



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

FOURTH SECTION

CASE OF ROTARU v. MOLDOVA

(Application no. 51216/06)

JUDGMENT

STRASBOURG

15 February 2011

FINAL

15/05/2011

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

In the case of Rotaru v. Moldova,

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

Nicolas Bratza, *President*,

Lech Garlicki,

Ljiljana Mijović,

Ján Šikuta,

Mihai Poalelungi,

Nebojša Vučinić,

Vincent A. de Gaetano, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 25 January 2011,

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

PROCEDURE

1. The case originated in an application (no. 51216/06) 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 a Moldovan national, Mr Veaceslav Rotaru (“the applicant”), on 21 September 2006.

2. The applicant, who had been granted legal aid, was represented by Mr V. Țurcan, a lawyer practising in Chișinău. The Moldovan Government (“the Government”) were represented by their Agent, Mr V. Grosu.

3. The applicant alleged, in particular, that he had been ill-treated by the police after his arrest and had been detained in inhuman conditions, and that his procedural rights had been violated during the criminal proceedings.

4. The application was allocated to the Fourth Section of the Court. On 30 June 2009 a Chamber of the Section decided to communicate the application to the Government. Under the provisions of Article 29 § 1 of the Convention, it was decided to examine the merits of the application at the same time as its admissibility.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1977 and lives in Taraclia.

1. The applicant's arrest and conviction

6. On 14 February 2003 the applicant was arrested at his home by masked and armed police officers, who allegedly tortured him until he confessed to several crimes of theft and robbery.

7. The applicant lodged a complaint of ill-treatment by the police and asked the prosecutor's office to investigate. On 28 February 2004 his complaint was dismissed as unfounded by the Chişinău chief of police. The applicant challenged that decision before the prosecutor's office. On 11 August 2005 a prosecutor from the Chişinău prosecutor's office decided not to initiate criminal proceedings against the police officers, finding that there was no evidence of the applicant's ill-treatment or of any other unlawful act. The applicant challenged that decision before the investigating judge, who decided to forward it to the trial court for examination as part of the criminal proceedings against the applicant.

8. On 8 June 2005 the applicant was convicted by Rîşcani District Court. That conviction was upheld by the Chişinău Court of Appeal on 27 October 2005 and the Supreme Court of Justice on 15 March 2006. On 6 October 2008 the Supreme Court of Justice allowed an extraordinary appeal (*recurs în anulare*) by the applicant, but only in respect of reducing his sentence in accordance with a new law that was more favourable to him.

2. Conditions of detention

9. On 19 March 2003 the applicant was transferred to Chişinău Prison no. 13. Between 16 April and 2 November 2006 he was treated at the Pruncul prison hospital. He was then transferred to Soroca Prison no. 6, where he served the rest of his sentence.

10. The applicant made a number of complaints to the authorities that the conditions of his detention were inhuman. He received numerous replies from the Ministry of Justice, the Prosecutor General's Office and Parliament. Many of these replies noted that he had been found to be "healthy for all practical purposes" and not in need of medical assistance. Some of the letters also noted that, due to insufficient funding of the prison system, detainees were not provided with bed linen, and food was available in less than the minimum prescribed quantities. In a letter of 10 August 2004 the Prosecutor General's Office informed the applicant that it was aware that cell no. 24 in which he was detained was overcrowded and that

not all its inmates had a bed and bed linen. The prison authorities were asked to remedy the situation. In a letter of 5 November 2004 the Ministry of Justice informed a group of nine detainees, including the applicant, that medical assistance was available when needed and that only minor repairs could be made to the cells, due to lack of funds; the Ministry was aware of the problems in ensuring the proper functioning of the prison system, and was taking all necessary measures to improve the situation. The Minister added that no detainees suffering from tuberculosis were being held in the nearby cell 24A. In April 2006 the applicant was diagnosed with tuberculosis.

11. In a letter to the Parliament dated 4 May 2004 the applicant complained that the cells in the prison were overcrowded, damp and full of parasitic insects. He also complained of a lack of legal information in the prison. This letter was forwarded to the Prison Department of the Ministry of Justice. In its reply of 8 June 2004 the Ministry acknowledged that the prison lacked legal information, and confirmed that after 7 April 2003 the applicant had been treated for piodermia and scabies. It also noted that the applicant was detained in a cell with fourteen beds and fifteen detainees.

12. In response to a complaint by the applicant on 14 February 2007, on 1 March 2007 the Ministry of Justice informed the applicant that under the applicable rules all detainees were provided with the minimum acceptable quantities of food. However, due to lack of funding, such items as meat, fish or dairy products were provided “within the limits of available funds”. Moreover, products such as eggs, butter and milk would be included on the menu in the near future.

On the basis of a doctor's prescription, increased quantities of food could be provided to detainees who were ill. On 14 June 2008 the applicant made another complaint that the rules on food to be served were being violated and asking for a transfer to the prison hospital because of his worsening state of health. It appears that he was not transferred to the hospital.

13. According to the documents submitted by the Government, the applicant was treated on a regular basis by various doctors when the need arose, as well as on a preventive basis. On 10 and 17 February and 28 March 2005 he refused to have X-ray examinations. When he did have such an examination, on 15 April 2006, he was diagnosed with tuberculosis and admitted to the Pruncul Prison Hospital. He received DOTS treatment there until 1 November 2006, when he was released – subject to a one-year period of supervision – after full recovery from his illness.

II. RELEVANT NON-CONVENTION MATERIAL

14. The relevant provisions of domestic law have been set out in *Ostrovar v. Moldova*, no. 35207/03, 13 September 2005; *Sarban*

v. Moldova, no. 3456/05, 4 October 2005; and *Becciev v. Moldova*, no. 9190/03, 4 October 2005.

1. Relevant domestic law and practice

15. The Government submitted a list of laws, regulations, Ministerial orders and other acts or bills yet to be enacted aimed at improving various aspects of prison conditions and the medical treatment of detainees.

16. The Government annexed to their observations copies of judgments in the cases of *Drugaliu v. the Ministry of Internal Affairs and the Ministry of Finance*; *Gristiuc v. the Ministry of Finance and the Penitentiaries' Department*; *Ipate v. the Penitentiaries' Department*; and *Ciorap v. the Ministry of Finance, the Ministry of Internal Affairs and the Prosecutor General's Office*, all cases in which the applicants had been awarded compensation for ill-treatment and/or inhuman conditions of detention.

2. Reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

17. The relevant parts of the CPT report concerning the visit to Moldova between 20 and 30 September 2004 read as follows (unofficial translation):

“50. The CPT delegation again heard repeated complaints from persons charged with and convicted of administrative offences concerning the refusal of permission for them to receive visits or have contact with the outside world in EDPs.

The CPT reiterates (see paragraph 61 of the report on the 2001 visit) that, where persons awaiting trial are concerned, if it is necessary in the interests of the investigation to place restrictions on visits for some of them, the restrictions should be strictly limited in time and applied for the shortest period possible. In no circumstances should visits to a detained person by family and friends be prohibited for a prolonged period. If there is thought to be an ongoing risk of collusion, it is better to allow visits under strict supervision. ...

55. The situation in the majority of penitentiaries visited, in view of the economic situation in the country, remained difficult and the delegation encountered a number of problems already identified during its visits in 1998 and 2001 in terms of physical conditions and detention regimes.

Added to this is the problem of overcrowding, which remains serious. In fact, even though the penitentiaries visited were not operating at their full capacity – as is the case of Prison no. 3 in which the number of detainees was appreciably smaller than during the last visit of the Committee – they continued to be extremely congested. In fact, the receiving capacity was still based on a very unsatisfactory 2 m² per detainee; in practice, this was often even less.

79. The follow-up visit to Prison no.3 in Chişinău revealed an unsatisfactory situation. The progress noted was in fact minimal, limited to some running repairs. The ventilation system had been repaired primarily thanks to the financial support of civil society (especially NGOs), and the creation of places for daily recreation had

been made possible only as a result of contributions by the detainees and their families.

The repair, renovation and maintenance of cells are entirely the responsibility of detainees themselves and of their families, who also pay for the necessary materials. They must also obtain their own sheets and blankets, the institution being able to give them only used mattresses.

In sum, the conditions in the great majority of cells in Blocks I-II and the transit cells continue to be very poor indeed. ...

Finally, despite the drastic reduction in overcrowding, the rate of occupancy of cells is still very high, not to say intolerable.

83. Except in the Lipcani Re-education Colony for Minors, where the efforts made in this respect are to be highlighted, the quantity and quality of detainees' food everywhere is a source of grave concern. The delegation was inundated with complaints regarding the absence of meat and dairy products. The findings of the delegation, regarding both the stocks of food and the menus, confirm the credibility of these complaints. Its findings also confirmed that in certain places (in Prison no. 3, ...), the food served was repulsive and virtually inedible (for instance, insects and vermin were present). This is not surprising given the general state of the kitchens and their modest equipment.

The Moldovan authorities have always claimed financial difficulties in ensuring the adequate feeding of detainees. However, the Committee insists that this is a fundamental requirement of life which must be ensured by the State to persons in its charge and that nothing can exonerate it from such responsibility. ...”

18. The relevant parts of the CPT report concerning the visit to Moldova between 14 and 24 September 2007 read as follows (unofficial translation):

“46. In September 2007, the Director of the Prison Department of the Ministry of Justice provided the delegation with detailed information on measures already taken or planned with a view to reforming the Moldovan prison system and implementing the CPT's recommendations. One particularly welcome outcome of these measures is the reduction of the country's prisoner population. At the time of the 2007 visit, the total number of prisoners stood at 8,033 (including 1,290 on remand), compared to 10,591 in 2004. This positive trend can be attributed to legislative changes in recent years, including the entry into force of a new Code of Execution of Sentences in July 2005 and the adoption of amendments to the Criminal Code and the Code of Criminal Procedure. As a result, there has been an increase in the number of conditional early releases, as well as a wider use of alternatives to imprisonment and a more selective application of remand custody by the courts.

Further, the implementation of the “Concept for reforming the penitentiary system in the period 2004-2013” has been supported by an increase in the budgetary allocation (from 75.8 mn Lei in 2004, to 166.1 mn Lei in 2007), as well as by a growing input of foreign aid. This has enabled, inter alia, the amelioration of the food provided to prisoners, an improvement of health care, and the carrying out of refurbishment works at several penitentiary establishments (e.g. No. 1 in Taraclia, No. 7 in Rusca and No. 17 in Rezina).

Last but not least, there has been an important shift in mentality through improved staff recruitment and training procedures. The delegation was informed that the directors of many penitentiary establishments had been changed in the last year, following a competition and a probation period. Further, new training programmes for staff had been developed, placing particular emphasis on human rights issues (see also paragraph 100).

47. The CPT can only welcome the above-mentioned measures taken the Moldovan authorities. Nevertheless, the information gathered by the Committee's delegation during the 2007 visit shows that much remains to be done. In particular, overcrowding continues to be a problem; despite the fact that all establishments visited were operating well under their official capacities, there was on average only 2 m² of living space per prisoner, rather than the standard of 4 m² provided for in Moldovan legislation.

The CPT is convinced that the only viable way to control overcrowding and achieve the standard of at least 4 m² of living space per prisoner is to adopt policies designed to limit or modulate the number of persons sent to prison. In this connection, the Committee must stress the need for a strategy covering both admission to and release from prison to ensure that imprisonment really is the ultimate remedy. This implies, in the first place, an emphasis on non-custodial measures in the period before the imposition of a sentence and, in the second place, the adoption of measures which facilitate the reintegration into society of persons who have been deprived of their liberty.

The CPT trusts that the Moldovan authorities will continue their efforts to combat prison overcrowding and in so doing, will be guided by Recommendation Rec(99)22 of the Committee of Ministers of the Council of Europe concerning prison overcrowding and prison population inflation, as well as Recommendation Rec(2003)22 on conditional release (parole)."

THE LAW

19. The applicant complained under Article 2 of the Convention that he had been "intentionally deprived of his health, which also means life" by being kept in inhuman conditions of detention, which had led to his contracting tuberculosis, and that he had not been provided with sufficient medical assistance. The Court considers that this complaint should be examined under Article 3 of the Convention. The applicant also complained under Article 3 that he had been ill-treated by the police when arrested in order to make him confess to crimes which he had not committed.

Article 3 reads:

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

20. He also complained under Article 6 of the Convention that the courts had wrongfully convicted him and failed to examine defence witnesses,

relying instead on evidence obtained through ill-treatment. The relevant part of Article 6 reads as follows:

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

21. The applicant lastly complained under Article 13 of the Convention without giving any further details.

Article 13 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.”

I. ADMISSIBILITY

22. The Government submitted that the applicant had failed to exhaust available domestic remedies in respect of his complaint under Article 3 of the Convention. In particular, he could have lodged a civil court action seeking compensation for the alleged violation, similar to those brought successfully by the applicants in the above-cited cases of *Drugaliov*, *Gristiuc*, *Ipate* and *Ciorap* (see paragraph 16 above). Moreover, the complaints about the conditions of detention which the applicant had made to the prison authorities were “not credible” and were unfounded.

23. The applicant disagreed, referring to his complaints to various authorities, including Parliament, and to the refusal of those authorities to acknowledge any breach of his rights. That refusal combined with the total absence of access to legal materials and of any suggestion in the replies received that he could lodge a claim in the civil courts, meant that the remedy relied on by the Government was not effective.

24. The Court reiterates that an individual is not required to try more than one avenue of redress when there are several available (see, for example, *Airey v. Ireland*, 9 October 1979, § 23, Series A no. 32. It is clear from the documents submitted to the Court by the parties that the applicant complained of his conditions of detention on several occasions (see paragraphs 9-12 above).

25. In so far as the other remedy referred to by the Government is concerned, namely a civil action to request an immediate end to the alleged violation, the Court observes that it has already found that that procedure does not constitute an “effective remedy” in respect of ongoing violations of Article 3 of the Convention (see *Holomiov v. Moldova*, no. 30649/05, § 107, 7 November 2006). In *Holomiov* the Court found as follows:

“[T]he Court does not consider that, at the present time, the existence of an effective remedy before the national courts for the applicant's complaint about the lack of adequate medical care in his place of detention has been clearly established. However,

the Court may in future reconsider its position if it is informed of consistent application of the Convention by the domestic courts”.

All the cases relied on by the Government in the present case concern compensation awards for past violations of Article 3 similar to those relied on in *Holomiov*. However, the applicant remains in custody and made complaints about his conditions of detention as late as 2008 (see paragraph 12 above). Therefore, the cases referred to by the Government do not affect the findings in *Holomiov*.

26. In his initial application the applicant also complained of a violation of Article 3 of the Convention as a result of his ill-treatment by the police and failure to carry out an effective investigation into his ill-treatment. He further complained under Article 6 of the Convention of various breaches of his procedural rights. The Court notes that the prosecution refused to initiate an investigation into the applicant's alleged ill-treatment on 11 August 2005 and that his final conviction was handed down by the Supreme Court of Justice on 15 March 2006 (see paragraphs 7 and 8 above). The applicant did not claim that there had been a delay in informing him of the decision of the Supreme Court of Justice. Accordingly, the six-month period for lodging a complaint concerning the shortcomings of the proceedings against the applicant or the investigation into his alleged ill-treatment started running on 15 March 2006. The present application was lodged on 21 September 2006, six days after the expiry of the above-mentioned six-month period. The subsequent decision of the Supreme Court of Justice of 6 October 2008, adopted as part of an extraordinary procedure, did not deal with any issues concerning the applicant's guilt or his allegations of ill-treatment, but only the reduction of his penalty due to the application of a more lenient criminal law which had come into force in the meantime. Therefore, this decision did not restart the running of the six-month period (see *Fernie v. United Kingdom* (dec.), no. 14881/04, 5 January 2006).

It follows that the applicant's complaints under Article 3 (his alleged ill-treatment) and Article 6 were introduced outside the time-limit set by Article 35 § 1 of the Convention and must be rejected as inadmissible pursuant to Article 35 § 4 of the Convention.

27. The Court finds therefore that the complaint under Article 3 of the Convention cannot be declared inadmissible for non-exhaustion of domestic remedies and accordingly the Government's objection must be dismissed. It considers that the applicant's complaints under Articles 3 (conditions of detention) and 13 of the Convention raise questions of fact and law which are sufficiently serious for their determination to depend on an examination of the merits. No other grounds for declaring them inadmissible have been established. The Court therefore declares these complaints admissible.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

A. Arguments of the parties

28. The applicant complained of the inhuman and degrading conditions of his detention. In particular, he was imprisoned without any particular health problems, but as a result of the conditions in which he was detained he became ill with tuberculosis and other illnesses. Moreover, despite the growing number of normative acts aimed at improving prison conditions, there had been very little change in reality, as established on many occasions by the CPT (quality of food, overcrowding, access to daylight, and so on).

29. The Government argued that the applicant had been detained in conditions compliant with Article 3 requirements. In particular, they submitted a copy of the applicant's note in which he mentioned that on 30 November 2004 he had been moved to another cell, in which the conditions of detention were acceptable. Moreover, he was offered medical assistance on a number of occasions and was fully treated for tuberculosis after DOTS treatment in the prison hospital. The fact that he had refused to have X-ray examinations in early 2005 (see paragraph 13 above) meant that he was responsible for the failure to discover his illness at an earlier stage. Therefore, the applicant could not claim that the authorities had failed to fulfil their positive obligations to prevent and treat illnesses such as tuberculosis.

Moreover, the Government submitted that CPT reports could not lead to automatic findings of violations of Article 3 in the absence of evidence of the applicant's individual suffering (see *Gorea v. Moldova*, no. 21984/05, §§ 40-51, 17 July 2007).

B. The Court's assessment

30. The Court reiterates that Article 3 of the Convention enshrines one of the most fundamental values of a 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). It has also found that the distinction between “torture” and “inhuman or degrading treatment” was intended to “attach a special stigma to deliberate inhuman treatment causing very serious and cruel suffering” (see *Ireland v. the United Kingdom*, 18 January 1978, § 167, Series A no. 25).

31. To fall within the scope of Article 3 ill-treatment must attain a minimum level of severity. 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, for example, *Ireland v. the United Kingdom*, cited above, § 162).

32. The State must ensure that a person is detained in conditions which are compatible with respect for his human dignity, that the manner and method of the execution of the measure do not subject him to distress or hardship of an intensity exceeding the unavoidable level of suffering inherent in detention and that, given the practical demands of imprisonment, his health and well-being are adequately secured by, among other things, providing him with the requisite medical assistance (see *Kudla v. Poland* [GC], no. 30210/96, § 94, ECHR 2000-XI). When assessing conditions of detention, account has to be taken of the cumulative effects of those conditions and the duration of the detention (see *Ostrovar v. Moldova*, no. 35207/03, § 80, 13 September 2005).

33. In the present case the Government implicitly acknowledged that the conditions of the applicant's detention prior to November 2004 had been substandard. They argued that following his many complaints, on 30 November 2004 the applicant had been transferred to another cell, which offered acceptable conditions of detention, as he himself admitted at the time.

34. The Court notes, however, that the applicant continued to complain about his conditions of detention after that date, notably in respect of the quality of food in 2007 and 2008 (see paragraph 12 above). It also notes the Ministry of Justice's acknowledgment, on 1 March 2007, that due to a lack of funding, such items as meat, fish or dairy products were provided "within the limits of available funds" and that products such as eggs, butter and milk were soon to be included on the menu (see paragraph 12 above).

35. It follows that the applicant's complaints concerning the quality of food served were not spurious but revealed a problem known to the authorities. This in itself raises a serious issue under Article 3 of the Convention, as also noted by the CPT in paragraph 83 of its 2004 report (see paragraph 17 above).

36. Moreover, the applicant's particular situation, as someone who had just been treated for tuberculosis, required a special diet, which could not be complete without such basic ingredients as dairy products, meat and fish.

37. The Court reiterates that the mere fact that an applicant prisoner falls ill with tuberculosis while in detention does not automatically lead to a finding of a violation of Article 3 of the Convention (see *Gavriliță v. Romania* (dec.), no. 10921/03, 22 June 2010). However, the fact that he contracted tuberculosis gives additional weight to the applicant's contention that he was detained in conditions dangerous to his health, notably damp cells and insufficient and poor food. The applicant rightly points to the fact that a poor diet leads to increased vulnerability to diseases such as tuberculosis.

38. The applicant also complained of overcrowding (see paragraphs 9-12 above). It is to be noted that despite the progress made by the Moldovan authorities in reducing the prison population since 2004, the statutory minimum of four square metres per detainee has still not been achieved, as was noted in 2007 by the CPT (see paragraph 18 above).

39. It is also to be noted that the applicant was treated for other infectious diseases with which he was diagnosed during detention (see paragraph 11 above). This only emphasises the dangers to detainees' health posed by overcrowding.

40. The Court finally notes that the applicant has been detained for more than seven years in such conditions (except for several months in the prison hospital, which offers better conditions).

41. In the light of the above, the Court considers that the conditions of the applicant's detention were inhuman, especially when considering the duration of exposure to such conditions.

42. There has, accordingly, been a violation of Article 3 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

43. The applicant did not give details about his complaint under Article 13 of the Convention. The Government argued that it was open to the applicant to claim compensation for any alleged violation of Article 3 in a civil lawsuit.

44. The Court considers that the complaint under Article 13 must be understood to refer to the alleged lack of effective remedies in respect of the conditions of detention. In any event, if it referred to the effectiveness of the investigation, it would be declared inadmissible, as were the complaints under Articles 3 and 6 (see paragraph 26 above).

45. As the Court has held on many occasions, Article 13 of the Convention guarantees the availability at national level of a remedy to enforce the substance of the Convention rights and freedoms in whatever form they may happen to be secured in the domestic legal order. The effect of Article 13 of the Convention is thus to require the provision of a domestic remedy to deal with the substance of an "arguable complaint" under the Convention and to grant appropriate relief.

46. The Court reiterates that it has examined on numerous occasions the issue of domestic remedies by which to complain of poor conditions of detention in Moldova (see *Sarban*, cited above, §§ 57-62; *Holomiov v. Moldova*, no. 30649/05, §§ 101-107, 7 November 2006; *Istratii and Others v. Moldova*, nos. 8721/05, 8705/05 and 8742/05, § 38, 27 March 2007; *Modarca v. Moldova*, no. 14437/05, § 47, 10 May 2007; and *Stepuleac v. Moldova*, no. 8207/06, § 46, 6 November 2007), and has concluded on each occasion that the remedies suggested by the Government

were not effective in respect of individuals currently in detention. In *Malai v. Moldova*, no. 7101/06, §§ 42-46, 13 November 2008, the Court found a violation of Article 13 of the Convention, concluding that “it has not been shown that effective remedies existed in respect of the applicant's complaint under Article 3” concerning conditions of detention. The Government did not submit any valid reason for the Court to distinguish the present case from *Malai*, cited above.

47. There has therefore been a breach of Article 13 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

48. 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.”

49. Having been invited to submit claims for just satisfaction on behalf of his client, as well as for costs and expenses in relation to the present application, the applicant's lawyer did not submit any such claims. He subsequently submitted outside the time-limit an evaluation of the time he had spent preparing the case, which, being belated, was not admitted to the file.

50. The Court therefore does not see any reason for making an award under Article 41 of the Convention. It notes in this connection that the applicant's lawyer received 850 euros by way of legal aid from the Council of Europe.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaints under Article 3 (conditions of detention) and 13 admissible, and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 3 of the Convention;
3. *Holds* that there has been a violation of Article 13 of the Convention.

Done in English, and notified in writing on 15 February 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President