



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

FOURTH SECTION

CASE OF HYDE PARK AND OTHERS v. MOLDOVA (nos. 5 and 6)

(Applications nos. 6991/08 and 15084/08)

JUDGMENT

STRASBOURG

14 September 2010

FINAL

14/12/2010

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Hyde Park and Others v. Moldova (nos. 5 and 6),
The European Court of Human Rights (Fourth Section), sitting as a
Chamber composed of:

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

and Fatoş Aracı, *Deputy Section Registrar*,

Having deliberated in private on 24 August 2010,

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

PROCEDURE

1. The case originated in two applications (nos. 6991/08 and 15084/08) against the Republic of Moldova lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by Hyde Park (at that point a non-governmental organisation) and four Moldovan nationals, Mr Ghenadie Brega, Mr. Anatolie Juraveli, Mr Oleg Brega and Mr Anatol Hristea-Stan (“the applicants”) on 20 February 2008. They were born in 1975, 1988, 1973 and 1953 respectively. They live in Pepeni, Chişinău, Pepeni and Chişinău respectively and are all members of Hyde Park.

2. On 2 June 2008 the non-governmental organisation Hyde Park ceased to exist. Its successor, the Hyde Park unincorporated association, expressed its intention to pursue the application before the Court.

3. The applicants were represented by Mr Oleg Brega, Hyde Park's leader at the time of the events. The Moldovan Government (“the Government”) were represented by their Agent, Mr Vladimir Grosu.

4. The applicants alleged, in particular, a breach of their right to freedom of assembly and to a fair trial in respect of three demonstrations held on 30 August, 4 September and 10 September 2007.

5. On 8 April 2008 the President of the Fourth Section decided to give notice of the applications to the Government. It was also decided to examine the merits of the applications at the same time as their admissibility (Article 29 § 3).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASES

1. Introduction

6. At the time of the events in question, Hyde Park was registered with the Moldovan Ministry of Justice as a non-governmental organisation lobbying, *inter alia*, for freedom of expression and the right to free assembly. In 2007 its members decided to discontinue registration on grounds of alleged pressure and intimidation from the State. In particular, they complained of the refusal of the Ministry of Justice to register amendments to the organisation's articles of association, the repeated freezing of its bank account, arbitrary arrest of its members, attempts to shut down its newspaper and other such interferences. Several of the organisation's leaders requested political asylum in western countries and it was decided to continue the activity under the same name but without being registered with the State authorities. It was also decided that the new unincorporated association would become the former organisation's successor. After the striking of the organisation out of the Government's list of non-governmental organisations, on 2 June 2008, Hyde Park's activity continued on the basis of new articles of association and all the activities were carried on. The association continued editing its newspaper and its internet page and continued staging protests and demonstrations.

2. The demonstration of 30 August 2007

7. On 23 July 2007 Hyde Park applied to the Municipal Council of Chişinău for authorisation to stage a protest on 30 August 2007 in front of the Ministry of Internal Affairs and the Prosecutor General's Office against alleged acts of harassment of Hyde Park by those bodies.

8. On 20 August 2007 the Municipal Council authorised the protest, to be staged on 30 August 2007 in front of the building of the Ministry of Internal Affairs between 7.30 a.m. and 8.15 a.m. and in front of the Prosecutor General's Office between 8.15 a.m. and 9 a.m. at a distance of at least fifty metres from the buildings.

9. On 30 August 2007, at 7.30 a.m., the applicants started their protest in front of the Ministry of Internal Affairs but were immediately approached by a police officer who ordered them to stop the protest because the Municipality's authorisation had been challenged by the Prosecutor General's Office in court on 29 August 2007. The police officer argued that according to the Law on the Prosecutor's Office, the prosecutor's appeal against an administrative act suspended the latter's action until after a court

examined it. The applicants refused to comply and argued that the authorisation was valid and that their protest was peaceful. They relied on the provisions of the Constitution of Moldova and on the Convention. Shortly thereafter a police van arrived and Mr Ghenadie Brega, Mr Oleg Brega, Mr Hristea-Stan and Mr Juraveli were arrested and taken to a police station where they were questioned. At approximately 9.30 a.m. they were released without explanation. They could not continue their protest because the time indicated in the authorisation had lapsed.

10. The same day a criminal complaint was lodged against the police officers who carried out the arrests; however, the complaint was dismissed by the head of the police station of the Centru District on 19 September 2007 on the ground that the authorisation contained numerous flaws such as a failure to indicate the exact place of the protest and the number of participants.

11. It appears that the Prosecutor Office's appeal against the Municipality's authorisation of 20 August 2007 has never been examined by the courts.

3. The demonstration of 4 September 2007

12. On 30 August 2007 Mr Juraveli, the vice-president of Hyde Park, applied to the Municipality for an authorisation to stage a protest in front of the Ministry of Internal Affairs and the Prosecutor's Office between 4 and 11 September 2007 against the allegedly abusive suppression of its peaceful protest of the same date. In the application he indicated that ten persons were to participate in the demonstration and gave his name and those of Mr Oleg Brega and Mr Hristea-Stan as those responsible for the conduct of the demonstration.

13. The Municipality did not adopt a decision in respect of the application before the first date of the planned demonstration, on 4 September 2007. Therefore, at 9 a.m. that day the applicants started their protest in front of the Ministry of Internal Affairs. At 9.25 a.m. Ghenadie Brega, Oleg Brega and a Hyde Park member who is not an applicant were arrested on the ground that the demonstration had not been authorised. They were taken to a police station where they were body searched and kept for approximately five hours. According to the applicants the police examined and made copies of their documents including personal letters. Two of them were placed in cages and later in cells. Later they were taken to the Centru District Court and, since the hearing was adjourned, they were released at 3 p.m.

14. On 21 September 2007 the Centru District Court examined the charges against the applicants. The applicants argued that since the Municipality had failed to examine their application for authorisation before the date of the demonstration, they had the right to hold the demonstration in accordance with section 12(5) of the Assemblies Act. Moreover, they

submitted that they had been told by a representative of the local authorities that the Municipality did not have time to deal with their request and that they could hold their protest as planned. The court dismissed the applicants' submissions and found that they had breached the provision of section 11(1) of the Assemblies Act by failing to submit the application within fifteen days in advance of the planned assembly. According to the court, the protest should have been held on 14 September 2007 at the earliest. Ghenadie and Oleg Brega were found guilty of organising an unauthorised demonstration and fined 800 Moldovan lei (MDL) each (approximately 48 euros (EUR)). Another Hyde Park member who is not applicant in the present case was fined MDL 200. The applicants' appeal was dismissed by the Chişinău Court of Appeal on the same grounds on 23 October 2007.

3. The demonstration of 10 September 2007

15. In the meantime, on 7 September 2007, the Municipality examined the application of 30 August 2007 (see paragraph 12 above) and issued an authorisation to organise and stage a protest in front of the buildings of the Ministry of Internal Affairs and the Prosecutor General's Office between 8 and 11 September 2007 to Mr Juraveli.

16. In the morning of 10 September 2007 several members of Hyde Park started to protest in front of the buildings of the Ministry of Internal Affairs and the Prosecutor General's Office; however, several minutes later the police arrived and arrested three persons (Mr Juraveli, Mr Oleg Brega and Mr Hristea-Stan) on the ground that the authorisation did not contain the names of all the persons involved in the protest. The Government maintained that they had been detained for breach of the peace and for having shouted insults about the Minister for Internal Affairs. At the police station those arrested were questioned and searched. They were released after five hours. The applicants maintained that, while detained, they were not allowed to make any telephone calls or to contact a lawyer.

17. The police filed administrative proceedings against the arrested persons; however, on 21 September 2007 the Centru District Court decided to discontinue the proceedings.

4. Letters to the Prosecutor General

18. On 5 September 2007, Mr Oleg Brega wrote to the Prosecutor General making a criminal complaint in respect of the actions of the police at the demonstrations of 30 August and 4 September. A further letter to that effect was sent on 10 January 2008. The applicants maintain that they did not receive an official response to either letter.

II. RELEVANT DOMESTIC LAW

19. Article 32 of the Constitution of the Republic of Moldova (on freedom of opinion and of expression) reads as follows:

“(1) Each citizen is guaranteed freedom of thought, of opinion, as well as freedom of expression in public through words, images or through other available means.

(2) Freedom of expression shall not harm the honour or dignity of others or the right of others to have their own opinion.

(3) The law prohibits and punishes the contestation and defamation of the State and the nation, calls to war and aggression, national, racial or religious hatred, and incitement to discrimination, territorial separatism, or public violence, as well as other expression which endangers the constitutional order.”

Article 40 (on freedom of assembly) provides:

“All meetings, demonstrations, rallies, processions or any other assemblies are free, and they may be organised and take place only peacefully and without the use of weapons.”

20. The relevant provisions of the Assemblies Act of 21 June 1995 read as follows:

“Section 6

(1) Assemblies shall be conducted peacefully, without any sort of weapons, and shall ensure the protection of participants and the environment, without impeding the normal use of public highways, road traffic and the operation of economic undertakings and without degenerating into acts of violence capable of endangering the public order and the physical integrity and life of persons or their property.

Section 7

Assemblies shall be suspended in the following circumstances:

- (a) denial and defamation of the State and of the people;
- (b) incitement to war or aggression and incitement to hatred on ethnic, racial or religious grounds;
- (c) incitement to discrimination, territorial separatism or public violence;
- (d) acts that undermine the constitutional order.

Section 8

(1) Assemblies may be conducted in squares, streets, parks and other public places in cities, towns and villages, and also in public buildings.

(2) It shall be forbidden to conduct an assembly in the buildings of the public

authorities, the local authorities, prosecutors' offices, the courts or companies with armed security.

(3) It shall be forbidden to conduct assemblies:

(a) within fifty metres of the parliament building, the residence of the President of Moldova, the seat of the government, the Constitutional Court and the Supreme Court of Justice;

(b) within twenty-five metres of the buildings of the central administrative authority, the local public authorities, courts, prosecutors' offices, police stations, prisons and social rehabilitation institutions, military installations, railway stations, airports, hospitals, companies which use dangerous equipment and machines, and diplomatic institutions.

(4) Free access to the premises of the institutions listed in subsection (3) shall be guaranteed.

(5) The local public authorities may, if the organisers agree, establish places or buildings for permanent assemblies.

Section 11

(1) Not later than fifteen days prior to the date of the assembly, the organiser shall submit a notification to the Municipal Council, a specimen of which is set out in the annex which forms an integral part of this Act.

(2) The prior notification shall indicate:

(a) the name of the organiser of the assembly and the aim of the assembly;

(b) the date, starting time and finishing time of the assembly;

(c) the location of the assembly and the access and return routes;

(d) the manner in which the assembly is to take place;

(e) the approximate number of participants;

(f) the persons who are to ensure and answer for the sound conduct of the assembly;

(g) the services the organiser of the assembly asks the Municipal Council to provide.

(3) If the situation so requires, the Municipal Council may alter certain aspects of the prior notification with the agreement of the organiser of the assembly.

Section 12

(1) The prior notification shall be examined by the local government of the town or village at the latest 5 days before the date of the assembly.

(2) When the prior notification is considered at an ordinary or extraordinary meeting of the Municipal Council, the discussion shall deal with the form, timetable, location and other conditions for the conduct of the assembly and the decision taken shall take account of the specific situation.

(6) The local authorities can reject an application to hold an assembly only if after having consulted the police, it has obtained convincing evidence that the provisions of sections 6 and 7 will be breached with serious consequences for society.

Section 14

(1) A decision rejecting the application for holding an assembly shall be reasoned and presented in writing. It shall contain reasons for refusing to issue the authorisation...

Section 15

(1) The organiser of the assembly can challenge the refusal in the administrative courts.

Section 19

Participants at the assembly are required:

(a) to respect the present Act and other laws referred to herein;

(b) to respect the instructions of the organiser of the assembly, and decisions of the municipality or police;

...

(e) to leave the assembly if asked by the organiser, the municipality or the police.”

21. The relevant provisions of the Criminal Code read as follows:

“Article 166. Illegal deprivation of liberty

(1) Illegal deprivation of liberty, if it is not a kidnapping, shall be punishable with community work of 120-240 hours or imprisonment of up to 2 years.

(2) The same offence committed

b) against two or more persons;

d) by two or more persons;

shall be punishable with imprisonment of 3 to 8 years.

Article 184. Violation of the right to freedom of assembly

(1) Violation of the right to freedom of assembly by way of illegal hindering of a demonstration, rally or action of protest or hindering of persons from taking part in them...:

- a) committed by an official;
- b) committed by two or more persons;
- c) accompanied by acts of violence which are not dangerous to life or health,

shall be punishable with a fine of four to eight thousand Moldovan lei or with community work of 180-240 hours, or with imprisonment of up to two years.”

22. The relevant provisions of the Code of Administrative Offences, in force at the material time, read:

“Article 174 § 1

2. The organisation and holding of an assembly without prior notification to the Municipal Council or without authorisation from the Council, or in breach of the conditions (manner, place, time) concerning the conduct of meetings indicated in the authorisation shall be punishable by a fine to be imposed on the organisers (leaders) of the assembly in an amount equal to between MDL 500 and 1,000. ...

4. Active participation in an assembly referred to in paragraph 2 of the present article shall be punishable by a fine in an amount between MDL 200 and 300.

Article 174 § 5

Resisting a police officer [...] in the exercise of his or her duties of ensuring public order and the fight against crime shall be punishable by a fine up to MDL 300 or detention of up to thirty days.

Article 174 § 6

Insulting police officers ... in the exercise of their duties ... shall be punishable by a fine of up to MDL 200 or imprisonment of up to fifteen days.”

23. Article 14 of the Civil Code (on compensation for damage) provides that any person whose rights have been infringed may request full compensation in respect of the damage thus caused.

24. The relevant provisions of Law no. 1545 (1998) on compensation for damage caused by the illegal acts of the criminal investigation organs, prosecution and courts have been set out in this Court's judgment in *Sarban v. Moldova*, no. 3456/05, § 54, 4 October 2005. In the case of *Belicevecen v. the Ministry of Finance* (no. 2ra-1171/07, 4 July 2007) the Supreme Court of Justice found that a person could claim damages on the basis of Law no. 1545 (1998) only if he or she had been fully acquitted of all the charges

against him or her. Since Mr Belicevecen had been found guilty in respect of one of the charges brought against him, he could not claim any damages.

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 10 AND 11 OF THE CONVENTION

25. In their first application (no. 6991/08 – *Hyde Park (no. 5)*) the applicants complained that the suppression of the demonstration of 4 September 2007 and the arrests made by the police were in violation of their right to freedom of assembly as provided in Article 11 of the Convention. In their second application (no. 15084/08 – *Hyde Park (no. 6)*) they made the same complaint in respect of the demonstrations of 30 August 2007 and 10 September 2007. In their second application they also relied on Article 10 of the Convention. Article 10 reads as follows:

“1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”

And Article 11 reads:

“1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.”

26. The Government contested those arguments.

A. Admissibility: the Government's two preliminary objections

1. The parties' submissions

27. The Government made two objections as to the admissibility of the applications. First, in their observations in respect of both applications, the Government submitted that none of the applicants had victim status. The Government recalled that Hyde Park had been dissolved on 22 April 2007 so, when the demonstration took place on 4 September 2007, the other applicants could not be members of the organisation. The Government further submitted that, in his application for authorisation of 30 August 2007, Mr Juraveli had applied as a natural person (*personne physique*) and not for Hyde Park. This was confirmed by the authorisation granted by the Municipality to Mr Juraveli. He had not drawn the authorities' attention to the fact that he was applying for authorisation on behalf of Hyde Park or sought to challenge the terms of the Municipality's authorisation. There was simply no link between Mr Juraveli as organiser of the demonstration and Hyde Park: it was immaterial that he was vice-president of Hyde Park. Consequently, Hyde Park could not be a victim for the purposes of Article 11. Moreover, it was also clear from the police reports of the demonstration, which the Government submitted to the Court, that Mr Juraveli had not participated in the demonstration of 4 September. He could not be a victim, nor could the other applicants.

28. Second, in respect of *Hyde Park* no. 15084/08, the Government also submitted that there had been a failure to exhaust domestic remedies. The applicants who had been arrested on 30 August 2007 had not made any complaint to the hierarchical superiors of the police officers involved when it was open to them to do so on the basis of section 7 of the Code of Administrative Contraventions. They could also have made a complaint to the prosecutor. The applicants had also failed to take domestic proceedings seeking damages for the alleged breaches of their rights under Articles 32 and 40 of the Constitution, which guaranteed freedom of expression and assembly. In respect of the demonstration of 10 September 2007, after the proceedings before the Centru District Court had been discontinued (see paragraph 17 above), the applicants had not sought compensation for non-pecuniary damage, as they were entitled to do under Article 14 of the Civil Code and Law no. 1545 (1998) (see paragraphs 23 and 24 above).

29. In respect of their victim status, the applicants replied that Mr Ghenadie Brega and Mr Juraveli had been the president and vice-president of the non-governmental organisation Hyde Park until its dissolution. They considered the unincorporated association Hyde Park to be its successor since it had the same name, same people as members and founders, the same statute and so on. Mr Juraveli had filled in the application for authorisation in his own name but under his signature he had

added “vice-president of the association Hyde Park” and had provided details of the other participants, who were also members of Hyde Park. They also observed that, under section 11 of the Assemblies Act, only the organiser of a demonstration could apply for authorisation but not the participants. On the morning of 4 September 2007 Mr Juraveli arrived after the other participants had been arrested, which was why he was not arrested that day, but he was arrested several days later while protesting peacefully in the same place.

30. The applicants also considered that, for the demonstrations of 30 August and 10 September 2007, they had exhausted domestic remedies. On previous occasions when they had complained to prosecutors about the actions of the police at demonstrations nothing had happened. The same was true of actions under Article 14 of the Civil Code and Law no. 1545. Mr Ghenadie Brega had lodged a complaint against the police officers but this had been dismissed by the head of the police station of the Centru District (see paragraph 10 above). There was no remedy that could be used to challenge such a response. They had also made a criminal complaint to the Prosecutor General, to which the Prosecutor General had not replied.

2. The Court's assessment

31. As a preliminary matter the Court notes that after the lodging of the present application Hyde Park ceased to exist as a registered non-governmental organisation and continued to exist as an unincorporated association (see paragraph 1 above). The Court considers that Hyde Park's capacity to pursue the proceedings is not affected by its being unincorporated (see *Hyde Park and Others v. Moldova (no. 4)*, no. 18491/07, § 33, 7 April 2009, with further references therein).

32. In respect of the Government's first preliminary objection (as to the victim status of the applicants) the Court also notes that, in *Hyde Park (no. 4)* *ibid*, § 34, which also concerned a demonstration held by Hyde Park and its members, the Government objected that, since only Hyde Park applied for authorisation to hold the demonstration, the other applicants could not claim to be victims. That objection was dismissed on the grounds that the other applicants had participated in the demonstration and had been arrested and detained by the police. In the present case, the Government make the opposite objection: that only Mr Juraveli had applied for authorisation so Hyde Park could not be a victim. The Court considers that it is evident from the case file, in particular Mr Juraveli's application for authorisation of 30 August 2007 and his addition of the words below his signature “vice-president of the association Hyde Park”, that he was applying on behalf of Hyde Park. Moreover, the Court considers it well-established in its case-law that associations can be victims of an interference with the right to freedom of peaceful assembly: see, for example, *The Gypsy Council and Others v. the United Kingdom* (dec.), no. 66336/01, 14 May

2002; *Plattform "Ärzte für das Leben" v. Austria*, 21 June 1988, Series A no. 139; and *Christians against Racism and Fascism v. the United Kingdom*, no. 8440/78, Commission decision of 16 July 1980, Decisions and Reports 21, p. 138. It therefore dismisses the Government's preliminary objection in respect of Hyde Park.

However, in respect of the victim status of Mr Juraveli as regards the demonstration of 4 September 2007, the Court considers the Government's preliminary objection to be well-founded. If Mr Juraveli did not attend the demonstration, there could be no interference with his Article 11 rights. It would stretch the concept of a victim too far to find that it applied to anyone who argued that he would have gone to a demonstration had it gone ahead. To do so would be to allow an indeterminate number of people to complain that their Article 11 rights had been violated (see, *mutatis mutandis*, *Patyi and Others v. Hungary*, no. 5529/05, §§ 25-28, 7 October 2008, where the authorities refused authorisation for a demonstration which did not then take place: the Court found the organiser of the planned demonstration was a victim but not forty-seven other applicants who stated they would have participated in the demonstration). The Court acknowledges that Mr Juraveli is closely connected to Hyde Park and to its demonstrations; indeed it was he who sought authorisation to hold a demonstration between 4 and 11 September. However, he has provided no evidence to indicate when he arrived at the scene of the demonstration, nor has he shown that he attempted to avail himself of his right to peaceful assembly that day and was prevented from doing so by the authorities; the fact that he was arrested at later demonstrations is relevant only to his victim status in respect of those demonstrations. The Court therefore upholds the Government's preliminary objection and declares that part of the application concerning Mr Juraveli and the demonstration of 4 September 2007 inadmissible.

33. In respect of the Government's second preliminary objection (the failure to exhaust domestic remedies), the Court observes that, for the demonstration of 30 August 2007, the applicants did in fact make complaints to both the police officers' superior (the complaint made to the head of the police station of Centru District) and to the Prosecutor General. The former complaint was rejected on 19 September 2007 and the latter complaint never received a reply. Moreover, the Government have not suggested that these were inappropriate or ineffective remedies. The Court reiterates that, for the purposes of exhaustion of domestic remedies, an applicant is not required to try more than one avenue of redress when there are several available (see *Breabin v. Moldova*, no. 12544/08, § 33, 7 April 2009). Accordingly, the Government's preliminary objection that the applicants should have also tried to complain on the basis of section 7 of the Code of Administrative Contraventions or taken proceedings on the basis of Articles 32 and 40 of the Constitution must be dismissed.

34. For the demonstration of 10 September, it is correct that, although Mr Oleg Brega complained to the Prosecutor General in respect of the actions of the police on 30 August and 4 September 2007, the same step was not taken in respect of the actions of the police on 10 September 2007. As the applicants have stated, nothing happened when they complained to the Prosecutor General about the actions of the police at the demonstrations of 30 August and 4 September. The Court considers, therefore, that it was reasonable for the applicants to consider that a similar complaint in respect of the demonstration of 10 September 2007 would have had no prospects of success (see, *mutatis mutandis*, *Castravet v. Moldova*, no. 23393/05, § 25, 13 March 2007). However, the mere fact that one domestic remedy is ineffective (and therefore does not need to be exhausted) does not absolve an applicant of the duty to exhaust other remedies which may prove effective. Consequently, the Court must also examine whether the second remedy suggested by the Government, an action based on Article 14 of the Civil Code and Law no. 1545 would have been effective. The Court observes that the principal difference between the demonstration of 10 September 2007 and those of 30 August and 4 September is that, for the former, administrative proceedings were brought by the police and discontinued by the Centru District Court on 21 September 2007. Therefore, it would, in theory, have been open to the applicants to commence proceedings for damages under Law no. 1545 (see, by converse implication, *Sarban v. Moldova*, no. 3456/05, § 59, 4 October 2005). Nonetheless, as in any case concerning the question of exhaustion of domestic remedies, the burden of proof is on the Government claiming non-exhaustion to satisfy the Court that an effective remedy was available in theory and in practice at the relevant time, namely, that the remedy was accessible, capable of providing redress in respect of the applicant's complaints and offered reasonable prospects of success (see *Demopoulos and others v. Turkey* [GC], nos. 46113/99 and others, 1 March 2010; *Apostol v. Georgia*, no. 40765/02, § 36, ECHR 2006-XIV; and *X. v. Ireland* (dec.), no. 14079/04, 15 December 2009, with further references). The Court is not persuaded that the Government have met that burden in the present case. In particular, they have failed to provide any examples of successful actions based on Article 14 of the Civil Code and Law no. 1545 which would indicate that an action brought by the applicants would have stood a reasonable prospect of success. Consequently, the Court is unable to find that the applicants should have brought such an action and, accordingly, it rejects the Government's preliminary objection in respect of the demonstration of 10 September 2007.

35. The Court notes that, for the demonstrations of 30 August, 4 September 2007 and 10 September 2007, the complaints made by Hyde Park and the individual applicants (including Mr Juraveli in respect of the demonstrations of 30 August and 10 September 2007) are not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that they are not inadmissible on any other grounds. They must therefore be declared admissible.

B. Merits

36. As the Court has noted, the applicants relied only on Article 11 in respect of the demonstration of 4 September 2007 but on Articles 10 and 11 in respect of the other two demonstrations. The Court considers it appropriate to examine the applicants' complaints in respect of each demonstration under Article 11, but it will do so in the light of Article 10 (see *Rai and Evans v. the United Kingdom* (dec.), nos. 26258/07 and 26255/07, ECHR 2009-...).

1. The parties' submissions

a. The Government

37. For the demonstration of 30 August 2007, the Government considered that any interference with the applicants' rights was justified under Article 11 § 2. The interference was prescribed by law. During the demonstration, the police had asked to see the authorisation. Those present had then been invited to the police station so that their identities could be checked. They had been detained for no more than forty minutes. The interference pursued the legitimate aim of preventing disorder and protecting the honour and dignity of the Minister of Internal Affairs and was proportionate to that aim. The demonstration was clearly provocative; the participants had held signs and chanted slogans which were calculated to insult the Minister of Internal Affairs.

38. For the demonstration of 4 September 2007, the Government considered that there had been no interference with the applicants' freedom of assembly. They relied on their preliminary objection that only Mr Juraveli had applied for authorisation to demonstrate. Moreover, the applicants had failed to follow the statutory procedures for obtaining authorisation. The applicants were seasoned protestors and thus familiar with those procedures; mere disagreement with the law was not a reason for disobeying it. Since 31 August 2007 was a public holiday and 1 and 2 September were a Saturday and Sunday, 4 September was only the second working day after the application for authorisation: this demonstrated the bad faith of the applicants. Even if there were an interference it was

prescribed by law: section 11 of the Assemblies Act provided that demonstrations could only take place if fifteen days' notice had been given to the relevant municipality. That notice period was reasonable within the terms of the Court's judgment in *Bączkowski and Others v. Poland*, no. 1543/06, § 83, ECHR 2007-VI and it was accessible and foreseeable. It pursued the legitimate aim of the prevention of disorder or crime and was necessary in a democratic society. The applicants had been taken to an administrative court – not a criminal one – and they had been given fines which were only 80% of the maximum fine which could have been imposed. This was a proportionate fine. The Court's observations in *Ziliberg v. Moldova* (dec.), no. 61821/00, 4 May 2004 were apposite: since States had the right to require authorisation, they had to be able to apply sanctions to those who participated in demonstrations that did not comply with that requirement. The need for prior authorisation was particularly important because authorisation then imposed a number of duties on the municipality to ensure that the demonstration passed off peacefully, for example by protecting the demonstration from counter-demonstrations. Moreover, the District Court had examined diligently whether authorisation had been obtained and whether the Municipality had complied with the relevant deadlines imposed on it by the Assemblies Act.

39. For the demonstration of 10 September 2007, the Government maintained that any interference with the applicants' Article 11 rights was prescribed by law. According to the Government, the authorisation for the demonstration had been given to Mr Juraveli in his individual capacity and not in the name of Hyde Park. However, the demonstrators had chanted slogans in the name of Hyde Park and expressed their opinions as to the supposedly illegal actions of the police at previous demonstrations. When asked, those present at the demonstration had refused to explain this discrepancy to the police. In accordance with section 19(e) of the Assemblies Act, the police had therefore ordered that the demonstration be stopped. When those present refused, they were taken to the police station so that their identities could be checked.

The behaviour of the police had pursued a legitimate aim. As with the demonstration of 30 August 2007, the demonstration was clearly provocative; the participants had again held signs and chanted slogans which were calculated to insult the Minister of Internal Affairs. When the police intervened, the applicants insulted them too. The police had also become concerned as to the possibility of an altercation between Mr Oleg Brega and a passer-by.

As to the proportionality of any interference, the Government underlined that authorisation had been given for the demonstration; it was only when the discrepancy between the authorisation and those participating became apparent that the police had intervened. The participants had been detained to allow the police to make legitimate enquiries as to whether the

demonstration was being conducted within the terms of the authorisation. There had also been a real danger of violence between the participants and the passer-by and the police were justified in ordering that the demonstration be stopped in order to prevent such violence occurring. Finally, the Government relied on the fact that the District Court had discontinued the proceedings brought against the applicants.

b. The applicants

40. The applicants contested the Government's submissions in respect of each demonstration. For the demonstration of 30 August 2007, the applicants submitted that a video of the demonstration showed that they had been arrested earlier and detained for much longer than the Government suggested. There had been no reason to arrest them. Their demonstration had been peaceful and the authorisation papers could have been checked in the street or at the end of the demonstration. As a consequence, none of the requirements of Article 11 § 2 had been met.

For the demonstration of 4 September 2007, they argued that a fifteen-day notice period had been considered too long, even by the national courts: the Supreme Court had found that non-compliance with this requirement was not a reason to ban a demonstration. Their demonstration had been peaceful and threatened no one. It was wholly unnecessary to arrest everyone who participated. The fines were excessive: MDL 800 was a third of Ghenadie Brega's monthly salary and, for Oleg Brega, who was unemployed at the time, it was a huge amount to have to pay.

Finally, for the demonstration of 10 September 2007, they relied on their submissions in respect of the demonstration of 30 August. In addition, they contended that Mr Oleg Brega and Mr Hristea-Stan had also been organisers of the demonstration. Their names had been included in the authorisation among those who were responsible for the good conduct of the demonstration; they had shown this document to the police at the scene so there had been no need for the police to arrest them. Their version of events was borne out by the video they had taken at the demonstration, which they submitted to the Court.

c. The Court's assessment

i. The demonstration of 30 August 2007

41. For the first demonstration, that of 30 August 2007, the Court considers that the arrest of Mr Ghenadie Brega, Mr Oleg Brega, Mr Hristea-Stan and Mr Juraveli prevented the demonstration from taking place. Consequently, there is no doubt that there has been an interference with Article 11 of the Convention; the mere fact that these applicants were seasoned protestors does not mean that they lose the protection of Article 11. The Court also notes that the parties disagreed as to whether the

police's actions were prescribed by law. However, the Court considers that the issue of compliance with the law is indissociable from the question as to whether the interference was “necessary in a democratic society”. It will therefore examine this issue below (see *Christian Democratic People's Party v. Moldova*, no. 28793/02, § 53, ECHR 2006-II). The Court further notes that the parties also disagreed as to whether the interference served a legitimate aim. The Court, for the reasons set out below, does not consider it necessary to decide this point (see *Christian Democratic People's Party v. Moldova*, cited above, §54).

42. In so far as the proportionality of the interference is concerned, the Court recalls that the relevant principles were set out in its judgment in *Hyde Park and Others* (no. 4), cited above, §§ 50-52:

“...the Court recalls that it has stated many times in its judgments that not only is democracy a fundamental feature of the European public order but the Convention was designed to promote and maintain the ideals and values of a democratic society. Democracy, the Court has stressed, is the only political model contemplated in the Convention and the only one compatible with it. By virtue of the wording of the second paragraph of Article 11, and likewise of Articles 8, 9 and 10 of the Convention, the only necessity capable of justifying an interference with any of the rights enshrined in those Articles is one that may claim to spring from a 'democratic society' (see *Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], nos. 41340/98, 41342/98, 41343/98 and 41344/98, §§ 86-89, ECHR 2003-II, and *Christian Democratic People's Party v. Moldova*, cited above).

51. Referring to the hallmarks of a 'democratic society', the Court has attached particular importance to pluralism, tolerance and broadmindedness. In that context, it has held that although individual interests must on occasion be subordinated to those of a group, democracy does not simply mean that the views of the majority must always prevail: a balance must be achieved which ensures the fair and proper treatment of minorities and avoids any abuse of a dominant position (see *Young, James and Webster v. the United Kingdom*, 13 August 1981, § 63, Series A no. 44, and *Chassagnou and Others v. France* [GC], nos. 25088/94, 28331/95 and 28443/95, § 112, ECHR 1999-III).

52. When carrying out its scrutiny under Article 11 the Court's task is not to substitute its own view for that of the relevant national authorities but rather to review under Article 11 the decisions they have delivered in the exercise of their discretion. This does not mean that it has to confine itself to ascertaining whether the respondent State exercised its discretion reasonably, carefully and in good faith; it must look at the interference complained of in the light of the case as a whole and determine whether it was 'proportionate to the legitimate aim pursued' and whether the reasons adduced by the national authorities to justify it are 'relevant and sufficient'. In so doing, the Court has to satisfy itself that the national authorities applied standards which were in conformity with the principles embodied in Article 11 and, moreover, that they based their decisions on an acceptable assessment of the relevant facts (see, *mutatis mutandis*, *Jersild v. Denmark*, 23 September 1994, § 31, Series A no. 298).”

43. Turning to the circumstances of the demonstration of 30 August 2007, the Court is not persuaded by the Government's submission that it was necessary to arrest the applicants and take them to a police station simply to

check whether the demonstration had been properly authorised. The applicants, when asked, had produced the authorisation papers. It has not been suggested that those papers were not in order and it remains unclear as to why a further identity check was necessary. In the Court's opinion, even assuming that such a check were necessary, as the applicants have observed, it could have been carried out at the demonstration, or shortly after it had ended. Instead, by arresting the demonstrators and taking them to the police station, the demonstration was ended prematurely. Furthermore, in terms of the justification for the arrests, the Court finds that little relevance can be attached to the provocative nature of the demonstration. The applicants sought to protest against alleged harassment by the Ministry of Internal Affairs. The street outside the Ministry was clearly the most appropriate place to carry out such a protest. Even if their signs and chants were calculated to insult the Minister, he was clearly a public figure of some prominence in Moldova. In a democratic society, greater tolerance should be shown to those expressing opinions which are critical of such figures, even if those opinions are expressed inarticulately or intemperately. As the Court stated in *Sergey Kuznetsov v. Russia*, no. 10877/04, § 45, 23 October 2008: "any measures interfering with the freedom of assembly and expression other than in cases of incitement to violence or rejection of democratic principles – however shocking and unacceptable certain views or words used may appear to the authorities – do a disservice to democracy and often even endanger it." For these reasons, the Court concludes that the arrest of the four men was disproportionate and thus that it was not necessary in a democratic society. Accordingly, there has been a violation of Article 11 of the Convention in respect of the demonstration of 30 August 2007.

ii. The demonstration of 4 September 2007

44. For the demonstration of 4 September 2007, for the same reasons as for the demonstration of 30 August 2007, the Court finds that the arrest, detention and fining of the applicants amounted to an interference with their rights under Article 11. There is again a dispute as to whether this interference was prescribed by law and pursued a legitimate aim and again the Court considers that the issue of the lawfulness of the interference is indissociable from the question whether the interference was proportionate. For the following reasons it is also unnecessary to decide whether it pursued a legitimate aim.

45. In assessing the proportionality of the interference, the Court notes that the demonstration of 4 September 2007 was carried out without the prior authorisation of the Municipality. Therefore, as in *Rai and Evans*, cited above, the Court considers the starting point of its assessment must be *Ziliberg*, cited above, where it noted that:

“Where [meetings in public thoroughfares] are concerned, their subjection to an authorisation procedure does not normally encroach upon the essence of the right. Such a procedure is in keeping with the requirements of Article 11 § 1, if only in order that the authorities may be in a position to ensure the peaceful nature of a meeting, and accordingly does not as such constitute interference with the exercise of the right ...

... the requirement to obtain authorisation for a demonstration is not incompatible with Article 11 of the Convention. The Court considers that since States have the right to require authorisation, they must be able to apply sanctions to those who participate in demonstrations that do not comply with the requirement.”

A pre-authorisation system not being, in principle, incompatible with Article 11, the Court went on in *Ziliberberg* to find that that system would be rendered “illusory” if Article 11 were to prohibit sanctions for a failure to obtain such authorisations. The applicant in that case was a student who had participated in an unauthorised demonstration, who had been arrested and detained for five and a half hours and who had later been given an administrative fine of MDL 36 (EUR 3). The Court, in finding the Article 11 complaint to be manifestly ill-founded, noted that the penalty was at the lower end of the scale and, while it was heavy relative to the applicant's revenue (a monthly stipend of MDL 50-60), it did not appear to be disproportionate to the legitimate aim pursued.

46. In *Oya Ataman v. Turkey*, no. 74552/01, ECHR 2006-XIII, the police used pepper spray to disperse demonstrators at an unauthorised demonstration. The Court observed that the demonstrators had been informed a number of times that their march was unlawful and would disrupt public order at a busy time of day, and had been ordered to disperse. However, there is no evidence to suggest that the group in question represented a danger to public order, apart from possibly disrupting traffic. The Court was particularly struck by the authorities' impatience in seeking to end the demonstration and considered the police's forceful intervention to have been disproportionate. The Court reached similar conclusions in *Balçık and Others v. Turkey*, no. 25/02, 29 November 2007, where the police dispersed an unlawful but peaceful demonstration, allegedly with truncheons and tear gas, in *Ekşi and Ocak v. Turkey*, no. 44920/04, 23 February 2010, and in *Aytaş and Others v. Turkey*, no. 6758/05, 8 December 2009, where the applicants suffered serious injuries at the hands of the police.

In *Bukta and Others v. Hungary*, no. 25691/04, ECHR 2007-IX, the applicants became aware of the Hungarian Prime Minister's attendance at a reception the day before that reception was to take place. It being impossible to provide the necessary three days' notice, they decided to hold an unauthorised demonstration opposite the reception. Upon hearing a sharp noise, and considering that it posed a threat to the reception, the police forced the demonstrators to a nearby park. The Court found that a prior-

authorisation procedure did not normally encroach upon the essence of the right to peaceful assembly. However, in special circumstances when an immediate response, in the form of a demonstration, to a political event might be justified, a decision to disband the ensuing, peaceful assembly solely because of the absence of the requisite prior notice, without any illegal conduct by the participants, amounted to a disproportionate restriction on freedom of peaceful assembly.

A different result was reached in *Éva Molnár v. Hungary*, no. 10346/05, §§ 37 and 38, 7 October 2008, where the Court made clear that the principle established in *Bukta and Others* could not be extended to the point that the absence of prior notification could never be a legitimate basis for crowd dispersal. The right to hold spontaneous demonstrations could override the obligation to give prior notification to public assemblies only in special circumstances, namely if an immediate response to a current event was warranted in the form of a demonstration. In particular, such derogation from the general rule (of prior notification) could be justified if a delay would have rendered that response obsolete. In that case, there were no such special circumstances and the fact that the police did not break up the demonstration for several hours was a further reason for the finding of no violation.

Special circumstances were also found not to exist in *Skiba v. Poland* (dec.), no. 10659/03, 7 July 2009, where the applicant, as the organiser of a demonstration, was fined for deliberately failing to give prior notification. The application was declared inadmissible as manifestly ill-founded, notably because the authorities had not broken up the demonstration, the fine was among the least severe sanctions which could have been imposed and it had been imposed to prevent further infractions rather than punish the applicant for what had been said at the demonstration.

In *Rai and Evans*, cited above, the applicants were prosecuted for an unauthorised demonstration in a designated, security sensitive zone. That application was also manifestly ill-founded. The sanctions concerned only unauthorised demonstration in such zones. The applicants had not suggested that there was no time to apply for an authorisation and the police gave the applicants an opportunity to disband without the imposition of any sanction. Moreover, the sanctions imposed were not severe: one applicant was given a fine at the lowest end of the statutory scale, the other was given no fine at all, and each had to pay only a modest contribution to the prosecution's costs.

47. In the present case the Court considers that the demonstration of 4 September 2007 bears closest resemblance to *Rai and Evans* and *Skiba*. In contrast to the Turkish cases cited above, there is no suggestion that the police used excessive force in disbanding the present applicants. In contrast to *Bukta*, cited above, and in common with *Éva Molnár*, there are no special circumstances which would have justified an immediate response from the

present applicants in the form of an unauthorised demonstration. They were demonstrating against what they considered to be the abusive suppression of the first demonstration, that of 30 September 2007: there is no evidence that the effect of their second demonstration would have been any less had they waited to obtain the necessary authorisation. Consequently, the Court is prepared to accept that the lack of authorisation might have been regarded as a relevant consideration had the police asked the applicants to disperse and reassemble only when they had obtained authorisation.

However, in the Court's view, there are critical differences between the present case and *Rai and Evans* and *Skiba*. In *Rai and Evans*, the security zone in which the applicants demonstrated was a further reason for the proportionality of the sanction. By contrast, in the present case, no security zone existed at the site of the demonstration of 4 September 2007 and, consequently, the location of the demonstration was not, in itself, a relevant or sufficient reason for breaking it up. In *Skiba*, the police did not take any steps to break up the demonstration and the sanction was only imposed later and only then as a preventative measure; in the present case, Ghenadie and Oleg Brega were arrested in the course of the demonstration. Most importantly, the Court is struck by the level of fines imposed on Ghenadie and Oleg Brega. In contrast to the fines imposed in *Rai and Evans* and *Skibu*, these fines were not at the lower end of the scale: they were 80% of the maximum fines which could have been imposed and, moreover, were over twenty times the fine imposed and found by the Court to be proportionate in *Ziliberberg*. For these reasons, the Court concludes that the arrest of Ghenadie and Oleg Brega and the fines imposed upon them were disproportionate and thus were not necessary in a democratic society. Accordingly, there has also been a violation of Article 11 of the Convention in respect of the demonstration of 4 September 2007.

iii. The demonstration of 10 September 2007

48. The Court is similarly persuaded that the arrest of Mr Juraveli, Mr Oleg Brega and Mr Hristea-Stan amounted to an interference with the applicants' Article 11 rights. As with the other two demonstrations, it considers it appropriate to consider the lawfulness and proportionality of that interference together, while leaving unanswered the issue of whether the interference pursued a legitimate aim.

49. Just as for the demonstration of 30 August 2007, the Court is not persuaded by the Government's argument that, on 10 September 2007, it was necessary for the police to arrest those present in order to check their identities. From the video of the demonstration submitted by the applicants it is clear that, when asked, the applicants provided the police with the authorisation of the Municipality. It is also clear that, in the course of the eighteen-minute video, several police officers checked that authorisation and questioned the applicants, including Mr Juraveli. In the Court's opinion,

that should have been enough to satisfy the police that the demonstration could go ahead; it is wholly unclear to the Court what further enquiries could have been made at the police station in order for the police to satisfy themselves that the demonstration was being conducted within the terms of the authorisation.

The Government have argued that the police were justified in making the arrests in order to prevent violence. The video does show a passer-by remonstrating with one demonstrator but that took place in the few first minutes of the demonstration and the passer-by had left the demonstration long before the police decided to arrest the applicants. For the most part, the video shows that the demonstration took place in the most peaceful manner possible and with minimal disruption to the public. It was well conducted and restrained. Although slogans were shouted in the course of the demonstration, this is a well established feature of peaceful protest. Moreover, in the context of the case, where the applicants had already been twice arrested for carrying out demonstrations, the Court readily understands their desire to do so. In failing to allow the applicants to conduct their peaceful demonstration, the police failed to show the necessary tolerance which is to be expected of the authorities in a democratic society. For those reasons, the Court finds that the arrest of Mr Juraveli, Mr Oleg Brega and Mr Hristea-Stan on 10 September 2007 was disproportionate and thus that it was not necessary in a democratic society. Accordingly, there has also been a violation of Article 11 of the Convention in respect of the demonstration of 10 September 2007.

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

50. In *Hyde Park* (no. 5) the applicants also complained that the proceedings before the Centru District Court and Court of Appeal were unfair as the courts did not give sufficient reasons in their judgments. They relied on Article 6 § 1 of the Convention, which where relevant provides:

“In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.”

51. The Court considers that this complaint should be declared admissible. However, the Court also considers that, having regard to its conclusion in respect of Article 11, this complaint does not raise a separate issue that requires examination by the Court.

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

52. The applicants also complained that the proceedings before Centru District Court and Court of Appeal were excessively long and thus in

further violation of Article 6 § 1. The Court observes that these proceedings lasted little over a month before two courts: this is not unduly lengthy and the complaint must be declared manifestly ill-founded pursuant to Article 35 § 3 of the Convention.

53. The final complaint made by the applicants in *Hyde Park (no. 5)* is that, in violation of Article 8 of the Convention, they were unlawfully subjected to body searches. This Article provides:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

54. The Court observes that the applicants have not raised this complaint in any of the domestic proceedings in the case. Consequently, they have failed to exhaust domestic remedies and this complaint must also be declared inadmissible pursuant to Article 35 § 1 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

55. 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

56. In the application *Hyde Park (no. 5)* (that concerning the demonstration of 4 September 2007), the applicants did not claim anything in respect of pecuniary damage. For non-pecuniary damage, they sought EUR 5,000 in respect of Hyde Park (to reflect discrimination it had suffered at the hands of the authorities for five years) and EUR 1,000 for each individual applicant. In *Hyde Park (no. 6)* (that concerning the other two demonstrations), the applicants argued that, as regards pecuniary damage, Ghenadie and Oleg Brega should each be awarded EUR 100, to compensate them for the fines they paid, which involved several court hearings and trips to the town of Singerei to pay the fines. For non-pecuniary damage, they sought EUR 3,000 for Hyde Park and EUR 1,000 for each applicant.

57. The Government contested these claims. For the pecuniary damage claim, they considered that the fines had been lawfully imposed and that the applicants had not submitted any documents, which showed any additional

losses had been incurred. For the non-pecuniary damage claims, the Government considered it inappropriate to make any award to Hyde Park and that the individual applicants' claims were excessive.

58. In respect of the claim for pecuniary damage, the Court agrees with the Government that the additional claims for court hearings and the trip to Singerei are not itemised and that no award should be made in that respect. However, it has found that the fines were imposed in violation of Article 11. It therefore awards Ghenadie and Oleg Brega EUR 48 each.

In respect of non-pecuniary damage, the Court recalls that in *Hyde Park* (no. 4), where it found a violation of Article 11 in respect of one demonstration, it awarded Hyde Park EUR 4,000. Having regard to the fact that the present case involved three separate demonstrations, albeit of a more limited nature than the demonstration in *Hyde Park* (no. 4), it considers a higher award is justified. Ruling on an equitable basis, the Court awards Hyde Park EUR 6,000. This should be paid to the applicants' representative, Mr Oleg Brega, to be held and managed on behalf of Hyde Park. For the individual applicants, having regard to the fact that, in the course of the three demonstrations, Mr Ghenadie Brega, Mr Juraveli, and Mr Hristea-Stan were arrested and detained twice and Mr Oleg Brega was arrested three times, the Court, ruling on an equitable basis, awards EUR 2,000 each to Mr Ghenadie Brega, Mr Juraveli, and Mr Hristea-Stan and EUR 3,000 to Mr Oleg Brega.

B. Costs and expenses

59. In *Hyde Park* (no. 5), the applicants also claimed EUR 500 for the costs and expenses incurred before the Court; in *Hyde Park* (no. 6) they claimed EUR 300.

60. The Government observed that the applicants were represented by Mr Oleg Brega, who was himself an applicant. In any event, these costs and expenses had not been itemised and had not been actually and necessarily incurred.

61. The Court recalls that in order for costs and expenses to be recoverable under Article 41 of the Convention, it must be established that they were actually and necessarily incurred, and reasonable as to quantum (see, among other authorities, *D.G. v. Ireland*, no. 39474/98, § 128, ECHR 2002-III). The Court notes that no itemised statements were provided in relation to the costs and expenses of Mr Oleg Brega. Consequently, it makes no award under these heads.

C. Default interest

62. The Court considers it appropriate that the default interest 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* inadmissible the complaint under Article 6 § 1 concerning the length of proceedings before the Centre District Court and the Court of Appeal, the complaint under Article 8 and Mr Juraveli's Article 11 complaint in respect of the demonstration of 4 September 2007;
3. *Declares* the remainder of the application admissible;
4. *Holds* that there has been a violation of Article 11 of the Convention in respect of each demonstration;
5. *Holds* that no separate issue arises under Article 6 § 1 of the Convention regarding the alleged failure of the domestic courts to give sufficient reasons;
6. *Holds*
 - (a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention:
 - to Hyde Park EUR 6,000 (six thousand euros) for non-pecuniary damage. This sum is to be paid to the applicants' representative, Mr Oleg Brega, to be held and managed on behalf of Hyde Park;
 - to Mr Ghenadie Brega EUR 2,048 (two thousand and forty-eight euros) for pecuniary and non-pecuniary damage;
 - to Mr Oleg Brega EUR 3,048 (three thousand and forty-eight euros) for pecuniary and non-pecuniary damage;
 - to Mr Juraveli EUR 2,000 (two thousand euros) for non-pecuniary damage;
 - to Mr Hristea-Stan EUR 2,000 (two thousand euros) for non-pecuniary damage;
 - (b) that the above amounts shall be converted into the national currency of the respondent State at the rate applicable at the date of settlement, plus any tax that may be chargeable; and

(c) 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;

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

Done in English, and notified in writing on 14 September 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı
Deputy Registrar

Nicolas Bratza
President