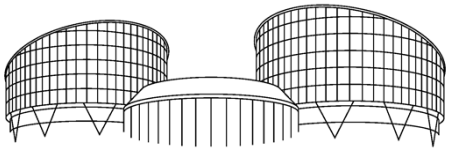

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

CASE OF DOBROVITSKAYA AND OTHERS v. THE REPUBLIC OF MOLDOVA AND RUSSIA

(Applications nos. 41660/10 and 5 others)

JUDGMENT

STRASBOURG

3 September 2019

This judgment is final but it may be subject to editorial revision.

In the case of Dobrovitskaya and Others v. the Republic of Moldova and Russia,

The European Court of Human Rights (Second Section), sitting as a Committee composed of:

Julia Laffranque, *President,*
Ivana Jelić,
Arnfinn Bårdsen, *judges,*
and Hasan Bakırcı, *Deputy Section Registrar,*

Having deliberated in private on 2 July 2019,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in six applications (nos. 41660/10, 25197/11, 8064/11, 6151/12, 28972/13 and 29182/14) against the Republic of Moldova and the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by eleven Moldovan and Russian nationals, Ms Elena Dobrovitskaya, Mr Alexandru Ursu, Mr Serghei Boltenco, Mrs Galina Samatov, Mr Ivan Samatov, Mr Mihail Petiş, Mr Maxim Ciumacenco, Mr Mihail Doagă, Mr Igor Gherghelejiu, Mr Vitalii Beşleaga and Mr Serghei Bevziuc ("the applicants", see details in the appended Annex), on 7 July 2010, respectively.

2. The applicants were represented by Mr A. Zubco, Mr A. Postica, Ms N. Hriplivîi and Mr P. Postica, lawyers practising in Chișinău and Varnița. The Moldovan Government ("the Government") were represented by their Agent *ad interim* at the time, Mrs R. Revencu. The Russian Government were represented by their Agent at the time, Mr A. Fedorov, Head of the Office of the Representative of the Russian Federation to the European Court of Human Rights.

3. Between 29 September 2014 and 16 June 2016 the complaints listed in the annexed table were communicated to the respondent Governments and the remainder of the applications nos. 41660/10, 8064/11, 25197/11 and 6151/12 was declared inadmissible pursuant to Rule 54 § 3 of the Rules of Court.

4. The Russian Government objected to the examination of the applications by a Committee. After having considered the Russian Government's objection, the Court rejects it.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The details concerning each application are set out in the annexed table. Each of the applicants (except for Mrs Galina Samatova in application no. 8064/11) was detained by the authorities of the self-proclaimed "Moldovan Transdniestrian Republic" (the "MRT" – see for more details *Ilaşcu and Others v. Moldova and Russia* ([GC], no. 48787/99, §§ 28-185, ECHR 2004-VII) and *Catan and Others v. the Republic of Moldova and Russia* ([GC], nos. 43370/04, 8252/05 and 18454/06, §§ 8-42, ECHR 2012). They all (except for application no. 28972/13) complained about unlawful detention, while some also complained about inhuman conditions of detention, unfair trial and the lack of effective remedies in respect of their other complaints (see details in the annexed table).

II. RELEVANT MATERIALS

6. The relevant materials have been summarised in *Mozer v. the Republic of Moldova and Russia* [GC] (no. 11138/10, §§ 61-77, ECHR 2016).

THE LAW

I. JOINDER OF THE APPLICATIONS

7. Given their similar factual and legal background, the Court decides that the six applications should be joined under Rule 42 § 1 of the Rules of Court.

II. GENERAL ADMISSIBILITY ISSUES

A. Victim status of one of the applicants

8. The Court notes that application no. 8064/11 was lodged by Mrs Galina Samatova in her own name, as a direct and indirect victim, as well as in the name of her son, who could not lodge it himself due to being isolated in an "MRT" prison. It considers that the complaints made in that application, namely allegedly inhuman conditions of detention, unlawful detention and lack of effective remedies, are not of a nature giving rise to an independent right for Mrs Samatova to complain in her own name of breaches of the Convention, given in particular that her son, Mr. Ivan Samatov, is alive and could pursue himself the application before the Court.

In view of the above, the Court concludes that the complaints of Mrs Samatova are incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4.

B. Death of an applicant

9. On 19 November 2014 Mr Boltenco (application no. 28972/13) died from heart attack. His wife expressed her wish to continue with the application lodged with the Court.

10. The Court sees no reason to reject that request. For practical reasons this judgment will continue to refer to Mr Boltenco as the "applicant" although his wife is today to be regarded as having that status (see *Dalban v. Romania* [GC], no. 28114/95, § 1, ECHR 1999-VI, and *Brosset-Triboulet and Others v. France* [GC], no. 34078/02, § 58, 29 March 2010).

C. Observance of the six-month rule

11. The Russian Government submitted that the applications lodged by Mr Samatov (application no. 8064/11), Mr Ursu (application no. 25197/11) and Mr Boltenco (application no. 28972/13), as well as the complaint lodged by the applicants in application no. 6151/12 should be rejected for failure to submit their applications within six months. They noted that Mr Samatov had complained about his conditions of detention between 3 March and 17 June 2007, while he had lodged his application on 20 January 2011. Mr Ursu had been finally convicted by the "MRT" Supreme Court on 29 June 2010, but only lodged his application on 11 April 2011. Similarly, Mr Boltenco had been convicted by the "MRT" Supreme Court on 12 May 2009, but lodged his application only on 2 May 2012. Finally, the four applicants in application no. 6151/12 were convicted by an "MRT" court on 27 May 2011, but lodged their application on 18 January 2012.

12. The Court reiterates that the six-month rule stipulated in Article 35 § 1 of the Convention is intended to promote legal certainty and to ensure that cases raising issues under the Convention are dealt with within a reasonable time (*Jeronovičs v. Latvia* [GC], no. 44898/10, § 74, ECHR 2016). As a rule, the six-month period runs from the date of the final decision in the process of exhaustion of domestic remedies. Where no effective remedy is available to an applicant, the time-limit generally expires six months after the date of the acts or measures about which he or she complains (*ibidem*, § 75). In cases of a continuing situation, the period starts to run afresh each day and it is in general only when that situation ends that the six-month period actually starts to run (see *Varnava and Others v. Turkey* [GC], nos. 16064/90 and 8 others, § 159, ECHR 2009;

Sabri Güneş v. Turkey [GC], no. 27396/06, § 54, 29 June 2012; and *Mocanu and Others v. Romania* [GC], nos. 10865/09 and 2 others, § 261, ECHR 2014 (extracts)). The concept of a "continuing situation" refers to a state of affairs which operates by continuous activities by or on the part of the State to render the applicant a victim (*Svinarenko and Slyadnev v. Russia* [GC], nos. 32541/08 and 43441/08, § 86, ECHR 2014 (extracts)).

13. The Court notes that the complaint made under Article 6 § 1 by Mr Ursu concerns the instantaneous act of his conviction by the final judgment of 29 June 2010. That was also the last date by which the local courts could have heard his complaints regarding his alleged ill-treatment while in detention (complaint under Article 3 of the Convention). Accordingly, these two complaints were to be lodged by 29 December 2010 in order to comply with the six-month rule referred to above. However, he lodged his application only on 11 April 2011. Therefore, these complaints under Article 3 (alleged ill-treatment) and 6 were lodged outside the time-limit set down by Article 35 § 1 of the Convention, and must be rejected as inadmissible pursuant to Article 35 § 4 of the Convention.

14. As regards the other complaints lodged by Mr Samatov, Mr Ursu and Mr Boltenco, the Court notes that they referred to their conditions of detention, the lawfulness of their detention and the lack of effective remedies (see the annexed table). It considers that, given the fact that at the time of lodging their complaints all these applicants were still in detention and in the conditions complained of, this part of their applications referred to a "continuing situation" within the meaning referred to above (see *Ananyev and Others v. Russia*, nos. 42525/07 and 60800/08, § 78, 10 January 2012).

15. The same conclusion is to be reached in respect of the complaint lodged by the four applicants in application no. 6151/12 concerning their unlawful detention. As for their complaint under Article 6, the Court notes that the judgment of 27 May 2011 was appealed to the "MRT" Supreme Court, which upheld it on 19 July 2011. The Russian Government argued that, given the ineffectiveness of any remedies existing in the "MRT" as argued by the applicants, they did not have to appeal their conviction by the first-instance court and should have lodged their application within six months of that date.

16. The Court refers to its earlier findings (see, for instance, *Mozer*, cited above, § 212) that there were no effective remedies in the "MRT" in respect of the complaints raised under a number of Convention provisions. It considers that the judgment of the "MRT" Supreme Court resulted in the applicants' conviction, regardless of the decisions given by the lower courts. Therefore, the applicants could complain about their conviction by the "MRT" Supreme Court, which had taken place less than six months prior to the lodging of this application.

17. Consequently, the Russian Government's objection in respect of all the complaints except those mentioned in paragraph 13 above is to be rejected.

D. Exhaustion of domestic remedies

18. The Moldovan Government submitted that the applicants had not exhausted the remedies available to them in Moldova. In particular, they could have asked the Moldovan Supreme Court of Justice to quash any convictions by the "MRT" courts and make use of Law no. 1545 (1998) on compensation for damage caused by illegal acts undertaken by the criminal investigation bodies, the prosecution authorities or the courts, to claim compensation from the Republic of Moldova for a breach of their rights. The Moldovan Government therefore argued that the parts of the applications concerning Moldova should be declared inadmissible for failure to exhaust domestic remedies in Moldova.

19. The Court notes that the same objection was raised by the Moldovan Government and dismissed by the Court in *Mozer* (cited above, §§ 115-121). It sees no grounds on which to distinguish the present case from Mozer and rejects the Moldovan Government's objection of non-exhaustion of domestic remedies on the same grounds as in that case.

20. The Russian Government submitted that the application should be rejected for failure to exhaust domestic remedies before the Russian courts.

21. The Court notes that the obligation to exhaust domestic remedies requires an applicant to make normal use of remedies which are available and sufficient in respect of his or her Convention grievances. The existence of the remedies in question must be sufficiently certain, not only in theory but in practice, failing which they will lack the requisite accessibility and effectiveness. To be effective, a remedy must be capable of directly redressing the impugned state of affairs and must offer reasonable prospects of success (see *Mozer*, cited above, § 116).

22. By contrast, there is no obligation to have recourse to remedies which are inadequate or ineffective (see *Akdivar and Others v. Turkey*, 16 September 1996, § 67, Reports of Judgments and Decisions 1996-IV). However, the existence of mere doubts as to the prospects of success of a particular remedy which is not obviously futile is not a valid reason for failing to use that means of redress (see *Akdivar and Others*, cited above, § 71; and *Scoppola v. Italy* (no. 2) [GC], no. 10249/03, § 70, 17 September 2009).

23. As regards the burden of proof, it is incumbent on the Government claiming non-exhaustion to satisfy the Court that the remedy was an effective one, and available in theory and in practice at the relevant time. Once this burden has been satisfied, it falls to the applicant to establish that the remedy advanced by the Government was in fact used, or was for some

reason inadequate and ineffective in the particular circumstances of the case, or that there existed special circumstances absolving him or her from this requirement (see, *inter alia*, *Maktouf and Damjanović v. Bosnia and Herzegovina* [GC], nos. 2312/08 and 34179/08, § 58, ECHR 2013 (extracts); *Vučković and Others v. Serbia* (preliminary objection) [GC], nos. 17153/11 and 29 others, §§ 69-77, 25 March 2014; and *Gherghina v. Romania* [GC] (dec.), no. 42219/07, §§ 83-89, 9 July 2015).

24. The Court notes the Russian Government's submission concerning the failure to exhaust domestic remedies before the Russian courts. It observes that it examined essentially the same objection in *Ilaşcu and Others*, finding that:

> "... the Russian Government mentioned that it was possible for the applicants to bring their complaints to the knowledge of the Russian authorities but did not state what remedies Russian domestic law might have afforded for the applicants' situation.
>
> It notes also that the Russian Government denied all allegations that the armed forces or other officials of the Russian Federation had taken part in the applicants' arrest, imprisonment and conviction or had been involved in the conflict between Moldova and the region of Transdniestria. Given such a denial of any involvement of Russian forces in the events complained of, the Court considers that it would be contradictory to expect the applicants to have approached the Russian Federation authorities" (*Ilaşcu and Others* [GC] (dec.), no. 48787/99, 4 July 2001).

25. In the present case, the Russian Government did not specify which of their courts had jurisdiction over complaints against the actions of the "MRT" authorities. Moreover, no details were given as to the legal basis for examining such complaints and to the manner in which any decision taken would be enforced. In addition, the Russian Government continued to deny any involvement in the Transdniestrian conflict or participation by their agents in the alleged breaches of the applicants' rights in the present cases. Given those circumstances the Court is not satisfied that the remedies referred to by the Russian Government were available and sufficient (see *Draci v. the Republic of Moldova and Russia*, no. 5349/02, § 41, 17 October 2017).

26. It follows from the above that the Russian Government's objection must be dismissed.

E. Jurisdiction

27. The Russian Government argued that the applicants did not come within their jurisdiction. Consequently, the applications should be declared inadmissible *ratione personae* and *ratione loci* in respect of the Russian Federation. For their part, the Moldovan Government did not contest that the Republic of Moldova retained jurisdiction over the territory controlled by the "MRT".

28. The Court notes that the parties in the present case have positions concerning the matter of jurisdiction which are similar to those expressed by

the parties in *Catan and Others v. the Republic of Moldova and Russia* ([GC], nos. 43370/04, 8252/05 and 18454/06, §§ 83-101, ECHR 2012 and in *Mozer* (cited above, §§ 81-95). Namely, the applicants and the Moldovan Government submitted that both respondent Governments had jurisdiction, while the Russian Government submitted that they had no jurisdiction. The Russian Government expressed the view that the approach to the issue of jurisdiction taken by the Court in *Ilaşcu and Others v. Moldova and Russia* [GC] (no. 48787/99, ECHR 2004 VII was wrong and at variance with public international law.

29. The Court observes that the general principles concerning the issue of jurisdiction under Article 1 of the Convention in respect of acts undertaken and facts arising in the Transdniestrian region of Moldova were set out in *Ilaşcu and Others* (cited above, §§ 311-19), *Catan and Others* (cited above, §§ 103-07) and, more recently, *Mozer* (cited above, §§ 97-98).

30. In so far as the Republic of Moldova is concerned, the Court notes that in *Ilaşcu*, *Catan* and *Mozer* it found that although Moldova had no effective control over the Transdniestrian region, it followed from the fact that Moldova was the territorial State that persons within that territory fell within its jurisdiction. However, its obligation, under Article 1 of the Convention, to secure to everyone within its jurisdiction the rights and freedoms defined in the Convention, was limited to that of taking the diplomatic, economic, judicial and other measures that were both in its power and in accordance with international law (see *Ilaşcu and Others*, cited above, § 333; *Catan and Others*, cited above, § 109; and *Mozer*, cited above, § 100). Moldova's obligations under Article 1 of the Convention were found to be positive obligations (see *Ilaşcu and Others*, cited above, §§ 322 and 330-31; *Catan and Others*, cited above, §§ 109-10; and *Mozer*, cited above, § 99).

31. The Court sees no reason to distinguish the present case from the above-mentioned cases. Besides, it notes that the Moldovan Government do not object to applying a similar approach in the present case. Therefore, it finds that Moldova had jurisdiction for the purposes of Article 1 of the Convention, but that its responsibility for the acts complained of is to be assessed in the light of the above-mentioned positive obligations (see *Ilaşcu and Others*, cited above, § 335).

32. In so far as the Russian Federation is concerned, the Court notes that in *Ilaşcu and Others* it has already found that the Russian Federation contributed both militarily and politically to the creation of a separatist regime in the region of Transdniestria in 1991-1992 (see *Ilaşcu and Others*, cited above, § 382). The Court also found in subsequent cases concerning the Transdniestrian region that up until at least July 2010, the "MRT" was only able to continue to exist, and to resist Moldovan and international efforts to resolve the conflict and bring democracy and the rule of law to the region, because of Russian military, economic and political support (see

Ivanţoc and Others, cited above, §§ 116-20; *Catan and Others*, cited above, §§ 121-22; and *Mozer*, cited above, §§ 108 and 110). The Court concluded in *Mozer* that the "MRT"'s high level of dependency on Russian support provided a strong indication that the Russian Federation continued to exercise effective control and a decisive influence over the Transdniestrian authorities and that, therefore, the applicants fell within that State's jurisdiction under Article 1 of the Convention (*Mozer*, cited above, §§ 110-11).

33. The Court sees no grounds on which to distinguish the present case from *Ilaşcu and Others*, *Ivanţoc and Others*, *Catan and Others*, and *Mozer* (all cited above).

34. It follows that the applicants in the present cases fell within the jurisdiction of the Russian Federation under Article 1 of the Convention. Consequently, the Court dismisses the Russian Government's objections *ratione personae* and *ratione loci*.

35. The Court will hereafter determine whether there has been any violation of the applicants' rights under the Convention such as to engage the responsibility of either respondent State (see *Mozer*, cited above, § 112).

III. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

36. Mr Serghei Boltenco (application no. 28972/13) complained about the authorities' failure to provide him with the requisite medical assistance for his condition. He argued that this failure exposed him to a real risk to his life, contrary to Article 2 of the Convention, the relevant part of which reads as follows:

> "1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally ..."

A. Admissibility

37. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

38. The applicant submitted that the acute nature of his condition (arterial hypertension of 3rd degree, risk level 4, angina pectoris and the fact that he had already suffered a heart attack while in detention) put his life at risk, given the harsh conditions of detention and the lack of any specialised medical personnel or treatment. He referred to the fact that, according to statistics from the relevant "MRT" authority, in 2012 some 13 detainees

died in "MRT" prisons from illnesses. As a result of the worsening of his condition while in detention and the lack of medical treatment he died less than a year after his release.

39. The Moldovan Government submitted that the applicants' life had been endangered by the lack of medical assistance, adding that they had taken all reasonable measures aimed at protecting their Convention rights.

40. The Russian Government made no specific submissions on the merits of this complaint.

41. The Court has established that there may be a positive obligation on a State under the first sentence of Article 2 § 1 to protect the life of an individual from third parties or from the risk of life-endangering illness (see *Osman v. the United Kingdom*, 28 October 1998, §§ 115-122, Reports 1998-VIII; *Yaşa v. Turkey*, 2 September 1998, §§ 92-108, Reports 1998-VI; and *L.C.B. v. the United Kingdom*, 9 June 1998, §§ 36-41, Reports 1998-III). At the same time, it is only in exceptional circumstances that physical ill-treatment by State agents which does not result in death may disclose a violation of Article 2 of the Convention (see *Makaratzis v. Greece* [GC], no. 50385/99, § 51, ECHR 2004-XI).

42. In the present case the Court notes that, despite the applicant's apparently serious condition, at no point was it established that there was an immediate risk to his life.

43. That being so, the Court considers that the facts complained of by the applicant do not call for a separate examination under Article 2 of the Convention, but would be more appropriately examined under Article 3 instead (see *Mozer*, cited above, § 171).

IV. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

44. All applicants, except for those in application no. 6151/12, complained that they had been held in inhuman conditions of detention, contrary to the requirements of Article 3 of the Convention. In addition, one applicant, namely Mr Boltenco, complained of insufficient medical assistance during his detention. Article 3 reads as follows:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

A. Admissibility

45. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. Conditions of detention

46. The applicants complained about the inhuman conditions in which they had been held in the "MRT" detention facilities. Each of them described those conditions in detail (see the annexed table).

47. The Moldovan Government submitted in respect of applications nos. 41660/10, 25197/11 and 28972/13 that the applicants had been detained in inhuman conditions. The Republic of Moldova always tried to protect its citizens from the acts of the "MRT" authorities, but was hampered by the lack of effective control over the relevant territory. In respect of application no. 8064/11, they submitted that they had had limited knowledge of the case and had found out about the applicant's situation following the communication of the case by the Court. They thus left the issue to the Court's discretion.

48. The Russian Government argued that since the "MRT" was part of Moldovan territory and, in the absence of any control by Russia over the events on that territory, only the Moldovan Government could submit any comments concerning the merits of the present applications.

49. The Court reiterates that Article 3 of the Convention enshrines one of the most fundamental values of democratic society. It prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the circumstances and the victim's behaviour (see, for example, *Labita v. Italy* [GC], no. 26772/95, § 119, ECHR 2000-IV). Ill-treatment must, however, attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of this minimum is relative: it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim (see, among other authorities, *Kudła v. Poland* [GC], no. 30210/96, § 91, ECHR 2000-XI; *Enea v. Italy* [GC], no. 74912/01, § 55, ECHR 2009; and *Bouyid v. Belgium* [GC], no. 23380/09, § 86, ECHR 2015, and *Mozer*, cited above, § 177).

50. The State must ensure that a person is detained in conditions which are compatible with respect for human dignity, that the manner and method of the execution of the measure of deprivation of liberty do not subject him to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention (see *Kudła*, cited above, § 94, *Ananyev and Others*, cited above, § 141, and *Muršić v. Croatia* [GC], no. 7334/13, § 99, 20 October 2016) and that, given the practical demands of imprisonment, his health and well-being are adequately secured (see *Kudła*, cited above, § 94; *Idalov v. Russia* [GC], no. 5826/03, § 93, 22 May 2012,).

51. In the present case, the Court notes that the applicants made similar descriptions of their conditions of detention. Common trends appear to be dark cells without basic hygiene, overcrowding (going as far as having

insufficient beds for detainees), infestation with parasitic insects. It also notes that none of the respondent Governments opposed this description.

52. Finally, the Court notes that the conditions of detention prevailing in the same prisons in which the applicants have been detained in the "MRT" have already been found to be substandard (see, for instance, *Mozer*, cited above, §§ 180 and 181; *Braga v. the Republic of Moldova and Russia*; no. 76957/01, § 37, 17 October 2017; *Eriomenco v. the Republic of Moldova and Russia*, no. 42224/11, § 57, 9 May 2017; *Apcov v. the Republic of Moldova and Russia*, no. 13463/07, § 43, 30 May 2017; *Draci v. the Republic of Moldova and Russia*, no. 5349/02, § 58, 17 October 2017).

53. On the basis of the material before it and in the absence of any evidence contradicting the applicants' submissions (see Appendix), the Court finds it established that the conditions of the applicants' detention amounted to inhuman and degrading treatment within the meaning of Article 3.

54. There has accordingly been a violation of Article 3 of the Convention in respect of the conditions of detention of each applicant except for those concerned by application no. 6151/12.

2. Alleged failure to provide medical assistance

55. Mr Serghei Boltenco (application no. 28972/13) complained that he had not been given medical assistance required by his condition. He referred to the serious illnesses from which he suffered (acute myocardial infarction, having suffered a heart attack, angina pectoris and hypertonic disease). He argued that the medical section in prison was not staffed with specialised doctors (only by a physician-therapist) and that the level of cholesterol in his blood had not been monitored.

56. The Moldovan Government submitted that the applicant had not been provided with medical assistance which his condition required.

57. The Russian Government made no specific submissions.

58. The Court notes that none of the Governments disputed the applicant's version of events. It also notes that the applicant already had suffered a heart attack. Accordingly, he clearly needed to be monitored by a specialised doctor in order to avoid the repetition of such an attack, which was not done. The fact that he died from another heart attack not long after his release only confirms the seriousness of his condition. However, it appears from the documents in the case file that he was not under any specific medical supervision. Moreover, the "MRT" authorities refused to issue extracts from the applicant's medical record in prison.

59. In view of the above, the Court concludes that the prison authorities did not carry out a basic medical check-up and monitoring of Mr Boltenco's health so as to determine whether there was a need for any specialised

medical treatment, despite his previous heart attack and complaints about his condition.

There has therefore been a breach of Article 3 of the Convention as a result of the authorities' failure to provide Mr Boltenco with sufficient medical assistance and treatment.

C. Responsibility of the respondent States

1. The Republic of Moldova

60. The Court must next determine whether the Republic of Moldova fulfilled its positive obligations to take appropriate and sufficient measures to secure the applicants' rights under Article 3 of the Convention (see paragraph 30 above). In *Mozer* the Court held that Moldova's positive obligations related both to measures needed to re-establish its control over the Transdniestrian territory, as an expression of its jurisdiction, and to measures to ensure respect for individual applicants' rights (see *Mozer*, cited above, § 151).

61. As regards the first aspect of Moldova's obligation, to re-establish control, the Court found in *Mozer* that, from the onset of the hostilities in 1991 and 1992 until July 2010, Moldova had taken all the measures in its power (*Mozer*, cited above, § 152). The events complained of in all the present applications (except for application no. 28972/13) started before July 2010 and ended at various times thereafter (see annexed table). The events concerned in application no. 28972/13 took place in 2013. The Court notes that none of the parties submitted any evidence that the Republic of Moldova had changed its position towards the Transdniestrian issue after July 2010. It therefore sees no reason to reach a different conclusion from that reached in *Mozer* (§ 152).

62. Turning to the second aspect of the positive obligations, namely to ensure respect for the applicant's individual rights, the Court found in *Ilaşcu and Others* (cited above, §§ 348-52) that the Republic of Moldova had failed to fully comply with its positive obligations, to the extent that from May 2001 it had failed to take all the measures available to it in the course of negotiations with the "MRT" and Russian authorities to bring an end to the violation of the applicants' rights. In the present case, the applicants submitted that the Republic of Moldova had not discharged its positive obligations since various State authorities replied that they could not take action on the territory under the *de facto* control of the "MRT". Moreover, unlike in *Mozer*, they failed to address international organisations and embassies in order to ask for assistance regarding each individual applicant. While several criminal investigations have been opened by the Moldovan authorities into the allegations made by the applicants of unlawful acts by the "MRT" authorities, all of them were suspended for lack of cooperation by the region's institutions.

63. The Court considers that Moldovan authorities did not have any real means of improving the conditions of detention in the "MRT" prisons, nor could they move the applicants to other prisons (see, *a contrario*, *Pocasovschi and Mihaila v. the Republic of Moldova and Russia*, no. 1089/09, § 46, 29 May 2018). Nor could they properly investigate the allegations of ill-treatment, insufficient medical assistance or the allegations of unlawful detention. As pointed out by some of the applicants, the criminal investigations concerning unlawful acts by the "MRT" authorities had to be suspended due to the absence of cooperation by that region, making it impossible to carry out any meaningful prosecution.

64. It also notes that those applicants who had been convicted by "MRT" courts could ask the Moldovan courts to quash those convictions (*Mozer*, cited above, § 73).

65. In such circumstances, the Court cannot conclude that the Republic of Moldova failed to fulfil its positive obligations in respect of the applicants (see *Mozer*, cited above, § 154).

66. There has therefore been no violation of Article 3 of the Convention by the Republic Moldova.

2. The Russian Federation

67. In so far as the responsibility of the Russian Federation is concerned, the Court has established that Russia exercised effective control over the "MRT" during the period of the applicant's detention (see paragraphs 32-34 above). In the light of this conclusion, and in accordance with its case-law, it is not necessary to determine whether or not Russia exercises detailed control over the policies and actions of the subordinate local administration (see *Mozer*, cited above, § 157). By virtue of its continued military, economic and political support for the "MRT", which could not otherwise survive, Russia's responsibility under the Convention is engaged as regards the violation of the applicant's rights (*ibidem*).

68. In conclusion, and after having found that the applicants (except for those concerned by application no. 6151/12) were held in inhuman conditions within the meaning of Article 3 of the Convention (see paragraph 54 above), as well as the finding that Mr Boltenco has been deprived of required medical diagnostics and assistance while in detention (see paragraph 59 above), the Court holds that there has been a violation of that provision by the Russian Federation.

V. ALLEGED VIOLATION OF ARTICLE 5 § 1 OF THE CONVENTION

69. The applicants, except for Mr Boltenco in application no. 28972/13, complained of a violation of Article 5 § 1 of the Convention, owing to their detention on the basis of decisions by the "MRT" authorities, which had been unlawfully created.

70. The relevant parts of Article 5 read:

"1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

(a) the lawful detention of a person after conviction by a competent court;

...

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;

..."

A. Admissibility

71. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

72. The applicants submitted that they had been detained by private individuals who did not have the authority under Moldovan law to deprive them of their liberty.

73. The Moldovan Government considered that there had been a breach of Article 5 § 1 in respect of these applicants, who were deprived of their liberty following decisions taken by unlawfully created "MRT" courts and other authorities.

74. The Russian Government did not make any specific submissions.

75. The Court reiterates that it is well established in its case-law on Article 5 § 1 that any deprivation of liberty must not only be based on one of the exceptions listed in sub-paragraphs (a) to (f) but must also be "lawful". Where the "lawfulness" of detention is in issue, including the question whether "a procedure prescribed by law" has been followed, the Convention refers essentially to national law and lays down the obligation to conform to the substantive and procedural rules of national law. This primarily requires any arrest or detention to have a legal basis in domestic law; it also relates to the quality of the law, requiring it to be compatible with the rule of law, a concept inherent in all the Articles of the Convention (see, for example, *Del Río Prada v. Spain* [GC], no. 42750/09, § 125, ECHR 2013; and *Mozer*, cited above, § 134).

76. The Court recalls that in *Mozer* it held that the judicial system of the "MRT" was not a system reflecting a judicial tradition compatible with the Convention (see *Mozer*, cited above, §§ 148-49). For that reason it held that

the "MRT" courts and, by implication, any other "MRT" authority, could not order the applicant's "lawful" arrest or detention, within the meaning of Article 5 § 1 of the Convention (see *Mozer*, cited above, § 150).

77. In the absence of any new and pertinent information proving the contrary, the Court considers that the conclusion reached in *Mozer* is valid in the present case too.

There has accordingly been a violation of Article 5 § 1 of the Convention.

78. The Court must next determine whether the Republic of Moldova fulfilled its positive obligation to take appropriate and sufficient measures to secure the applicant's rights under Article 5 of the Convention. For the same reasons as those mentioned in paragraphs 61-65 above, the Court finds that Moldova has not failed in fulfilling its positive obligations under Article 5 of the Convention. There has accordingly been no breach of that provision by the Republic of Moldova.

79. As concerns the Russian Federation, for the same reasons as those mentioned in paragraphs 67 and 68 above, the Court finds that Russia is responsible for the breach of Article 5 § 1 of the Convention in respect of all the applicants, except for Mr Boltenco (application no. 28972/13).

VI. ALLEGED VIOLATION OF ARTICLE 5 §§ 2 – 5 OF THE CONVENTION

80. The applicants in applications nos. 41660/10 and 25197/11 complained of breaches of various provisions of Article 5 §§ 2 – 5 (see annexed table).

81. The Court notes that these complaints are not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible. However, in view of its finding that the detention of these two applicants was as a whole contrary to Article 5 § 1 of the Convention, the Court considers that it is unnecessary to examine separately the complaints under the other provisions of Article 5 (see *Mozer*, cited above, § 163).

VII. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

82. The applicants in application no. 6151/12 complained of a breach of Article 6 § 1 of the Convention, the relevant part of which reads as follows:

> "In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

A. Admissibility

83. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

84. Under Article 6 of the Convention, the applicants in application no. 6151/12) argued that the "MRT" courts that had sentenced them could not be considered as an "independent tribunal established by law" in the sense of Article 6 § 1.

85. The Moldovan Government submitted that Article 6 § 1 of the Convention had been breached since the tribunals created in the "MRT" had been unlawfully created. They added that in all cases in which a person convicted by the "MRT" courts asked the Moldovan Supreme Court of Justice to quash their convictions, such requests were granted, including one of the applicants in the present case (Mr Ursu, application no. 25197/11).

86. The Russian Government did not make any submissions on the merits of this complaint.

87. The Court refers to its finding (see paragraphs 76 and 77 above) that the "MRT" courts could not order the applicant's "lawful" arrest or detention, within the meaning of Article 5 § 1 of the Convention. It considers, by implication, that the "MRT" courts could not qualify as an "independent tribunal established by law" for the purposes of Article 6 § 1 of the Convention (see *Vardanean v. the Republic of Moldova and Russia*, no. 22200/10, § 39, 30 May 2017). The Court therefore considers that there has been a breach of Article 6 § 1 of the Convention in respect of the applicants in applications nos. 25197/11 and 6151/12.

88. The Court must next determine whether the Republic of Moldova fulfilled its positive obligation to take appropriate and sufficient measures to secure the applicants' rights (see paragraph 30 above). For the same reasons as those mentioned in paragraphs 61-65 above, the Court finds that Moldova has not failed in fulfilling its positive obligations under Article 6 § 1 of the Convention. There has accordingly been no breach of that provision by the Republic of Moldova.

89. As regards the Russian Federation, for the same reasons as those mentioned in paragraphs 67 and 68 above, the Court finds that Russia is responsible for the breach of Article 6 § 1 of the Convention in respect of the applicants in application no. 6151/12.

VIII. ALLEGED VIOLATION OF ARTICLE 2 OF PROTOCOL NO. 4 TO THE CONVENTION

90. Ms Dobrovitskaya (application no. 41660/10) complained of a breach of Article 2 of Protocol No. 2 to the Convention, which reads as follows:

> "1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
>
> 2. Everyone shall be free to leave any country, including his own.
>
> 3. No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of ordre public, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
>
> 4. The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society."

A. Admissibility

91. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

92. Ms Dobrovitskaya complained that the prohibition to leave the "MRT" territory, ordered by the "MRT" authorities, was unlawful since those authorities lacked the power under Moldovan law to make such orders. As a result, she could not carry out studies in Moldova or abroad or meet her lawyer outside the "MRT".

93. The respondent Governments did not make any submissions on the merits of this complaint.

94. The Court notes that the applicant was restricted in her free movement within the territory of the Republic of Moldova, owing to the restriction from leaving a part of it (the Transdniestrian region, see the annexed table). It concludes that her freedom of movement was limited and that, therefore, there was an interference with her right guaranteed under Article 2 of Protocol No. 4 to the Convention.

95. The Court observes that such interference will amount to a breach of the Convention, unless it is carried out in compliance with paragraphs 3 and 4 of that provision.

96. The Court recalls that the notion of lawfulness is fundamental for the limitation of any Convention right. In this connection, it notes that the interference with the applicant's right to freedom of movement on the territory of the Republic of Moldova had not been carried out in accordance with Moldovan law. Therefore, bearing in mind its case-law to the effect that no "MRT" authority could order anyone's lawful arrest (see *Mozer*, cuted above, § 150), it concludes that no "MRT" authority could lawfully order the restriction of the freedom of movement of individuals either.

97. There has, accordingly, been a breach of this provision in respect of Ms Dobrovitskaya on account of the restriction of her freedom of movement.

98. The Court must next determine whether the Republic of Moldova fulfilled its positive obligation to take appropriate and sufficient measures to secure the applicant's rights (see paragraph 30 above). For the same reasons as those mentioned in paragraphs 61-65 above, the Court finds that Moldova has not failed in fulfilling its positive obligations under Article 2 of Protocol No. 4 to the Convention. There has accordingly been no breach of that provision by the Republic of Moldova.

99. As concerns the Russian Federation, for the same reasons as those mentioned in paragraphs 67 and 68 above, the Court finds that Russia is responsible for the breach of Article 2 of Protocol No. 4 to the Convention in respect of Ms Dobrovitskaya.

IX. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

100. The applicants (all except for those concerned by applications nos. 41660/10 and 6151/12) further complained that they had no effective remedies in respect of their complaints under Articles 3, 5 and 6 of the Convention, as well as under Article 2 of Protocol No. 4 to the Convention. They relied on Article 13 of the Convention, which reads as follows:

> "Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

A. Admissibility

101. The Court notes that the complaint under Article 13 taken in conjunction with Articles 3, 5 and 6, as well as under Article 2 of Protocol No. 4 to the Convention, is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

102. The applicants submitted that they had had no means of asserting their rights in the face of the actions of the "MRT" authorities.

103. The Moldovan Government considered that, even if the question of observance of Article 13 was ready for decision, they had taken all reasonable steps in order to protect the applicants' rights under the Convention. They added in respect of application no. 8064/11 that Moldova had in fact provided for domestic remedies (see paragraph 18 above).

104. The Russian Government made no specific submissions.

105. The Court reiterates that the effect of Article 13 is to require the provision of a domestic remedy allowing the competent national authority both to deal with the substance of the relevant Convention complaint and to grant appropriate relief, although Contracting States are afforded some discretion as to the manner in which they comply with their obligations under that provision (see *Chahal v. the United Kingdom*, 15 November 1996, § 145, *Reports* 1996-V). The remedy required by Article 13 must be "effective", both in practice and in law. However, such a remedy is required only for complaints that can be regarded as "arguable" under the Convention (see *De Souza Ribeiro v. France* [GC], no. 22689/07, § 78, ECHR 2012, *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 148, ECHR 2014, and *Mozer*, cited above, § 207).

106. The Court observes that it found that the applicants' complaints under Articles 3, 5 and 6 of the Convention, as well as under Article 2 of Protocol No. 4 to the Convention were arguable. However, as regards the applicants' complaints under Article 5 § 1, the Court observes that Article 5 § 4, which the Court did not consider necessary to examine separately in the circumstances of the case (see paragraph 81 above), is the *lex specialis* in relation to Article 13.

107. The applicants were therefore entitled to an effective domestic remedy within the meaning of Article 13 in respect of their complaints under Articles 3 and 6 of the Convention, as well as under Article 2 of Protocol No. 4 to the Convention, respectively (see the annexed table).

108. The Court found in *Mozer* (cited above, §§ 210-212) that no effective remedies existed in either the Republic of Moldova or the Russian Federation in respect of similar complaints under Articles 3 and 8 of the Convention. In the absence of any new pertinent information, it sees no reason to depart from that conclusion in the present case. Consequently, the Court must decide whether any violation of Article 13 can be attributed to either of the respondent States.

C. Responsibility of the respondent States

109. The Court notes that in *Mozer* (cited above, §§ 213-216) it found that Moldova had made procedures available to applicants commensurate with its limited ability to protect their rights. It had thus fulfilled its positive obligations and the Court found that there had been no violation of Article 13 of the Convention by that State. In view of the similarity of the complaints made and of the coincidence of the time-frame of the events in the present cases with those in *Mozer*, the Court sees no reasons to depart from that conclusion in the present cases. Accordingly, the Court finds that there has been no violation of Article 13 of the Convention by the Republic of Moldova.

110. As in *Mozer* (cited above, §§ 217-218), in the absence of any submission by the Russian Government as to any remedies available to the applicants, the Court concludes that there has been a violation by the Russian Federation of Article 13, taken in conjunction with Articles 3, 5 § 1 and 6 § 1, as well as under Article 2 of Protocol No. 4 to the Convention respectively (see the annexed table).

X. APPLICATION OF ARTICLE 41 OF THE CONVENTION

111. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

112. The applicants claimed the following amounts to compensate for the damage suffered by them (in euros (EUR)):

Ms Dobrovitskaya – EUR 20,000

Mr Samatov – EUR 15,000

Mr Ursu – EUR 654 for pecuniary damage and EUR 60,000 for non-pecuniary damage

Mr Petiş, Mr Ciumacenco, Mr Doagă and Mr Gherghelejiu – EUR 40,000 each

Mr Boltenco – EUR 40,000

Mr Beşleaga, Mr Bevziuc - EUR 60,000 each for non-pecuniary damage and EUR 1,300 for pecuniary damage in respect of Mr Bevziuc.

113. The Moldovan Government considered that the sums claimed by applicants in applications nos. 41660/10, 25197/11 and 28972/13 were commensurate with their suffering, but added that the Republic of Moldova was not responsible for any damage done.

114. The Russian Government considered that some of the higher sums claimed were excessive. In any event, given the absence of Russia's jurisdiction, no compensation should be paid by the Russian Federation.

115. The Court notes that it has not found any violation of the Convention by Moldova in the present case. Accordingly, no award of compensation is to be made with regard to this respondent State.

116. The Court considers that the applicants have suffered a certain level of stress following their unlawful detention in inhuman conditions, as well as their unlawful conviction respectively. Having regard to the circumstances of the case and making its assessment on an equitable basis, the Court awards in respect of non-pecuniary damage, to be paid by the Russian Federation:

– EUR 9,750 each to Ms Dobrovitskaya, Mr Samatov, Mr Ursu, Mr Petiş, Mr Ciumacenco, Mr Doagă, Mr Gherghelejiu, Mr Beşleaga an Mr Bevziuc; and

– EUR 33,800 to Mr Boltenco.

B. Costs and expenses

117. The applicants also claimed the following amounts for costs and expenses before the Court:

Ms Dobrovitskaya – EUR 4,920;

Mr Samatov – EUR 1,920;

Mr Ursu – EUR 5,520;

Mr Petiş, Mr Ciumacenco, Mr Doagă and Mr Gherghelejiu – EUR 3,000 jointly;

Mr Boltenco – EUR 6,480 and

Mr Beşleaga and Mr Bevziuc – EUR 3,840.

118. The Moldovan Government considered that no award should be made against them, given the absence of a breach by the Republic of Moldova.

119. The Russian Government doubted that the applicants' lawyers needed to spend as much time as claimed in preparing the cases before the Court, notably given the similarity of the issues dealt with and of the observations submitted.

120. According to the Court's case-law (see for a recent example *Merabishvili v. Georgia* [GC], no. 72508/13, § 370, ECHR 2017 (extracts)), an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the following amounts covering costs under all heads:

– EUR 1,500 each to Ms Dobrovitskaya, Mr Samatov, Mr Ursu and Mr Beşleaga;

– EUR 1,500 jointly to Mr Petiş, Mr Ciumacenco, Mr Doagă and Mr Gherghelejiu; and

– EUR 1,500 jointly to Mr Bevziuc and Mr Boltenco.

C. Default interest

121. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Decides* to join the applications.

2. *Declares* the complaints lodged by Mrs Samatova, as well as the complaints under Article 3 (ill-treatment) and Article 6 § 1 by Mr Ursu inadmissible, and the remainder of the applications admissible;

3. *Holds* that there has been no violation of Article 3 of the Convention by the Republic of Moldova;

4. *Holds* that there has been a violation of Article 3 of the Convention by the Russian Federation;

5. *Holds* that there has been no violation of Article 5 § 1 of the Convention by the Republic of Moldova;

6. *Holds* that there has been a violation of Article 5 § 1 of the Convention by the Russian Federation in respect of all the applicants, except for Mr Boltenco;

7. *Holds* that there has been no violation of Article 6 § 1 of the Convention by the Republic of Moldova;

8. *Holds* that there has been a violation of Article 6 § 1 of the Convention by the Russian Federation in respect of Mr Petiş, Mr Ciumacenco, Mr Doagă and Mr Gherghelejiu;

9. *Holds* that there is no need to examine separately the complaints under Article 2 and Article 5 §§ 2, 3, 4 and 5 of the Convention;

10. *Holds* that there has been no violation of Article 2 of Protocol No. 4 to the Convention by the Republic of Moldova;

11. *Holds* that there has been a violation of Article 2 of Protocol No. 4 to the Convention by the Russian Federation in respect of Ms Dobrovitskaya;

12. *Holds* that there has been no violation of Article 13 of the Convention by the Republic of Moldova;

13. *Holds* that there has been a violation of Article 13 of the Convention by the Russian Federation in respect of Mr Ursu, Mr Samatov, Mr Boltenco, Mr Beşleaga and Mr Bevziuc;

14. *Holds*

(a) that the respondent State is to pay the applicants, within three months the following amounts:

(i) EUR 9,750 (nine thousand seven hundred and fifty euros) each to Ms Dobrovitskaya, Mr Samatov, Mr Ursu, Mr Petiş, Mr Ciumacenco, Mr Doagă, Mr Gherghelejiu, Mr Beşleaga and Mr Bevziuc;
EUR 33,800 (thirty-three thousand eight hundred euros) to Mr Boltenco
plus any tax that may be chargeable, in respect of damage;

(ii) EUR 1,500 each to Ms Dobrovitskaya, Mr Samatov, Mr Ursu and Mr Beşleaga;
EUR 1,500 jointly to Mr Petiş, Mr Ciumacenco, Mr Doagă, Mr Gherghelejiu,
EUR 1,500 jointly to Mr Bevziuc and Mr Boltenco
plus any tax that may be chargeable to the applicants, in respect of costs and expenses;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

15. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 3 September 2019, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı
Deputy Registrar

Julia Laffranque
President

APPENDIX

No.	Application no.	Lodged on	Applicant's name date of birth place of residence	Summary of Facts	Communicated Complaints	Respondent State (s)
1.	41660/10	07/07/2010	**Elena DOBROVITSKAYA** 08/01/1990 Bender	On 16 June 2010 the applicant was summoned by the "MRT" ministry of internal affairs as a witness in the criminal proceedings brought against her mother on alleged charges of fraud. At the material time, the applicant's mother was declared a wanted person by the "MRT" authorities. The applicant was questioned about an hour and allegedly threatened with detention in case of refusal to provide information on her mother's whereabouts. She refused to denounce her mother, who at the material time was hospitalised in a Moldovan hospital for treatment, being accused of covert theft of another's property. The applicant was informed that she would be kept in detention until her mother's return back to "MRT". The applicant was detained in the basement of Bender's remand centre. She was released from detention on 19 June 2010, subject to an undertaking not to leave the "MRT" territory. She complained to the Moldovan authorities. On 30 July 2010 a Moldovan prosecutor initiated a criminal investigation into the applicant's unlawful arrest by "MRT" officers. That investigation was suspended due to the impossibility to identify the perpetrator.	**Article 3** - detained in a basement, inadequate artificial lighting and lack of natural lighting, inadequate ventilation, poor quality of food, poor conditions of hygiene, inadequate toilet facilities, common bathroom for men and women, lack of warm water, lack of running water in the cell, cold and humid walls and floor, lack of bed linen, lack of adequate medical care, passive smoking. **Article 5 §§ 1, 2 and 3** - she was arrested by persons lacking the authority for such a purpose (the illegally created "MRT" militia) rendering her arrest unlawful; she was unlawfully taken as a hostage, her placement in the remand centre was not registered in the official record, she was not informed about the reasons for the arrest, lack of relevant and sufficient reasons for her detention, she was not assisted by a counsellor during the interrogation, she was not brought before a judge. Although she had identified the person taking her as a hostage and she is a citizen of the Republic of Moldova, no measures had been taken to engage the offender's criminal responsibility, the latter continuing to exercise his powers while the applicant is at risk of repeated detention. **Article 5 §§ 4 and 5** - the applicant was deprived of any real and effective means of challenging the actions of the "MRT" investigating officer who ordered her arrest, no enforceable right to compensation provided at domestic level, the applicant deprived of the right to lodge an appeal in either Moldova or Russia against the infringement of her rights under these provisions. **Article 2 of Protocol No. 4** - the applicant was prohibited	Republic of Moldova and Russia

					from leaving the Bender city by a person lacking authority to that effect; she was unable to continue her university studies or be employed in Moldova, Russia or Ukraine, or to meet lawyers in any of these countries.	
2.	25197/11	11/04/2011	**Alexandru URSU** 10/04/1981 Hagimus	On 21 July 2009 the applicant was arrested in Bender by "MRT" militia on charges of forgery of documents, use of forged documents and fraud. He was placed for 40 days in a cell of Bender militia's premises, allegedly lacking proper conditions of detention and subjected to ill-treatment and psychological pressure (that his father would be arrested as well) with a view to determining him to make self-incriminatory statements. On 19 May 2010 the applicant was convicted by the Bender district court to fifteen years' imprisonment. The applicant's conviction was upheld by the "MRT" Supreme Court's decision of 29 June 2009. He was provided with the copy of it on 12 October 2010. The applicant is serving his sentence in the penitentiary no. 1 in Hlinaia.	**Article 3** - invoked in substance: detention prior to conviction - the cells infested with bugs, lack of toilet facilities, conditions of hygiene, lack of access to showers, lack of ventilation, no walks outside the cell. **Article 3** - ill-treated while interrogated by Bender militia with a view to making self-incriminatory statements; lost his consciousness; headaches; nausea; nasal hemorrhages; acute liver and kidney pains; was moving with difficulty; was transported to the hospital, subjected to psychological pressure that his father would be arrested as well if he refused to confess. **Article 5 §§ 1, 3 and 4** - he was arrested by persons lacking the authority to arrest him, his further detention was authorised and extended by illegal courts set up by the "MRT" authorities; he was not assisted by counsel of his own choice during the interrogation, the one provided by "MRT" militia insisting on making self-incriminatory statements; his requests to make a call and to be granted a lawyer and an interpreter have been dismissed; he was not provided with copies of the documents in the case-file against him; he was not brought before an "independent tribunal established by law" to review the lawfulness of his detention. **Article 6 § 1** - proceedings in front of unrecognised and illegally created courts, lacking authority to that effect and based on "MRT" laws which are contrary to the Convention; on appeal his case was examined in his absence (but in the presence of a prosecutor) and he was deprived of the possibility of submitting his arguments in person or through his lawyer and of the possibility to obtain the examination of witnesses on his behalf; breach of the	Republic of Moldova and Russia

					principle of equality of arms. He also contends that he was convicted on the basis of evidence acquired by means of blackmail and threats. **Article 13** - lack of any effective remedies in respect of the infringements mentioned above.	
3.	8064/11	20/01/2011	**Galina SAMATOVA** (mother of the second applicant) **Ivan SAMATOV** 3/04/1987 Comisarovca Nouă	On 17 May 2005 the second applicant was recruited into the army of the self-proclaimed "Moldovan Republic of Transdniestria" ("MRT"). Since he was allegedly bullied by other soldiers and forced to do hard labour on the private property of the officers, he sometimes ran away from his military unit and stayed at home. On 26 June 2006 he was sentenced by the Dubăsari people's court to four years' detention, suspended. On 3 March 2007 he was arrested on charges of having left his military unit without permission. During his detention he was held together with eight to eleven other detainees in a cell measuring twelve square metres. There were insufficient beds and detainees had to take turns sleeping. Food was scarce and inedible. Most survived on the food brought to them by their relatives. Access to a toilet was granted one to three times a day. On 17 June 2007 the second applicant was released subject to an undertaking not to leave the city. On 17 September 2007 he was brought back to his military unit. On 8 June 2008 the applicant finished his military service. However, the criminal proceedings concerning his unauthorised absence from his military unit continued. On 23 June 2010 he was sentenced by the Dubăsari people's court to four years and nine months' detention. That judgment was upheld by the "MRT" Supreme Court on 20 July 2010. The applicant was released from detention based on an amnesty on 6 December 2011.	Article 3 - the second applicant complained under Article 3 of the Convention that he had been detained in inhuman conditions (dark cell measuring 12m² for 9-12 detainees; insufficiency of beds, forcing the detainees to take turns sleeping; absence of a toilet or lavatory; poor quality of food). Article 5 § 1 - he also complained that he had been detained by virtue of decisions taken by unlawfully created "MRT" courts, contrary to Article 5 § 1 of the Convention. Article 13 - he finally complained under Article 13 of the Convention that he had not had effective remedies in respect of the complaint under Articles 3 and 5.	Republic of Moldova and Russia

4.	6151/12		**Mihail PETIȘ** 27/01/1989 **Maxim CIUMACENCO** 6/07/1989 **Mihail DOAGĂ** 15/12/1981 **Igor GHERGHELEJIU** 20/02/1991 all live in Bender	The applicants were arrested by the "MRT" authorities and placed in detention between 27 and 31 August 2009 on charges of rape of a minor girl. On 27 May 2011 they were all convicted to prison sentences varying between seven and twenty years' imprisonment. The applicants appealed and argued, *inter alia*, that the alleged victim of the rape was a prostitute who engaged in sexual relations with them voluntarily and who lodged a criminal complaint against them three days later as a result of a money related dispute. On 19 July 2011 the "MRT" Supreme Court examined the applicants' appeal in their absence and dismissed it.	Article 5 - The applicants complained under Article 5 of the Convention that their detention by the "MRT" authorities had been unlawful and ordered by an authority which did not qualify as a court for the purposes of Article 5. Moreover, their detention had been contrary even to the "MRT" laws. Article 6 - the applicants also complained under Article 6 that they had been convicted by a court which did not qualify as a tribunal established by law and that the proceedings had not been fair.	Republic of Moldova and Russia
5.	28972/13	02/05/2012	**Serghei BOLTENCO** 22/01/1968 Tiraspol	On 24 December 2005 the applicant was arrested by the Ribnita militia on alleged charges of "organisation of theft and thievery in large quantities of ferrous metal from the workplace". He has been kept in detention ever since. The preliminary investigation lasted three years. On 27 February 2009 the applicant was found guilty as charged by the Ribnita district court and sentenced to 15 years' imprisonment and confiscation of his property. His conviction was upheld by the "MRT" Supreme Court decision of 12 May 2009. The applicant's wife complained unsuccessfully to the "MRT" authorities as well as to the Moldovan ones about his illegal detention in inhuman and degrading conditions. Between December 2005 and May 2007 the applicant was detained in the Ribnita remand centre (in the custody of the "MRT" Ministry of Internal Affairs) and afterwards, in the remand centre pertaining to the "MRT" Ministry of Justice. From July 2007 to June 2009 he was held in the Ribnita remand centre. Following his conviction, the applicant was	**Article 2** - the lack of adequate medical assistance and the inhuman conditions of his continuous detention led to the continuous aggravation of his health condition (he had suffered a heart attack and had to have extracted his molar teeth), putting his life at risk, in breach of the respondent States' positive obligations. **Article 3 (before conviction)** - overcrowding, he was held in a basement with 6-8 inmates; lack of natural light as the cell's windows were blocked with bricks; lack of ventilation; lack of toilet facilities; poor quality of water; impossibility to read and write because of the lack of light; high level of humidity; lack of space to dry clothes other than the hallways; no walks and lack of courtyards destined for walks; low level of heating in the winter; lack of adequate conditions of transport from one place of detention to the other (by means of a metal truck with other 39 inmates; passive smoking, the iron walls of the truck generated compressed air, lack of water and no access to toilets). **Article 3 (after conviction)** - overcrowding (8-10 inmates in a cell measuring 2m x 3m); insufficient sleeping space;	Republic of Moldova and Russia

				transferred to the Tiraspol's penitentiary facility No. 2 On 24/12/2013 the applicant was released from detention. On 19/11/2014 he died from a heart attack.	poor conditions of hygiene; lack of hygienic products; presence of bedbugs; poor quality of food. **Article 3 (medical assistance)** – insufficient medical assistance, lack of medication and lack of specific medical facilities and qualified personnel while the applicant suffered from severe illnesses ("acute myocardial infarction" (he suffered a heart attack), "angina pectoris", "hypertonic disease"), lack of a dentist and a cardiologist. The "MRT" authorities allegedly refused to provide him with extracts from his medical records. He was not subjected to an examination of his blood cholesterol level; the prison medical section was run by an unlicensed physician-therapist who was not entitled to issue medical prescriptions, thus the relatives could not obtain prescriptions in order to know which medications to purchase in order to treat the detainees. **Article 13** - the applicant complained under Article 13 in conjunction with Article 3 about the absence of effective remedies in respect of the other alleged violations.	
6.	29182/14	03/04/2014	**Vitalii BEŞLEAGA** 19/09/1964 Varniţa **Serghei BEVZIUC** 23/12/1968 Bender	On 15 November 2013 the applicants were arrested by the "MRT" authorities and placed in detention on remand on charges of corruption. The first ten days they were detained in Prison No. 1 in Tiraspol after which they were transferred to Hlinaia prison in Grigoreopol. The conditions of detention in both prisons were very poor. There was no heating, no ventilation; the cells were infested with vermin and very dirty. The food was insufficient and of a very bad quality. The applicants did not receive any medical care in spite of the fact that one of them was suffering from diabetes and another needed surgery on his colon. The applicants were being detained at the date of the last submissions to the Court.	Article 3 - the applicants complained under Article 3 of the Convention about the inhuman and degrading conditions of detention and about the lack of necessary medical assistance. Article 5 - they also complained under Article 5 of the Convention that their detention by the "MRT" authorities had been unlawful and ordered by an authority which did not qualify as a court for the purposes of Article 5. Article 13 - the applicants finally complained under Article 13 of the Convention that they had had no remedies in respect of their complaints under Articles 3 and 5 of the Convention.	Republic of Moldova and Russia