Convention, that the proceedings were excessively long, that the courts did not give sufficient reasons in their judgments and that the proceedings were not adversarial.

3. The applicant finally alleges that, contrary to Article 13 of the Convention, he did not have an effective remedy against the breach of his rights guaranteed by Article 8 of the Convention.

QUESTIONS TO THE PARTIES

1. Did the applicant come within the jurisdiction of the Republic of Moldova and/or the Russian Federation within the meaning of Article 1 of the Convention as interpreted by the Court, *inter alia*, in the cases of *Ilaşcu and Others v. Moldova and Russia* [GC], no. 48787/99, ECHR 2004-VII, *Catan and Others v. Moldova and Russia* [GC], nos. 43370/04 and 2 others, §§ 102-23, ECHR 2012 (extracts); and *Mozer v. the Republic of Moldova and Russia* [GC], no. 11138/10, ECHR 2016, on account of the circumstances of the present case?

In that connection, bearing in mind that up until now the Grand Chamber's conclusions have generally been based on a lack of convincing and new information from the Governments concerned, the Court again invites the latter to reply to the question whether there has been any development following the period under examination in the case of *Mozer* – that is, after July 2010 – which might have an effect on their respective responsibilities. In this context, the Governments, in particular the Government of Russia, are asked:

a) to provide the Court with any tangible information and any relevant argument capable of establishing that, since July 2010, Russia has no longer been exercising effective control and/or decisive influence over the authorities of the self-proclaimed Moldavian Republic of Transdniestria (the "MRT"),

b) to express their opinion – with supporting documents and referring specifically to the rules governing the courts' structure and to the existing body of case-law – on the question whether, since that date, the MRT courts, including the Constitutional Court set up on 12 June 2002, can be regarded as independent and impartial and deemed to have become part of a judicial system operating on a constitutional and legal basis reflecting a judicial tradition that conforms to the Convention and respects the rule of law. In order to answer this question, the Court invites the Governments

concerned, particularly Russia, to use, as appropriate, the diplomatic channels and means available to them for the purposes of gathering the required information from the Transdniestrian judicial authorities and to communicate it to the Court.

2. Has there been an interference with the applicant's right to respect for his private life within the meaning of Article 8 § 1 of the Convention? If so, was that interference in accordance with the law, did it pursue a legitimate aim and was it and necessary in terms of Article 8 § 2 of the Convention (*Z v. Finland*, 25 February 1997, *Reports of Judgments and Decisions* 1997-I)?

3. Did the applicant have a fair hearing in the determination of his civil rights and obligations by a tribunal established by law as required by Article 6 § 1 of the Convention?

4. Did the applicant have at his disposal an effective domestic remedy for his Article 8 complaint, as required by Article 13 of the Convention?