



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

THIRD SECTION

CASE OF BREGA AND OTHERS v. MOLDOVA

(Application no. 61485/08)

JUDGMENT

STRASBOURG

24 January 2012

FINAL

24/04/2012

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

In the case of Brega and Others v. Moldova,

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

Josep Casadevall, *President*,

Corneliu Bîrsan,

Alvina Gyulumyan,

Ján Šikuta,

Luis López Guerra,

Nona Tsotsoria,

Mihai Poalelungi, *judges*,

and Santiago Quesada, *Section Registrar*,

Having deliberated in private on 4 January 2012,

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

PROCEDURE

1. The case originated in an application (no. 61485/08) 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 four Moldovan nationals, Mr Ghenadie Brega, Mr Anatolie Hristea-Stan, Mr Gheorghe Lupusoru and Mr Vasile Costiuc (“the applicants”), on 16 December 2008.

2. The applicants were represented by Mr A. Postica, a lawyer practising in Chişinău. The Moldovan Government (“the Government”) were represented by their Agent, Mr V. Grosu.

3. The applicants alleged, in particular, breaches of their right to freedom of expression and assembly and of their right to liberty.

4. On 15 November 2010 the Court decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicants were born in 1975, 1953, 1969 and 1981 respectively, live in Pepeni, Chişinău, Ungheni and Chişinău respectively and are all members of Hyde Park, a Chişinău-based non-governmental organisation.

A. The events of 27 March 2008

6. On 27 March 2008 the first and the fourth applicants participated in a public gathering in the Stefan cel Mare park in Chişinău on the occasion of the anniversary of the 1918 reunification of Bessarabia with Romania. The demonstration had been authorised by the Chişinău Municipality. At approximately 11.30 a.m. the applicants were arrested and taken to the police station, where they were charged with resisting arrest and insulting police officers.

7. In a video filmed by the applicants, one of the police officers can be seen requesting identity papers from one of the participants in the demonstration. After the identity card is presented to the police officer, one of the police officers orders the applicants to follow him to the police station and the applicants comply without any resistance. The applicants were released several hours later.

8. On 26 May 2008 the Buiucani District Court finally acquitted the applicants of all charges in view of a lack of evidence against them. The court found that the accusations made against the applicants were groundless as they were not confirmed by any of the witnesses.

9. On an unspecified date one of the applicants lodged a criminal complaint against the police officers who had arrested them. However, on 30 May 2008 the complaint was dismissed as manifestly ill-founded.

B. The events of 22 April 2008

10. On 22 April 2008 a new Assemblies Act entered into force under which no authorisation was needed for spontaneous gatherings and for gatherings with a limited number of participants. On the same date, at approximately 10.40 a.m., the first, second and fourth applicants organised a demonstration in front of the residence of the President of Moldova. According to them, they intended to express their joy at the entering into force of the new Assemblies Act and to encourage the people to assemble freely. After a short time the applicants were approached by several police officers who ordered them to leave. The applicants refused and argued that according to the new law they had a right to protest peacefully without any authorisation. Later the applicants were arrested and taken to the police station. They were held for several hours and charged with the offences of holding an unauthorised demonstration, resisting arrest and insulting police officers.

11. On 8 May 2008 the Buiucani District Court acquitted the applicants of all charges in view of a lack of incriminating evidence against them. The court found that the applicants had a legal right to protest in front of the residence of the President of Moldova without any authorisation and that the charges concerning resisting and insulting police officers were groundless.

12. On an unspecified date the applicants lodged a criminal complaint against the police officers who had arrested them. However, it was dismissed as manifestly ill-founded.

C. The events of 30 April 2008

13. On 30 April 2008 the National Television company organised a celebration on the occasion of its fiftieth anniversary. A member of Hyde Park, O.B., who is not an applicant in this case, attempted to protest against censorship at National Television in front of the concert hall in which the celebration was taking place. He was draped in a banner bearing the inscription "50 years of lies" and was accompanied by the first, second and third applicants, one of whom was filming the event.

14. After approaching the concert hall, O.B. was approached by a group of police officers who surrounded him and ordered him to vacate the premises of the concert hall. O.B. and the three applicants entered into a verbal clash with the police officers and refused to leave. They argued that they had the right to protest and that the actions of the police were unlawful. After several minutes of dispute O.B. was physically attacked by a person in plain clothes. O.B. and the applicants requested the assistance of the police and shouted that the attack had been provoked by the police. They were immediately arrested and taken to the police station, where they were charged with the offences of holding an unauthorised demonstration, resisting arrest and insulting police officers. They were released several hours later.

15. On 18 June 2008 all the applicants and O.B. were finally acquitted by the Chişinău Court of Appeal of all charges in view of a lack of incriminating evidence against them. The court reached this conclusion after viewing the video of the event and concluding that the applicants' demonstration had been peaceful and that they had been attacked by a another individual.

16. On an unspecified date the applicants lodged a criminal complaint against the police officers who had arrested them. However, it was dismissed as manifestly ill-founded.

D. The events of 18 December 2008

17. In December 2008 the Government decided to celebrate Christmas exclusively on 7 January, according to the old religious calendar, and to have a Christmas tree installed in the central square of Chişinău only in the last few days of December so as to bypass the celebration of Christmas on 25 December by the adherents of the new religious calendar.

18. In spite of that decision the Chişinău local government, which was represented by a political majority different from that of the central

Government, decided to install a Christmas tree in the middle of December and to organise celebrations on the occasion of the new religious calendar Christmas. On 16 December 2008 a truck transporting the municipality's Christmas tree was stopped by the police and the tree was confiscated.

19. In the morning of 18 December 2008 a group of Hyde Park members, including the first and second applicants, attempted to organise a protest demonstration in front of the Ministry of Internal Affairs in order to express their concern about the actions of the police. The first applicant was arrested on the street while walking towards the building of the Ministry of Internal Affairs carrying a small Christmas tree. He was taken to the police station and charged with the offence of organising an unauthorised demonstration. He was released several hours later. The second applicant was near a trolleybus stop when a group of six plain-clothes police officers forced him into a trolleybus. They cornered him and, in spite of his protests, released him only approximately eight minutes and several stops later. The applicants submitted a video of this.

20. On 18 December 2008 the first applicant was acquitted in view of a lack of incriminating evidence against him.

21. On an unspecified date the first and second applicants lodged a criminal complaint against the police officers. However, on 2 February 2009 the complaint was dismissed as manifestly ill-founded.

E. The events of 3 February 2009

22. On 3 February 2009 the first applicant organised a protest demonstration in front of the Prosecutor General's Office together with approximately twenty participants who are not applicants in this case. The aim of the demonstration was to denounce the inaction of the Prosecutor General's Office in connection with abuses by the police. Several minutes after the beginning of the demonstration the protesters were attacked by seven men wearing masks, who started to beat them up and spray them with tear gas. The protesters defended themselves and managed to immobilise two attackers. One of the attackers admitted to having been paid 1,000 Moldovan lei (MDL) by an unknown person to participate in the attack. A police unit patrolling nearby did not intervene to put an end to the clash between the protesters and the attackers. The protesters called the police and requested the assistance of the police officers who were guarding the Prosecutor General's Office, but to no avail.

23. According to the applicants, the organisers of the demonstration lodged a criminal complaint with the Prosecutor General's Office; however, no action was taken. The applicants were unable to present proof that they had lodged the complaint and argued that the relevant documents had been seized by the police on the occasion of an unlawful search of Hyde Park's premises.

24. The Government disputed that the applicants had complained to the Prosecutor's Office in respect of the events of 3 February 2009.

II. RELEVANT DOMESTIC LAW AND PRACTICE

25. 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 and of opinion, as well as freedom of expression in public through words, images or other available means.

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

(3) The law prohibits and punishes the calling into question 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 any 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, but they may be organised and take place only peacefully and without the use of weapons.”

26. 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 the protection of participants and the environment must be ensured, without impeding the normal use of public highways, road traffic or the operation of businesses, and without degenerating into acts of violence capable of endangering public order or the physical integrity or 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 public authorities, local authorities, prosecutors' offices, 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 be responsible for the proper 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 five 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 may reject an application to hold an assembly only if, after consulting the police, they have 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 an application to hold an assembly shall be reasoned and presented in writing. It shall contain reasons for the refusal to issue the authorisation...

Section 15

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

Section 19

Participants in 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."

27. On 22 February 2008 Parliament adopted a new Assemblies Act under which no authorisation was needed for the holding of demonstrations with less than fifty participants.

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

"Article 166. Illegal deprivation of liberty

(1) Illegal deprivation of liberty, other than kidnapping, shall be punishable by 120-240 hours of community work or imprisonment for up to two years.

(2) The same offence committed

b) against two or more persons;

d) by two or more persons;

shall be punishable by imprisonment for three to eight years.

Article 184. Violation of the right to freedom of assembly

(1) Violation of the right to freedom of assembly by way of the illegal hindering of a demonstration, rally or act of protest, or the preventing 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 do not pose a danger to life or health,

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

29. The relevant provisions of the Code of Administrative Offences (“the CAO”), in force at the material time, read:

“Article 174 § 1

2. The organisation and holding of an assembly without prior notification of 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 of up to MDL 300 or detention for 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 for up to fifteen days.”

According to Article 249 of the CAO, persons who disobey in bad faith the lawful orders of police officers, or resist or insult police officers, may be detained until their case is examined by a court.

30. 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

31. The applicants complained that the suppression of the demonstrations and the arrests made by the police were in violation of their rights to freedom of expression and assembly as provided in Articles 10 and 11 of the Convention. In respect of the events of 3 February 2009, the first applicant complained under Article 11 of the Convention that the State had not discharged its positive obligation to protect his right to freedom of assembly. The applicants also complained under Article 5 § 1 of the Convention that their deprivation of liberty had been unlawful. Article 5 § 1 reads as follows:

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

- (a) the lawful detention of a person after conviction by a competent court;
- (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
- (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
- (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
- (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
- (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

Article 10 of the Convention reads:

“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.”

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.”

I. ADMISSIBILITY OF THE CASE

32. The Government submitted that there had been a failure to exhaust domestic remedies by the applicants. In respect of the events of 27 March, 22 April, 30 April and 18 December 2008, it had been open to the applicants to seek compensation in accordance with Law no. 1545 (see paragraph and 30 above) after their acquittal. As to the events of 3 February 2009, the Government submitted that the first applicant had not even complained to the Prosecutor’s Office.

33. The applicants considered that they had exhausted domestic remedies. In so far as the events of 27 March, 22 April, 30 April and 18 December 2008 were concerned, they argued that the remedy provided by Law no. 1545 was not effective. As to the events of 3 February 2009, they argued that a complaint had been lodged with the Prosecutor General’s Office; however, they did not have proof of that complaint because the relevant documents had been seized by the police during an unlawful search at Hyde Park’s premises, a search which is the subject of another application pending before the Court.

34. The Court notes that, in respect of the demonstrations of 27 March, 22 April, 30 April and 18 December 2008, the applicants, in so far as they

were concerned, complained to the Prosecutor General's Office but received no reply or their complaints were dismissed. The Government have not suggested that complaining to the Prosecutor's Office was an inappropriate or ineffective remedy. 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 *Brega v. Moldova*, no. 52100/08, § 31, 20 April 2010, and *Hyde Park and Others v. Moldova (nos. 5 and 6)*, nos. 6991/08 and 15084/08, § 33, 14 September 2010). Accordingly, the Government's preliminary objection that the applicants' complaints in respect of the demonstrations of 27 March, 22 April, 30 April and 18 December 2008 should be declared inadmissible for failure to exhaust domestic remedies must be dismissed.

35. The situation is different, however, in respect of the demonstration of 3 February 2009 since the Court has not been provided with any evidence to the effect that the applicants made any attempts to exhaust available remedies. This part of the complaint must therefore be rejected for non-exhaustion of domestic remedies pursuant to Article 35 §§ 1 and 4 of the Convention.

36. The Court considers that the applicants' complaints concerning the demonstrations of 27 March, 22 April, 30 April and 18 December 2008 raise questions of fact and law which are sufficiently serious that their determination should depend on an examination of the merits, and no grounds for declaring them inadmissible have been established. The Court therefore declares them admissible.

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

37. The applicants argued that their arrest and detention had been unlawful and arbitrary and had therefore been in breach of Article 5 § 1 of the Convention.

38. The Government did not dispute the existence of a deprivation of liberty in each case. However, they reiterated their contention that the application was inadmissible for failure to exhaust domestic remedies.

39. The Court reiterates that the expressions "lawful" and "in accordance with a procedure prescribed by law" in Article 5 § 1 essentially refer back to national law and state the obligation to conform to the substantive and procedural rules thereof. However, the "lawfulness" of detention under domestic law is not always the decisive element. The Court must in addition be satisfied that detention during the period under consideration was compatible with the purpose of Article 5 § 1 of the Convention, which is to prevent persons from being deprived of their liberty in an arbitrary fashion (see *Anguelova v. Bulgaria*, no. 38361/97, § 154, ECHR 2002-IV, and *Fedotov v. Russia*, no. 5140/02, § 74, 25 October 2005).

40. The Court considers that the applicants' detention in respect of all the demonstrations (except for the second applicant's detention on 18 December 2008) fell within the ambit of Article 5 § 1 (c) of the Convention, as it was imposed for the purpose of bringing them before the competent legal authority on suspicion of having committed an offence.

41. There is no dispute as to the fact that the police, when arresting the applicants and taking them to the police station, followed the procedure provided for in Article 249 of the CAO.

42. The Court notes that the applicants were arrested and charged with the offences of insulting police officers and resisting arrest. It appears clearly from the videos submitted, and this was confirmed by the domestic courts which acquitted the applicants, that the accusations against them were false and that they had not done any of the things they were accused of. In such circumstances, and given the absence of any "reasonable suspicion" within the meaning of Article 5 § 1(c), the Court considers that the applicants' detention on false charges that they had resisted arrest and insulted police officers cannot be considered "lawful" under Article 5 § 1 of the Convention (see *Brega*, cited above, § 38).

43. As regards the second applicant's deprivation of liberty on 18 December 2008, the Court notes that the Government did not dispute that there had been a deprivation of liberty. Moreover in the light of the Court's established case law in this field (see *Engel and Others v. the Netherlands*, 8 June 1976, §§ 58-59, Series A no. 22 and *Guzzardi v. Italy*, 6 November 1980, §§ 92-95, Series A no. 39) it would appear that the applicant's situation did in fact amount to such a deprivation. In addition, the Government did not give any explanation for the actions of the police and it would therefore appear that the deprivation of liberty did not fall within the scope of any of the exceptions to the rule of personal liberty listed in subparagraphs (a) to (f) of Article 5 of the Convention. It is true that the applicant's deprivation of liberty lasted for a very limited period of time. However, it appears clearly from the materials of the case that the police officers' intention was to hinder him from taking part in the demonstration by driving him away from its scene. The deprivation of liberty was sufficiently long to make it impossible for the applicant to achieve his goal of participating in the demonstration. In view of the context and of the special circumstances of the case the Court considers that the second applicant's deprivation of liberty was arbitrary and unlawful.

44. Accordingly, there was a violation of Article 5 § 1 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 11 OF THE CONVENTION

45. The applicants maintained that there had been a violation of Article 11 of the Convention.

46. The Government did not dispute the existence of an interference with the applicants' right to freedom of assembly. However, they reiterated their contention that the application was inadmissible for failure to exhaust domestic remedies.

47. The Court considers that the applicants' arrest constituted "interference by [a] public authority" with their right to freedom of assembly under the first paragraph of Article 11. Such interference will entail a violation of Article 11 unless it is "prescribed by law", has an aim or aims that are legitimate under paragraph 2 of the Article and is "necessary in a democratic society" to achieve such aim or aims.

48. The Court notes that the applicants' protests were staged in accordance with the old and new laws concerning assemblies (see paragraphs 26 and 27 above), that they remained peaceful, and that they did not disturb public order in any way. This conclusion is supported by the videos attached to the case-file and by the conclusions of the domestic courts which acquitted the applicants. In such circumstances, the interference with their right of assembly cannot be considered lawful under domestic law. Accordingly, there has been a violation of Article 11 of the Convention.

IV. ALLEGED VIOLATION OF ARTICLE 10 OF THE CONVENTION

49. The applicants also alleged a violation of Article 10 of the Convention. As this complaint relates to the same matters as those considered under Article 11, the Court does not consider it necessary to examine it separately.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

50. 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

51. The first applicant claimed 10,000 euros (EUR) in respect of non-pecuniary damage, and the other applicants claimed EUR 5,000 each.

52. The Government disagreed and argued that the claims were excessive and unsubstantiated.

53. Having regard to the violations found above, the Court considers that an award of compensation for non-pecuniary damage is justified in this case. Making its assessment on an equitable basis, the Court awards the entire amounts claimed.

B. Costs and expenses

54. The applicants also claimed EUR 1,600 for the costs and expenses incurred before the Court and submitted a document containing details of the claimed expenses.

55. The Government contested the amount and argued that it was excessive.

56. The Court awards the entire amount claimed.

C. Default interest

57. 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

1. *Declares* by a majority the application admissible in respect of the events of 27 March, 22 April, 30 April and 18 December 2009;
2. *Declares* unanimously inadmissible the part of the application concerning the events of 3 February 2009;
3. *Holds* unanimously that there has been a violation of Article 5 § 1 of the Convention;
4. *Holds* unanimously that there has been a violation of Article 11 of the Convention;
5. *Holds* unanimously that there is no need to examine the complaint under Article 10 of the Convention;
6. *Holds* unanimously
 - (a) that the respondent State is to pay the applicants, within three months of the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into Moldovan lei at the rate applicable on the date of settlement:
 - (i) to Mr Ghenadie Brega EUR 10,000 (ten thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;

- (ii) to Mr Anatolie Hristea-Stan, Mr Gheorghe Lupusoru and Mr Vasile Costiuc, each, EUR 5,000 (five thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
- (iii) to the applicants, the overall sum of EUR 1,600 (one thousand six hundred euros), plus any tax that may be chargeable, in respect of costs and expenses;
- (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 24 January 2012, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Santiago Quesada
Registrar

Josep Casadevall
President